



Senate

General Assembly

File No. 428

February Session, 2022

Substitute Senate Bill No. 369

Senate, April 12, 2022

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO DEVELOPMENTAL SERVICES STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17a-227b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2022*):

3 The Commissioner of Developmental Services may require each
4 applicant seeking employment with (1) the department, [or seeking
5 employment with] (2) a provider licensed or funded by the department,
6 or (3) an individual funded by the department for self-directed services
7 to submit to a check for substantiated complaints in the Department of
8 Children and Families child abuse and neglect registry established
9 pursuant to section 17a-101k.

10 Sec. 2. Subsection (a) of section 17a-270 of the general statutes is
11 repealed and the following is substituted in lieu thereof (*Effective July 1,*
12 *2022*):

13 (a) There is established a Council on Developmental Services which
14 shall consist of fifteen members appointed as follows: Eight shall be
15 appointed by the Governor, for two-year terms, one of whom shall be a
16 doctor of medicine licensed pursuant to chapter 370 or psychiatrist
17 licensed pursuant to chapter 370, one of whom shall be a person with
18 intellectual disability who is receiving services from the Department of
19 Developmental Services and at least two of whom shall be a relative or
20 a guardian of a person with intellectual disability; six shall be appointed
21 by members of the General Assembly for two-year terms, one of whom
22 shall be a relative or guardian of a person with intellectual disability,
23 appointed by the speaker of the House, one of whom shall be appointed
24 by the minority leader of the House, one of whom shall be appointed by
25 the president pro tempore of the Senate, one of whom shall be a relative
26 or guardian of a person with intellectual disability appointed by the
27 majority leader of the House, one of whom shall be appointed by the
28 majority leader of the Senate, and one of whom shall be a relative or
29 guardian of a person with intellectual disability, appointed by the
30 minority leader of the Senate; and one of whom shall be a member of
31 the board of trustees of the Southbury Training School, appointed by
32 said board for a term of one year. No member of the council may serve
33 more than three consecutive terms, except that a member may continue
34 to serve until a successor is appointed. The members of the council shall
35 serve without compensation except for necessary expenses incurred in
36 performing their duties. The Commissioner of Developmental Services
37 or the commissioner's designee shall be an ex-officio member of the
38 Council on Developmental Services without vote and shall attend its
39 meetings. No employee of any state agency engaged in the care or
40 training of persons with intellectual disability shall be eligible for
41 appointment to the council. The council shall appoint annually, from
42 among its members, a chairperson, vice chairperson and secretary. The
43 council may make rules for the conduct of its affairs. The council shall
44 meet at least six times per year and at other times upon the call of the
45 chair or the written request of any two members.

46 Sec. 3. Section 17a-274 of the 2022 supplement to the general statutes
47 is repealed and the following is substituted in lieu thereof (*Effective July*

48 1, 2022):

49 (a) Any Probate Court shall have the power to place any person
50 residing in its district whom it finds to be a person with intellectual
51 disability, as defined in section 1-1g, with the Department of
52 Developmental Services for placement in any appropriate setting which
53 meets the person's habilitative needs in the least restrictive environment
54 available or which can be created within existing resources of the
55 department, in accordance with the provisions of this section and
56 section 17a-276. No person shall be so placed unless the court has found
57 the person has intellectual disability, as defined in section 1-1g, and (1)
58 is unable to provide for himself or herself at least one of the following:
59 Education, habilitation, care for personal health and mental health
60 needs, meals, clothing, safe shelter or protection from harm; (2) has no
61 family or legal representative or other person to care for him or her, or
62 such person's family or legal representative or other person can no
63 longer provide adequate care for him or her; (3) is unable to obtain
64 adequate, appropriate services which would enable such person to
65 receive care, treatment and education or habilitation without placement
66 by a Probate Court; and (4) is not willing to be placed under the custody
67 and control of the Department of Developmental Services or its agents
68 or voluntary admission has been sought by the legal representative of
69 such person and such voluntary admission has been opposed by the
70 protected person or the protected person's next of kin.

71 (b) A petition to the Probate Court for placement under this section
72 may be filed by any interested party. The petition and all records of
73 Probate Court proceedings held as a result of the filing of such petition
74 shall be confidential and shall not be open to public inspection by or
75 disclosed to any person, except that (1) such records shall be available
76 to (A) the parties in any such case and their counsel, (B) the Department
77 of Developmental Services, and (C) the Office of the Probate Court
78 Administrator; (2) if the court appoints a legal representative, the names
79 of the legal representative and the protected person shall be public; and
80 (3) the court may, after hearing with notice to the respondent, the
81 respondent's counsel, the legal representative and the Department of

82 Developmental Services, permit records to be disclosed for cause
83 shown. The petition shall allege that the respondent is a person with
84 intellectual disability and (A) is unable to provide for himself or herself
85 at least one of the following: Education, habilitation, care for personal
86 health and mental health needs, meals, clothing, safe shelter or
87 protection from harm; (B) has no family or legal representative or other
88 person to care for the respondent or the respondent's family or the legal
89 representative or other person can no longer provide adequate care for
90 the respondent; (C) is unable to obtain adequate, appropriate services
91 which would enable the respondent to receive care, treatment and
92 education or habilitation without placement by a Probate Court; and (D)
93 is not willing to be placed under the custody and control of the
94 Department of Developmental Services or its agents or voluntary
95 admission has been sought by the legal representative of the respondent
96 and such voluntary admission has been opposed by the protected
97 person or the protected person's next of kin.

98 (c) Immediately upon the filing of the petition, the Probate Court shall
99 assign a time, date and place for a hearing, such hearing to be held not
100 later than thirty business days from the date of receipt of the petition.
101 The court shall give notice of the hearing to (1) the petitioner; (2) the
102 respondent; (3) the respondent's legal representative; (4) the
103 respondent's spouse or, if none; (5) the respondent's children or, if none;
104 (6) the respondent's parents or, if none; (7) the respondent's siblings; (8)
105 the Commissioner of Developmental Services, or the commissioner's
106 designee; and (9) at the court's discretion, other persons having an
107 interest in the respondent.

108 (d) Notice to the respondent and Commissioner of Developmental
109 Services shall include: The names of all persons filing the petition, the
110 allegations made in the petition, the time, date and place of the hearing,
111 and the name, address and telephone number of the attorney who will
112 represent the respondent. The notice shall state the right of the
113 respondent to be present at the hearing, to present evidence, to cross-
114 examine witnesses who testify at the hearing, and to an independent
115 diagnostic and evaluative examination by a licensed psychologist of the

116 respondent's own choice, who may testify on the respondent's behalf. If
117 the court finds the respondent is indigent, the notice shall further state
118 the respondent may be represented by counsel of the respondent's own
119 choosing, and, if the court finds the respondent is indigent, that counsel
120 shall be provided without cost. The reasonable compensation for
121 counsel provided to indigent respondents shall be established by, and
122 paid from funds appropriated to, the Judicial Department, however, if
123 funds have not been included in the budget of the Judicial Department
124 for such purposes, such compensation shall be established by the
125 Probate Court Administrator and paid from the Probate Court
126 Administration Fund.

127 (e) Unless the respondent is represented by counsel, the court shall
128 immediately appoint an attorney to represent the respondent from a list
129 of attorneys admitted to practice in this state provided by the Probate
130 Court Administrator in accordance with regulations adopted by the
131 Probate Court Administrator in accordance with section 45a-77. Such
132 attorney may, unless replaced, attend all examinations preceding the
133 hearing and may copy or inspect any and all reports concerning the
134 respondent.

135 (f) The court shall appoint a licensed psychologist from a panel of
136 psychologists provided by the Probate Court Administrator to examine
137 the respondent. The psychologist shall prepare a report on a form
138 provided by the Probate Court. Such report shall include a statement as
139 to whether the respondent has intellectual disability and an explanation
140 of how the determination was reached. The explanation shall include
141 the results of a psychological assessment within the past year, an
142 interview or observation of the respondent, and an evaluation of
143 adaptive behavior. Such report shall include a statement of the
144 respondent's needs. Duplicate copies of the report shall be filed with the
145 Commissioner of Developmental Services, or the commissioner's
146 designee, and all attorneys of record not less than five days prior to the
147 date of the hearing. The court shall order the psychologist to appear for
148 cross-examination at the request of the respondent if the respondent
149 makes such request not less than three days prior to the date of the

150 hearing.

151 (g) If the court, after hearing, finds there is clear and convincing
152 evidence that the respondent has intellectual disability and meets the
153 criteria set out in subsection (a) of this section, the court shall order the
154 respondent placed with the Department of Developmental Services for
155 placement in the least restrictive environment available or which can be
156 created within existing resources of the department.

157 (h) If, after hearing, the court determines that the respondent's need
158 for placement is so critical as to require immediate placement, the court
159 shall order the respondent to be temporarily placed in the most
160 appropriate available placement. The Department of Developmental
161 Services upon receipt of such order shall place the respondent in such
162 setting and shall proceed according to subsection (i) of this section.

163 (i) The Department of Developmental Services, upon receipt of an
164 order pursuant to subsection (g) of this section, shall arrange for an
165 interdisciplinary team to evaluate the respondent, determine the
166 respondent's priority needs for support services and determine the least
167 restrictive environment in which those needs could be met. The
168 Department of Developmental Services shall place the respondent as
169 soon as possible. If no placement has become available not later than
170 sixty days after the date that the respondent's need for residential
171 support services was determined, the Commissioner of Developmental
172 Services, or the commissioner's designee, shall so advise the court and
173 shall continue to report to the court every thirty days thereafter until an
174 appropriate placement is available.

175 (j) Upon receipt of a report under subsection (i) of this section, the
176 Probate Court, if it determines that the respondent's need is so critical
177 as to require immediate placement, shall order the respondent to be
178 temporarily placed in the most appropriate available placement.

179 (k) Any person or agency having reasonable cause to believe that a
180 person has intellectual disability and is in need of immediate care and
181 treatment for such person's safety and welfare, which care and

182 treatment is not being provided by such person's family, legal
183 representative or other person responsible for such person's care, shall
184 make a written report to the Commissioner of Developmental Services.
185 The report shall contain the name and address of the person believed to
186 have intellectual disability and be in need of immediate care and
187 treatment, and such person's family, legal representative or other person
188 responsible for such person's care, and all evidence forming the basis for
189 such belief and shall be signed and dated by the person making such
190 report. The Commissioner of Developmental Services, or the
191 commissioner's designee, shall promptly determine whether there is
192 reasonable cause to believe that the person named in the report has
193 intellectual disability and is in need of immediate care and treatment,
194 which care and treatment is not being provided by such person's family,
195 legal representative or other person responsible for such person's care
196 and if the commissioner, or the commissioner's designee, so determines,
197 shall assume the care and custody of such person. The commissioner or
198 the commissioner's designee shall, within twenty-four hours, excluding
199 Saturdays, Sundays and legal holidays, after assuming the care and
200 custody of such person, file a petition pursuant to subsection (b) of this
201 section in the Probate Court for the district in which such person resided
202 prior to emergency placement. The Probate Court in which such
203 application is filed shall assign a time and place for a hearing pursuant
204 to subsection (c) of this section.

205 (l) In the event that any person placed under the provisions of this
206 section is recommended for transfer by the Department of
207 Developmental Services, the department shall proceed as required by
208 subsection (c) of section 17a-210 and shall in addition notify the Probate
209 Court which made the placement.

210 (m) Any person who wilfully files or attempts to file, or conspires
211 with any person to file a fraudulent or malicious petition for the
212 placement of any person pursuant to this section, shall be guilty of a
213 class D felony.

214 (n) For the purposes of this section, (1) "interdisciplinary team" means

215 a group of persons appointed by the Commissioner of Developmental
 216 Services, or the commissioner's designee, including a social worker,
 217 psychologist, nurse, residential programmer, educational or vocational
 218 programmer and such other persons as may be appropriate; (2)
 219 "intellectual disability" has the same meaning as provided in section 1-
 220 1g; (3) "respondent" means a person alleged to be a person with
 221 intellectual disability for whom a petition for placement has been filed;
 222 and (4) "placement" means placement in a community companion
 223 home, community living arrangement, group home, regional facility,
 224 other residential facility or residential program for persons with
 225 intellectual disability.

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|---|---------------------|------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2022</i> | 17a-227b |
| Sec. 2 | <i>July 1, 2022</i> | 17a-270(a) |
| Sec. 3 | <i>July 1, 2022</i> | 17a-274 |

PH *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes various clarifying and technical changes to the statutes governing the Department of Developmental Services, does not result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 369*****AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO DEVELOPMENTAL SERVICES STATUTES.*****SUMMARY**

This bill makes various changes to Department of Developmental Services (DDS)-related statutes.

The bill allows the DDS commissioner to require anyone applying for a job with an individual funded by DDS for self-directed services to submit to a check for substantiated complaints in the Department of Children and Families child abuse and neglect registry. Existing law already allows the commissioner to require this for anyone applying to work for DDS or a provider it licenses or funds.

The bill specifies that the governor's physician appointee to the Council on Developmental Services must be a Connecticut-licensed physician or psychiatrist, rather than a physician generally, as under current law.

By law, any interested party may file a probate court petition to place a person with intellectual disability with DDS in the least restrictive, appropriate setting, subject to various conditions and procedural requirements. The bill specifically allows the DDS commissioner's designee, rather than just the commissioner, to perform various tasks related to this process and makes related changes. For example, the bill allows the commissioner to designate someone to (1) receive notice from the court on the required hearing, (2) appoint an interdisciplinary team to evaluate the subject of the petition and make related determinations, and (3) make specified determinations if the department receives a report that a person meets standards indicating they may need DDS

services.

The bill also makes technical changes.

EFFECTIVE DATE: July 1, 2022

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/25/2022)