



General Assembly

February Session, 2022

Raised Bill No. 369

LCO No. 2748



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

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 Section 17a-227b of the general statutes is repealed and the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11 repealed and the following is substituted in lieu thereof (*Effective July 1,*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 medical professional, one of whom shall
17 be a person with intellectual disability who is receiving services from
18 the Department of Developmental Services and at least two of whom
19 shall be a relative or a guardian of a person with intellectual disability;
20 six shall be appointed by members of the General Assembly for two-
21 year terms, one of whom shall be a relative or guardian of a person with
22 intellectual disability, appointed by the speaker of the House, one of
23 whom shall be appointed by the minority leader of the House, one of
24 whom shall be appointed by the president pro tempore of the Senate,
25 one of whom shall be a relative or guardian of a person with intellectual
26 disability appointed by the majority leader of the House, one of whom
27 shall be appointed by the majority leader of the Senate, and one of
28 whom shall be a relative or guardian of a person with intellectual
29 disability, appointed by the minority leader of the Senate; and one of
30 whom shall be a member of the board of trustees of the Southbury
31 Training School, appointed by said board for a term of one year. No
32 member of the council may serve more than three consecutive terms,
33 except that a member may continue to serve until a successor is
34 appointed. The members of the council shall serve without
35 compensation except for necessary expenses incurred in performing
36 their duties. The Commissioner of Developmental Services or the
37 commissioner's designee shall be an ex-officio member of the Council
38 on Developmental Services without vote and shall attend its meetings.
39 No employee of any state agency engaged in the care or training of
40 persons with intellectual disability shall be eligible for appointment to
41 the council. The council shall appoint annually, from among its
42 members, a chairperson, vice chairperson and secretary. The council
43 may make rules for the conduct of its affairs. The council shall meet at
44 least six times per year and at other times upon the call of the chair or
45 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] the Department of Developmental
51 Services finds to be a person with intellectual disability, as defined in
52 section 1-1g, with the Department of Developmental Services for
53 placement in any appropriate setting which meets the person's
54 habilitative needs in the least restrictive environment available or which
55 can be created within existing resources of the department, in
56 accordance with the provisions of this section and section 17a-276. No
57 person shall be so placed unless the [court has found the person has
58 intellectual disability] Department of Developmental Services has found
59 the person to be a person with intellectual disability, as defined in
60 section 1-1g and the court has found that such person (1) is unable to
61 provide for himself or herself at least one of the following: Education,
62 habilitation, care for personal health and mental health needs, meals,
63 clothing, safe shelter or protection from harm; (2) has no family or legal
64 representative or other person to care for him or her, or such person's
65 family or legal representative or other person can no longer provide
66 adequate care for him or her; (3) is unable to obtain adequate,
67 appropriate services which would enable such person to receive care,
68 treatment and education or habilitation without placement by a Probate
69 Court; and (4) is not willing to be placed under the custody and control
70 of the Department of Developmental Services or its agents or voluntary
71 admission has been sought by the legal representative of such person
72 and such voluntary admission has been opposed by the protected
73 person or the protected person's next of kin.

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

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

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

111 (d) Notice to the respondent and Commissioner of Developmental
112 Services shall include: The names of all persons filing the petition, the
113 allegations made in the petition, the time, date and place of the hearing,
114 and the name, address and telephone number of the attorney who will
115 represent the respondent. The notice shall state the right of the

116 respondent to be present at the hearing, to present evidence, to cross-
117 examine witnesses who testify at the hearing, and to an independent
118 diagnostic and evaluative examination by a licensed psychologist of the
119 respondent's own choice, who may testify on the respondent's behalf. If
120 the court finds the respondent is indigent, the notice shall further state
121 the respondent may be represented by counsel of the respondent's own
122 choosing, and, if the court finds the respondent is indigent, that counsel
123 shall be provided without cost. The reasonable compensation for
124 counsel provided to indigent respondents shall be established by, and
125 paid from funds appropriated to, the Judicial Department, however, if
126 funds have not been included in the budget of the Judicial Department
127 for such purposes, such compensation shall be established by the
128 Probate Court Administrator and paid from the Probate Court
129 Administration Fund.

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

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

150 date of the hearing. The court shall order the psychologist to appear for
151 cross-examination at the request of the respondent if the respondent
152 makes such request not less than three days prior to the date of the
153 hearing.

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

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

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

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

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

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

213 (m) Any person who wilfully files or attempts to file, or conspires
214 with any person to file a fraudulent or malicious petition for the
215 placement of any person pursuant to this section, shall be guilty of a

216 class D felony.

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

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

Statement of Purpose:

To (1) allow the Commissioner of Developmental Services to require applicants seeking employment with an individual funded by the department for self-directed services to submit to a check for substantiated complaints in the Department of Children and Families child abuse and neglect registry, (2) require the appointment of a licensed medical professional in lieu of a doctor of medicine to the Council on Developmental Services, (3) require the Department of Developmental Services to find that a person has intellectual disability before a Probate Court may place such person with the department for services, and (4) allow the Commissioner of Developmental Services' designee to perform certain functions in Probate Court proceedings.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]