



Senate

General Assembly

File No. 554

January Session, 2023

Substitute Senate Bill No. 989

Senate, April 13, 2023

The Committee on Human Services reported through SEN. LESSER of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NURSING HOME AIR CONDITIONING, COST REPORTING TRANSPARENCY, WAITING LIST REQUIREMENTS, INVOLUNTARY PATIENT TRANSFER NOTICES AND TRANSPORTATION FOR RESIDENT SOCIAL VISITS.

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

1 Section 1. Section 19a-522a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) On and after July 1, 2024, the Department of Public Health shall
4 conduct a review of each nursing home facility, as defined in section
5 19a-490, to determine which such facilities have air conditioning in all
6 resident rooms. For those facilities that do not have air conditioning in
7 all resident rooms, each such facility shall report to the Department of
8 Public Health in a time and manner prescribed by the Commissioner of
9 Public Health:

10 (1) Whether and how such facility is able to adequately control the
11 climate in resident rooms during hot weather;

12 (2) What air conditioning system options are feasible for installation
13 at such facility;

14 (3) The cost and physical plant needs involved in providing air
15 conditioning in each resident room; and

16 (4) Other impediments to providing air conditioning in each resident
17 room.

18 (b) Not later than January 1, 2025, the Department of Public Health
19 shall submit a report, in accordance with the provisions of section 11-4a,
20 to the joint standing committees of the General Assembly having
21 cognizance of matters relating to aging, human services and public
22 health on (1) the number of such facilities without air conditioning in all
23 resident rooms, (2) how many such facilities are able to adequately
24 control the temperature and humidity levels in resident rooms, (3) the
25 overall costs for nursing home facilities without air conditioning in
26 every resident room to provide air conditioning in such rooms, and (4)
27 any impediments to providing air conditioning in all resident rooms at
28 specific nursing homes.

29 (c) On or before January 1, 2026, each nursing home facility shall
30 provide air conditioning in every resident room.

31 (d) A chronic and convalescent nursing home or a rest home with
32 nursing supervision may maintain temperatures in resident rooms and
33 other areas used by residents at such facilities at levels that are lower
34 than minimum temperature standards prescribed in the Public Health
35 Code provided temperature levels at such facilities comply with the
36 comfortable and safe temperature standards prescribed under federal
37 law pursuant to 42 CFR 483.15(h)(6). In accordance with section 19a-36,
38 the Commissioner of Public Health shall amend the Public Health Code
39 in conformity with the provisions of this section.

40 (e) The provisions of this section shall not apply to residential care
41 homes, as defined in section 19a-490.

42 Sec. 2. (NEW) (Effective from passage) (a) There is established, within

43 the Connecticut Health and Educational Facilities Authority, a
44 revolving loan account for the purpose of providing financial assistance
45 to an owner of a nursing home facility, as defined in section 19a-490 of
46 the general statutes, for costs incurred to install an air conditioning
47 system in each resident room.

48 (b) The revolving loan account shall contain any moneys provided or
49 required by law to be deposited in the account. The authority may
50 accept contributions from any source, public or private, for deposit in
51 the account for purposes of the loan program.

52 (c) Loans made pursuant to this section shall have such terms and
53 conditions and shall be subject to such eligibility, loan approval, credit
54 and other underwriting requirements and criteria as are determined by
55 the authority to be reasonable in light of the purpose of the loan
56 program.

57 (d) On or before January 1, 2026, the authority shall submit to the joint
58 standing committees of the General Assembly having cognizance of
59 matters relating to aging, human services and public health a report, in
60 accordance with section 11-4a of the general statutes, setting forth the
61 following information: (1) A list of the loans made under the program,
62 a general description of the terms and conditions of such loans and the
63 repayment history; (2) an assessment of the impact of such loans on
64 compliance with any requirements for nursing home facilities to
65 provide an air conditioning system in each resident room; (3) the need
66 for additional funding for the loan program authorized by this section;
67 and (4) such other information as the authority deems relevant to
68 evaluating the success of the loan program in meeting its objectives.

69 (e) In connection with the making and administration of loans
70 pursuant to this section, the authority shall have and may exercise such
71 powers as are necessary or appropriate to carry out the purposes of this
72 section, including the same powers expressly granted to the authority
73 in section 10a-180 of the general statutes with respect to other loans.

74 (f) No new loan may be made pursuant to this section after January

75 1, 2026, and any moneys then remaining in, or thereafter received to the
76 credit of, the account established in subsection (b) of this section may be
77 withdrawn by the authority from such account and used for other
78 purposes of the authority, subject to specific restrictions governing any
79 contribution to such account pursuant to subsection (b) of this section.

80 (g) The authority shall adopt written procedures, in accordance with
81 section 1-121 of the general statutes, to carry out the provisions of this
82 section.

83 Sec. 3. Subsection (c) of section 19a-535 of the general statutes is
84 repealed and the following is substituted in lieu thereof (*Effective from*
85 *passage*):

86 (c) (1) Before effecting any transfer or discharge of a resident from the
87 facility, the facility shall notify, in writing, the resident and the resident's
88 guardian or conservator, if any, or legally liable relative or other
89 responsible party if known, of the proposed transfer or discharge, the
90 reasons therefor, the effective date of the proposed transfer or discharge,
91 the location to which the resident is to be transferred or discharged, the
92 right to appeal the proposed transfer or discharge and the procedures
93 for initiating such an appeal as determined by the Department of Social
94 Services, the date by which an appeal must be initiated in order to
95 preserve the resident's right to an appeal hearing and the date by which
96 an appeal must be initiated in order to stay the proposed transfer or
97 discharge and the possibility of an exception to the date by which an
98 appeal must be initiated in order to stay the proposed transfer or
99 discharge for good cause, that the resident may represent himself or
100 herself or be represented by legal counsel, a relative, a friend or other
101 spokesperson, and information as to bed hold and nursing home
102 readmission policy when required in accordance with section 19a-537.
103 The notice shall also include the name, mailing address and telephone
104 number of the State [Long-Term Care] Ombudsman. If the resident is,
105 or the facility alleges a resident is, mentally ill or developmentally
106 disabled, the notice shall include the name, mailing address and
107 telephone number of the nonprofit entity designated by the Governor in

108 accordance with section 46a-10b to serve as the Connecticut protection
109 and advocacy system. The notice shall be given at least thirty days and
110 no more than sixty days prior to the resident's proposed transfer or
111 discharge, except where the health or safety of individuals in the facility
112 are endangered, or where the resident's health improves sufficiently to
113 allow a more immediate transfer or discharge, or where immediate
114 transfer or discharge is necessitated by urgent medical needs or where
115 a resident has not resided in the facility for thirty days, in which cases
116 notice shall be given as many days before the transfer or discharge as
117 practicable.

118 (2) The resident may initiate an appeal pursuant to this section by
119 submitting a written request to the Commissioner of Social Services not
120 later than sixty calendar days after the facility issues the notice of the
121 proposed transfer or discharge, except as provided in subsection (h) of
122 this section. In order to stay a proposed transfer or discharge, the
123 resident must initiate an appeal not later than twenty days after the date
124 the resident receives the notice of the proposed transfer or discharge
125 from the facility unless the resident demonstrates good cause for failing
126 to initiate such appeal within the twenty-day period.

127 (3) On the date that the facility provides notice of a proposed
128 involuntary transfer or discharge of a resident pursuant to the
129 provisions of subdivision (1) of this subsection, the facility shall notify
130 the State Ombudsman, appointed pursuant to section 17a-870, in a
131 manner prescribed by the State Ombudsman, of such proposed
132 involuntary transfer or discharge. Failure to provide notice to the State
133 Ombudsman pursuant to the provisions of this subdivision shall
134 invalidate any notice of the proposed involuntary transfer or discharge
135 of a resident submitted pursuant to the provisions of subdivision (1) of
136 this subsection.

137 Sec. 4. Subsection (k) of section 19a-535 of the general statutes is
138 repealed and the following is substituted in lieu thereof (*Effective from*
139 *passage*):

140 (k) [A] Except as otherwise provided in subdivision (3) of subsection

141 (c) of this section, a facility shall electronically report each involuntary
142 transfer or discharge to the State Ombudsman, appointed pursuant to
143 section [17a-405] 17a-870, (1) in a manner prescribed by the State
144 Ombudsman, and (2) on an Internet web site portal maintained by the
145 State Ombudsman in accordance with patient privacy provisions of the
146 Health Insurance Portability and Accountability Act of 1996, P.L. 104-
147 191, as amended from time to time.

148 Sec. 5. (NEW) (*Effective July 1, 2023*) (a) Any nursing home facility, as
149 defined in section 19a-490 of the general statutes, with available vehicles
150 equipped to transport nonambulatory residents, may provide
151 nonemergency transportation of such residents to the homes of such
152 residents' family members, provided: (1) Such family members live
153 within fifteen miles of the nursing home facility, and (2) such
154 transportation is approved not less than five business days in advance
155 by a physician or physician's assistant, licensed pursuant to chapter 370
156 of the general statutes, or an advanced practice registered nurse licensed
157 pursuant to chapter 378 of the general statutes.

158 (b) The Commissioner of Social Services, within available
159 appropriations, may establish a grant program to fund such
160 nonemergency transportation. The commissioner shall prescribe forms
161 and procedures for a nursing home facility to apply for a grant through
162 any such grant program. The commissioner shall evaluate whether the
163 need for such transportation would qualify as a health-related social
164 need and file a report not later than October 1, 2023, with the Council on
165 Medical Assistance Program Oversight on such evaluation and
166 potential federal funding that may be available for such transportation.
167 For purposes of this subsection, "health-related social need" means a
168 health need deriving from an adverse social condition that contributes
169 to poor health and health disparities, including, but not limited to, the
170 need for reliable transportation.

171 Sec. 6. (*Effective from passage*) (a) The State Ombudsman, appointed
172 pursuant to section 17a-870 of the general statutes, shall convene a
173 working group concerning any revisions necessary to nursing home

174 waiting list requirements as described in section 19a-533 of the general
175 statutes. The working group shall include, but need not be limited to,
176 the State Ombudsman, or the State Ombudsman's designee; not less
177 than two representatives of the nursing home industry, appointed by
178 the State Ombudsman; the Commissioners of Public Health and Social
179 Services, or their designees; and any other member the State
180 Ombudsman may appoint.

181 (b) The State Ombudsman, or the State Ombudsman's designee, shall
182 serve as chairperson of the working group, which shall meet not less
183 than once monthly. Not later than January 1, 2024, the State
184 Ombudsman shall file a report, in accordance with section 11-4a of the
185 general statutes, with the joint standing committees of the General
186 Assembly having cognizance of matters relating to human services and
187 public health with recommendations concerning any changes to the
188 waiting list requirements, including, but not limited to, authorizing
189 nursing homes to maintain waiting lists in electronic form.

190 Sec. 7. (NEW) (*Effective July 1, 2023*) (a) As used in this section,
191 "allowable costs" has the same meaning as provided in section 17b-340d
192 of the general statutes. Beginning with the cost report year ending on
193 September 30, 2024, and annually thereafter, each nursing home facility,
194 as defined in section 19a-490 of the general statutes, shall submit to the
195 Commissioner of Social Services narrative summaries of expenditures
196 in addition to the cost reports required pursuant to section 17b-340 of
197 the general statutes, as amended by this act. The summaries shall be in
198 plain language and include the percentage of Medicaid funding
199 allocated to (1) the five cost components of allowable costs, broken
200 down to include individual expenditure categories of each cost
201 component described in subdivision (4) of subsection (a) of section 17b-
202 340d of the general statutes, and (2) any related party, as defined in
203 section 17b-340 of the general statutes, as amended by this act.

204 (b) Not later than January 1, 2025, and annually thereafter, the
205 Commissioner of Social Services shall post in a conspicuous area on the
206 department's Internet web site a link to (1) the annual cost reports and

207 the plain language summaries provided by each nursing home facility,
208 (2) comparisons between individual nursing homes by expenditures,
209 and (3) a summary of the average reported expenditures of all reporting
210 nursing homes for each category. Any cost report forms utilized by the
211 department shall include a glossary and explanation of the terms used
212 and a description of the categories being reported on, including, but not
213 limited to, plain language explanations of formulas and formula terms
214 used to determine maximum costs for direct costs, indirect costs, fair
215 rent, capital-related costs and administrative and general costs, as
216 described in subdivision (4) of subsection (a) of section 17b-340d of the
217 general statutes.

218 (c) Any nursing home facility that violates or fails to comply with the
219 provisions of this section shall be fined not more than ten thousand
220 dollars for each incident of noncompliance. The Commissioner of Social
221 Services may offset payments due a facility to collect the penalty. Prior
222 to imposing any penalty pursuant to this subsection, the commissioner
223 shall notify the nursing home facility of the alleged violation and the
224 accompanying penalty and shall permit such facility to request that the
225 department review its findings. A facility shall request such review not
226 later than fifteen days after receipt of the notice of violation from the
227 department. The department shall stay the imposition of any penalty
228 pending the outcome of the review. The commissioner may impose a
229 penalty upon a facility pursuant to this subsection regardless of whether
230 a change in ownership of the facility has taken place since the time of
231 the violation, provided the department issued notice of the alleged
232 violation and the accompanying penalty prior to the effective date of the
233 change in ownership and record of such notice is readily available in a
234 central registry maintained by the department. Payments of fines
235 received pursuant to this subsection shall be deposited in the General
236 Fund and credited to the Medicaid account.

237 Sec. 8. Section 19a-491a of the general statutes is repealed and the
238 following is substituted in lieu thereof (*Effective July 1, 2023*):

239 (a) A person seeking a license to establish, conduct, operate or

240 maintain a nursing home shall provide the Department of Public Health
241 with the following information:

242 (1) (A) The name and business address of the owner and a statement
243 of whether the owner is an individual, partnership, corporation or other
244 legal entity; (B) the names of the officers, directors, trustees, or
245 managing and general partners of the owner, the names of persons
246 having a ten per cent or greater ownership interest in the owner, and a
247 description of each such person's occupation with the owner; [and] (C)
248 if the owner is a corporation which is incorporated in another state, a
249 certificate of good standing from the secretary of state of the state of
250 incorporation; and (D) if a private equity firm owns any portion of the
251 business, the name of the private equity fund's investment advisor and
252 a copy of the most recent quarterly statement provided to the private
253 equity fund's investors, including information regarding fees, expenses
254 and performance of the fund;

255 (2) A description of the relevant business experience of the owner and
256 of the administrator of the nursing home and evidence that the
257 administrator has a license issued pursuant to section 19a-514;

258 (3) Affidavits signed by the owner, any of the persons described in
259 subdivision (1) of this subsection, the administrator, assistant
260 administrator, the medical director, the director of nursing and assistant
261 director of nursing disclosing any matter in which such person has been
262 convicted of a felony, as defined in section 53a-25, or has pleaded nolo
263 contendere to a felony charge, or has been held liable or enjoined in a
264 civil action by final judgment, if the felony or civil action involved fraud,
265 embezzlement, fraudulent conversion or misappropriation of property;
266 or is subject to an injunction or restrictive or remedial order of a court of
267 record at the time of application, within the past five years has had any
268 state or federal license or permit suspended or revoked as a result of an
269 action brought by a governmental agency or department, arising out of
270 or relating to health care business activity, including, but not limited to,
271 actions affecting the operation of a nursing home, retirement home,
272 residential care home or any facility subject to sections 17b-520 to 17b-

273 535, inclusive, or a similar statute in another state or country;

274 (4) (A) A statement as to whether or not the owner is, or is affiliated
275 with, a religious, charitable or other nonprofit organization; (B) the
276 extent of the affiliation, if any; (C) the extent to which the affiliate
277 organization will be responsible for the financial obligations of the
278 owner; and (D) the provision of the Internal Revenue Code of 1986, or
279 any subsequent corresponding internal revenue code of the United
280 States, as from time to time amended, if any, under which the owner or
281 affiliate is exempt from the payment of income tax;

282 (5) The location and a description of other health care facilities of the
283 owner, existing or proposed, and, if proposed, the estimated completion
284 date or dates and whether or not construction has begun; [and]

285 (6) Audited and certified financial statements of the owner, including
286 (A) a balance sheet as of the end of the most recent fiscal year, and (B)
287 income statements for the most recent fiscal year of the owner or such
288 shorter period of time as the owner shall have been in existence; and

289 ~~[(6)]~~ (7) If the operation of the nursing home has not yet commenced,
290 a statement of the anticipated source and application of the funds used
291 or to be used in the purchase or construction of the home, including:

292 (A) An estimate of such costs as financing expense, legal expense,
293 land costs, marketing costs and other similar costs which the owner
294 expects to incur or become obligated for prior to the commencement of
295 operations; and

296 (B) A description of any mortgage loan or any other financing
297 intended to be used for the financing of the nursing home, including the
298 anticipated terms and costs of such financing.

299 [(b) In addition to the information provided pursuant to subsection
300 (a) of this section, the commissioner may reasonably require an
301 applicant for a nursing home license or renewal of a nursing home
302 license to submit additional information. Such information may include
303 audited and certified financial statements of the owner, including, (1) a

304 balance sheet as of the end of the most recent fiscal year, and (2) income
305 statements for the most recent fiscal year of the owner or such shorter
306 period of time as the owner shall have been in existence.]

307 [(c)] (b) No person acting individually or jointly with any other
308 person shall establish, conduct, operate or maintain a nursing home
309 without maintaining professional liability insurance or other indemnity
310 against liability for professional malpractice. The amount of insurance
311 which such person shall maintain as insurance or indemnity against
312 claims for injury or death for professional malpractice shall be not less
313 than one million dollars for one person, per occurrence, with an
314 aggregate of not less than three million dollars. The requirements of this
315 subsection shall not apply to any person who establishes, conducts,
316 operates or maintains a residential care home.

317 [(d)] (c) A person seeking to renew a nursing home license shall
318 furnish the department with any information required under this
319 section that was not previously submitted and with satisfactory written
320 proof that the owner of the nursing home consents to such renewal, if
321 the owner is different from the person seeking renewal, and shall
322 provide data on any change in the information submitted. The
323 commissioner shall refuse to issue or renew a nursing home license if
324 the person seeking renewal fails to provide the information required
325 under this section. Upon such refusal, the commissioner shall grant such
326 license to the holder of the certificate of need, provided such holder
327 meets all requirements for such licensure. If such holder does not meet
328 such requirements, the commissioner shall proceed in accordance with
329 sections 19a-541 to 19a-549, inclusive. If the commissioner is considering
330 a license renewal application pursuant to an order of the commissioner,
331 the procedures in this subsection shall apply to such consideration.

332 Sec. 9. Subsection (a) of section 17b-340 of the general statutes is
333 repealed and the following is substituted in lieu thereof (*Effective July 1,*
334 *2023*):

335 (a) For purposes of this subsection, (1) a "related party" includes, but
336 is not limited to, any company related to a chronic and convalescent

337 nursing home through family association, common ownership, control
338 or business association with any of the owners, operators or officials of
339 such nursing home; (2) "company" means any person, partnership,
340 association, holding company, limited liability company or corporation;
341 (3) "family association" means a relationship by birth, marriage or
342 domestic partnership; and (4) "profit and loss statement" means the
343 most recent annual statement on profits and losses finalized by a related
344 party before the annual report mandated under this subsection. The
345 rates to be paid by or for persons aided or cared for by the state or any
346 town in this state to licensed chronic and convalescent nursing homes,
347 to chronic disease hospitals associated with chronic and convalescent
348 nursing homes, to rest homes with nursing supervision, to licensed
349 residential care homes, as defined by section 19a-490, and to residential
350 facilities for persons with intellectual disability that are licensed
351 pursuant to section 17a-227 and certified to participate in the Title XIX
352 Medicaid program as intermediate care facilities for individuals with
353 intellectual disabilities, for room, board and services specified in
354 licensing regulations issued by the licensing agency shall be determined
355 annually, except as otherwise provided in this subsection by the
356 Commissioner of Social Services, to be effective July first of each year
357 except as otherwise provided in this subsection. Such rates shall be
358 determined on a basis of a reasonable payment for such necessary
359 services, which basis shall take into account as a factor the costs of such
360 services. Cost of such services shall include reasonable costs mandated
361 by collective bargaining agreements with certified collective bargaining
362 agents or other agreements between the employer and employees,
363 provided "employees" shall not include persons employed as managers
364 or chief administrators or required to be licensed as nursing home
365 administrators, and compensation for services rendered by proprietors
366 at prevailing wage rates, as determined by application of principles of
367 accounting as prescribed by said commissioner. Cost of such services
368 shall not include amounts paid by the facilities to employees as salary,
369 or to attorneys or consultants as fees, where the responsibility of the
370 employees, attorneys, or consultants is to persuade or seek to persuade
371 the other employees of the facility to support or oppose unionization.

372 Nothing in this subsection shall prohibit inclusion of amounts paid for
373 legal counsel related to the negotiation of collective bargaining
374 agreements, the settlement of grievances or normal administration of
375 labor relations. The commissioner may, in the commissioner's
376 discretion, allow the inclusion of extraordinary and unanticipated costs
377 of providing services that were incurred to avoid an immediate negative
378 impact on the health and safety of patients. The commissioner may, in
379 the commissioner's discretion, based upon review of a facility's costs,
380 direct care staff to patient ratio and any other related information, revise
381 a facility's rate for any increases or decreases to total licensed capacity
382 of more than ten beds or changes to its number of licensed rest home
383 with nursing supervision beds and chronic and convalescent nursing
384 home beds. The commissioner may, in the commissioner's discretion,
385 revise the rate of a facility that is closing. An interim rate issued for the
386 period during which a facility is closing shall be based on a review of
387 facility costs, the expected duration of the close-down period, the
388 anticipated impact on Medicaid costs, available appropriations and the
389 relationship of the rate requested by the facility to the average Medicaid
390 rate for a close-down period. The commissioner may so revise a facility's
391 rate established for the fiscal year ending June 30, 1993, and thereafter
392 for any bed increases, decreases or changes in licensure effective after
393 October 1, 1989. Effective July 1, 1991, in facilities that have both a
394 chronic and convalescent nursing home and a rest home with nursing
395 supervision, the rate for the rest home with nursing supervision shall
396 not exceed such facility's rate for its chronic and convalescent nursing
397 home. All such facilities for which rates are determined under this
398 subsection shall report on a fiscal year basis ending on September
399 thirtieth. Such report shall be submitted to the commissioner by
400 February fifteenth. Each for-profit chronic and convalescent nursing
401 home that receives state funding pursuant to this section shall include
402 in such annual report a profit and loss statement from each related party
403 that receives from such chronic and convalescent nursing home [fifty
404 thousand dollars or more per year] any amount of income for goods,
405 fees and services. No cause of action or liability shall arise against the
406 state, the Department of Social Services, any state official or agent for

407 failure to take action based on the information required to be reported
408 under this subsection. The commissioner may reduce the rate in effect
409 for a facility that fails to submit a complete and accurate report on or
410 before February fifteenth by an amount not to exceed ten per cent of
411 such rate. If a licensed residential care home fails to submit a complete
412 and accurate report, the department shall notify such home of the failure
413 and the home shall have thirty days from the date the notice was issued
414 to submit a complete and accurate report. If a licensed residential care
415 home fails to submit a complete and accurate report not later than thirty
416 days after the date of notice, such home may not receive a retroactive
417 rate increase, in the commissioner's discretion. The commissioner shall,
418 annually, on or before April first, report the data contained in the reports
419 of such facilities on the department's Internet web site. For the cost
420 reporting year commencing October 1, 1985, and for subsequent cost
421 reporting years, facilities shall report the cost of using the services of any
422 nursing personnel supplied by a temporary nursing services agency by
423 separating said cost into two categories, the portion of the cost equal to
424 the salary of the employee for whom the nursing personnel supplied by
425 a temporary nursing services agency is substituting shall be considered
426 a nursing cost and any cost in excess of such salary shall be further
427 divided so that seventy-five per cent of the excess cost shall be
428 considered an administrative or general cost and twenty-five per cent of
429 the excess cost shall be considered a nursing cost, provided if the total
430 costs of a facility for nursing personnel supplied by a temporary nursing
431 services agency in any cost year are equal to or exceed fifteen per cent
432 of the total nursing expenditures of the facility for such cost year, no
433 portion of such costs in excess of fifteen per cent shall be classified as
434 administrative or general costs. The commissioner, in determining such
435 rates, shall also take into account the classification of patients or
436 boarders according to special care requirements or classification of the
437 facility according to such factors as facilities and services and such other
438 factors as the commissioner deems reasonable, including anticipated
439 fluctuations in the cost of providing such services. The commissioner
440 may establish a separate rate for a facility or a portion of a facility for
441 traumatic brain injury patients who require extensive care but not acute

442 general hospital care. Such separate rate shall reflect the special care
443 requirements of such patients. If changes in federal or state laws,
444 regulations or standards adopted subsequent to June 30, 1985, result in
445 increased costs or expenditures in an amount exceeding one-half of one
446 per cent of allowable costs for the most recent cost reporting year, the
447 commissioner shall adjust rates and provide payment for any such
448 increased reasonable costs or expenditures within a reasonable period
449 of time retroactive to the date of enforcement. Nothing in this section
450 shall be construed to require the Department of Social Services to adjust
451 rates and provide payment for any increases in costs resulting from an
452 inspection of a facility by the Department of Public Health. Such
453 assistance as the commissioner requires from other state agencies or
454 departments in determining rates shall be made available to the
455 commissioner at the commissioner's request. Payment of the rates
456 established pursuant to this section shall be conditioned on the
457 establishment by such facilities of admissions procedures that conform
458 with this section, section 19a-533 and all other applicable provisions of
459 the law and the provision of equality of treatment to all persons in such
460 facilities. The established rates shall be the maximum amount
461 chargeable by such facilities for care of such beneficiaries, and the
462 acceptance by or on behalf of any such facility of any additional
463 compensation for care of any such beneficiary from any other person or
464 source shall constitute the offense of aiding a beneficiary to obtain aid
465 to which the beneficiary is not entitled and shall be punishable in the
466 same manner as is provided in subsection (b) of section 17b-97.
467 Notwithstanding any provision of this section, the Commissioner of
468 Social Services may, within available appropriations, provide an interim
469 rate increase for a licensed chronic and convalescent nursing home or a
470 rest home with nursing supervision for rate periods no earlier than April
471 1, 2004, only if the commissioner determines that the increase is
472 necessary to avoid the filing of a petition for relief under Title 11 of the
473 United States Code; imposition of receivership pursuant to sections 19a-
474 542 and 19a-543; or substantial deterioration of the facility's financial
475 condition that may be expected to adversely affect resident care and the
476 continued operation of the facility, and the commissioner determines

477 that the continued operation of the facility is in the best interest of the
478 state. The commissioner shall consider any requests for interim rate
479 increases on file with the department from March 30, 2004, and those
480 submitted subsequently for rate periods no earlier than April 1, 2004.
481 When reviewing an interim rate increase request the commissioner
482 shall, at a minimum, consider: (A) Existing chronic and convalescent
483 nursing home or rest home with nursing supervision utilization in the
484 area and projected bed need; (B) physical plant long-term viability and
485 the ability of the owner or purchaser to implement any necessary
486 property improvements; (C) licensure and certification compliance
487 history; (D) reasonableness of actual and projected expenses; and (E) the
488 ability of the facility to meet wage and benefit costs. No interim rate
489 shall be increased pursuant to this subsection in excess of one hundred
490 fifteen per cent of the median rate for the facility's peer grouping,
491 established pursuant to subdivision (2) of subsection (f) of this section,
492 unless recommended by the commissioner and approved by the
493 Secretary of the Office of Policy and Management after consultation
494 with the commissioner. Such median rates shall be published by the
495 Department of Social Services not later than April first of each year. In
496 the event that a facility granted an interim rate increase pursuant to this
497 section is sold or otherwise conveyed for value to an unrelated entity
498 less than five years after the effective date of such rate increase, the rate
499 increase shall be deemed rescinded and the department shall recover an
500 amount equal to the difference between payments made for all affected
501 rate periods and payments that would have been made if the interim
502 rate increase was not granted. The commissioner may seek recovery of
503 such payments from any facility with common ownership. With the
504 approval of the Secretary of the Office of Policy and Management, the
505 commissioner may waive recovery and rescission of the interim rate for
506 good cause shown that is not inconsistent with this section, including,
507 but not limited to, transfers to family members that were made for no
508 value. The commissioner shall provide written quarterly reports to the
509 joint standing committees of the General Assembly having cognizance
510 of matters relating to aging, human services and appropriations and the
511 budgets of state agencies, that identify each facility requesting an

512 interim rate increase, the amount of the requested rate increase for each
 513 facility, the action taken by the commissioner and the secretary pursuant
 514 to this subsection, and estimates of the additional cost to the state for
 515 each approved interim rate increase. Nothing in this subsection shall
 516 prohibit the commissioner from increasing the rate of a licensed chronic
 517 and convalescent nursing home or a rest home with nursing supervision
 518 for allowable costs associated with facility capital improvements or
 519 increasing the rate in case of a sale of a licensed chronic and convalescent
 520 nursing home or a rest home with nursing supervision if receivership
 521 has been imposed on such home. For purposes of this section,
 522 "temporary nursing services agency" and "nursing personnel" have the
 523 same meaning as provided in section 19a-118.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-522a
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	19a-535(c)
Sec. 4	<i>from passage</i>	19a-535(k)
Sec. 5	<i>July 1, 2023</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>July 1, 2023</i>	New section
Sec. 8	<i>July 1, 2023</i>	19a-491a
Sec. 9	<i>July 1, 2023</i>	17b-340(a)

Statement of Legislative Commissioners:

The title was changed; in Section 3(c)(1), "State Long-Term Care Ombudsman" was changed to "State [Long-Term Care] Ombudsman" for consistency and accuracy; and in Section 6(a), the last sentence was rewritten for clarity and accuracy.

HS *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:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Connecticut Health and Educational Facilities Authority	See Below - See Below	See Below	See Below
Social Services, Dept.	GF - See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The fiscal impacts of the bill are broken out by section below. Other provisions of the bill are not anticipated to result in a fiscal impact to the State or municipalities.

Section 2 results in a potential fiscal impact to the Connecticut Health and Educational Facilities Authority (CHEFA) to provide financial assistance to nursing homes for costs incurred to install air conditioning systems in each resident room, through a revolving loan account. The bill does not specify a funding source for the revolving loan account and makes such loans subject to requirements to be determined by CHEFA. No new loan may be made after January 1, 2026, and any remaining funds may be withdrawn by the authority from such account and used for other purposes of the authority.

Section 5 results in a cost to the Department of Social Services (DSS) associated with establishing a grant program for nursing homes to provide for the nonemergency transportation of residents to the homes of nearby family members. The extent of the cost is dependent on the parameters of the grant program established by the bill and within available appropriations.

Section 7 could result in a revenue gain or cost savings to the Department of Social Services (DSS) associated with fines for nursing homes due to noncompliance with documentation requirements established by the bill. The bill requires nursing homes to provide narrative summaries of expenditures in addition to their currently required cost reports. Failure to comply with the provisions of the bill could result in a fine of not more than \$10,000 for each incident of noncompliance. The fine may be paid to the General Fund and credited to the Medicaid account, or DSS may collect the fine through reduced Medicaid payments due to such facilities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future.

OLR Bill Analysis**sSB 989*****AN ACT CONCERNING NURSING HOME AIR CONDITIONING, COST REPORTING TRANSPARENCY, WAITING LIST REQUIREMENTS, INVOLUNTARY PATIENT TRANSFER NOTICES AND TRANSPORTATION FOR RESIDENT SOCIAL VISITS.***

TABLE OF CONTENTS:

[§§ 1 & 2 — AIR CONDITIONING IN NURSING HOMES](#)

Requires nursing homes to provide air conditioning in every resident room by January 1, 2026; requires DPH to review and report to the legislature on this topic before the requirement takes effect; creates a revolving loan account within CHEFA to help nursing home owners pay to install the resident air conditioning systems

[§§ 3 & 4 — INVOLUNTARY TRANSFER NOTICE](#)

Requires nursing homes to notify the Long-Term Care Ombudsman of a resident's involuntary transfer or discharge on the same day the nursing home notifies the resident

[§ 5 — NURSING HOME TRANSPORTATION FOR NONAMBULATORY RESIDENTS](#)

Allows nursing homes to transport residents to their family members' homes under certain conditions and requires DSS to establish a grant program and report on transportation as a health-related social need and potential federal funding for it

[§ 6 — NURSING HOME WAITLIST WORKING GROUP](#)

Requires the Long-Term Care Ombudsman to convene a working group to recommend revisions to nursing home waitlist requirements and report to the Human Services and Public Health committees by January 1, 2024

[§ 7 — NURSING HOME EXPENDITURE SUMMARIES](#)

Requires nursing homes to submit to DSS narrative summaries of certain expenditures with their annual cost reports, requires DSS to post this information online, and sets a \$10,000 fine for violations

§ 8 — PRIVATE EQUITY OWNERS AND NURSING HOME LICENSURE

Requires applicants for a nursing home license to provide to DPH (1) information on private equity funds that own any part of the nursing home and (2) the owner's audited and certified financial statements

§ 9 — FOR-PROFIT NURSING HOME RELATED PARTY REPORTING

Broadens nursing home related party cost reporting requirements by removing the cost threshold

§§ 1 & 2 — AIR CONDITIONING IN NURSING HOMES

Requires nursing homes to provide air conditioning in every resident room by January 1, 2026; requires DPH to review and report to the legislature on this topic before the requirement takes effect; creates a revolving loan account within CHEFA to help nursing home owners pay to install the resident air conditioning systems

The bill requires nursing homes, by January 1, 2026, to provide air conditioning in every resident room. (It expressly exempts residential care homes from the requirement.) Before the requirement takes effect, the bill requires the Department of Public Health (DPH) to review each nursing home to determine which homes do not currently do this and report specified information on these homes to the Aging, Human Services, and Public Health committees by January 1, 2025.

Additionally, the bill creates a revolving loan account within the Connecticut Health and Educational Facilities Authority (CHEFA) to help nursing home owners pay to install the resident air conditioning systems.

DPH Review and Report

Beginning July 1, 2024, the bill requires DPH to review each nursing home to determine which homes already have air conditioning in all resident rooms. Those homes that do not must report the following information to DPH as the commissioner prescribes:

1. whether and how the nursing home can adequately control the climate in resident rooms during hot weather,
2. feasible air conditioning system options to install at the nursing home, and

3. the cost and physical plant needs for providing air conditioning in each resident room and any other impediments to doing so.

The bill requires DPH to report on this information to the Aging, Human Services, and Public Health committees by January 1, 2025.

CHEFA Revolving Loan Account

Under the bill, the revolving loan account must contain (1) moneys provided or required by law to be deposited into it and (2) public or private contributions CHEFA accepts.

The bill subjects the loans' terms and conditions to eligibility, loan approval, credit, and other underwriting requirements and criteria that CHEFA determines are reasonable given the program's purpose. To implement the program, CHEFA may use its existing powers and must adopt written procedures following notice requirements for quasi-public agencies.

The bill prohibits CHEFA from issuing new loans to nursing homes after January 1, 2026, once the air conditioning requirement takes effect. At that time, it may withdraw any remaining account funds and use them for other purposes, subject to any restrictions on account contributions.

By law, CHEFA generally assists higher education institutions, healthcare institutions, nursing homes, child care or child development facilities, and qualified nonprofit organizations with construction, financing or refinancing projects, or in other ways authorized by law (CGS § 10a-180).

CHEFA Report

The bill requires CHEFA to report the following information to the Aging, Human Services, and Public Health committees by January 1, 2026:

1. a list of program loans issued and a general description of their terms, conditions, and repayment history;

2. an assessment of their impact on nursing homes' compliance with the bill's air conditioning requirement;
3. the need for additional program funding; and
4. other information CHEFA deems relevant to evaluate the program's success in meeting its objectives.

Background — Nursing Home Minimum Temperature Standards

DPH regulations set minimum temperature requirements of 75 degrees in areas that residents use and at least 70 degrees in all other occupied areas (Conn. Agencies Regs., 19-13-D8t(d)(4)).

EFFECTIVE DATE: Upon passage

§§ 3 & 4 — INVOLUNTARY TRANSFER NOTICE

Requires nursing homes to notify the Long-Term Care Ombudsman of a resident's involuntary transfer or discharge on the same day the nursing home notifies the resident

By law, nursing homes must give residents and their representatives written notification about a discharge or transfer at least 30 days in advance, including information about the appeals process and the ombudsman's contact information. Under the bill, nursing homes must also notify the Long-Term Care Ombudsman on the same date as the resident notification if the transfer or discharge is involuntary. If the nursing home fails to do so, the involuntary transfer or discharge is invalidated and cannot proceed. The ombudsman must prescribe how to give the notification.

EFFECTIVE DATE: Upon passage

Background — Involuntary Transfers and Discharges

Under federal and state law, nursing homes cannot transfer or discharge a resident unless the (1) facility cannot provide the resident adequate care, (2) resident's health has improved to the point that he or she no longer needs the home's services, (3) health or safety of people in the facility are endangered, (4) resident failed to pay for care after reasonable notice, or (5) facility closes (42 C.F.R. § 483.15(c), CGS § 19a535(b)).

Background — Related Bill

sSB 930 (File 99), favorably reported by the Aging Committee, has identical provisions.

§ 5 — NURSING HOME TRANSPORTATION FOR NONAMBULATORY RESIDENTS

Allows nursing homes to transport residents to their family members' homes under certain conditions and requires DSS to establish a grant program and report on transportation as a health-related social need and potential federal funding for it

The bill allows nursing homes to transport nonambulatory residents (i.e., those unable to walk) to their family members' homes if:

1. a licensed physician, physician's assistant, or advanced practice registered nurse approves it at least five business days in advance;
2. the nursing home has available vehicles equipped to transport the residents; and
3. the family members live within 15 miles of the nursing home.

The bill also allows the Department of Social Services (DSS) commissioner, within available appropriations, to establish a grant program to fund this transportation. If she does so, the commissioner must establish forms and procedures for nursing homes to apply for a grant.

Under the bill, the commissioner must also evaluate if (1) the need for this transportation would qualify as a health-related social need (i.e., a health need derived from an adverse social condition that contributes to poor health and health disparities) and (2) there is any available federal funding for the transportation. She must report on the evaluation to the Council on Medical Assistance Program Oversight (MAPOC) by October 1, 2023.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

HB 6575 (File 71), favorably reported by the Aging Committee, has similar provisions, but does not require DSS to report to MAPOC.

§ 6 — NURSING HOME WAITLIST WORKING GROUP

Requires the Long-Term Care Ombudsman to convene a working group to recommend revisions to nursing home waitlist requirements and report to the Human Services and Public Health committees by January 1, 2024

The bill requires the Long-Term Care Ombudsman to convene a working group to recommend revisions to existing law's nursing home waitlist requirements (CGS § 19a-533). Working group members must include the following:

1. the Long-Term Care Ombudsman, or her designee, who serves as chairperson;
2. at least two nursing home industry representatives, appointed by the ombudsman;
3. DSS and DPH commissioners, or their designees; and
4. any other member the ombudsman appoints.

The bill requires the working group to meet at least monthly, but does not specify when it must convene.

Under the bill, the working group must report its recommended changes to the waiting list requirements (e.g., authorizing nursing homes to maintain waiting lists electronically) by January 1, 2024, to the Human Services and Public Health committees.

EFFECTIVE DATE: Upon passage

§ 7 — NURSING HOME EXPENDITURE SUMMARIES

Requires nursing homes to submit to DSS narrative summaries of certain expenditures with their annual cost reports, requires DSS to post this information online, and sets a \$10,000 fine for violations

Beginning the cost report year ending September 30, 2024, the bill requires nursing homes to annually submit narrative summaries of cost expenditures to the DSS commissioner, alongside their statutorily

required cost reports. The summaries must include the percentage of Medicaid funding allocated to, and expenditures in, (1) direct costs, (2) indirect costs, (3) fair rent, (4) capital-related costs, and (5) administrative and general costs. They must also include expenditures for each allowable cost component by the nursing home and any related party (see below).

Beginning January 1, 2025, DSS must annually post on the agency's website (1) these cost reports and summaries for each nursing home, (2) comparisons between individual nursing homes by expenditures, and (3) a summary of the average reported expenditures of all reporting nursing homes for each category. Any cost report forms DSS uses must include a glossary, an explanation of the terms used, a description of the reported categories, and a plain language explanation of the formulas used to determine costs for the five allowable cost components.

The bill requires a nursing home that fails to comply with this reporting requirement to be fined up to \$10,000. Before imposing a penalty, the DSS commissioner must notify the nursing home about the violation and allow it to request a review. The home must request a review within 15 days after receiving the notice, and DSS cannot impose the penalty while the review is pending.

Under the bill, the penalty may be imposed even if the nursing home's ownership changes after the violation takes place, as long as DSS issued the notice about the violation before the change in ownership became effective and the record of the notice is readily available in a central registry maintained by DSS. The DSS commissioner may collect the penalty by offsetting payments due to the facility. Payments made for these penalties must be deposited in the General Fund and credited to the Medicaid account.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6678 (File 74) (§ 1), favorably reported by the Aging Committee, has similar provisions with earlier deadlines.

§ 8 — PRIVATE EQUITY OWNERS AND NURSING HOME LICENSURE

Requires applicants for a nursing home license to provide to DPH (1) information on private equity funds that own any part of the nursing home and (2) the owner's audited and certified financial statements

The bill expands the information the nursing home licensure applicants must give DPH to include (1) information on any private equity fund that owns any part of the home, the name of the fund's investment advisor, and a copy of the most recent quarterly statement given to the private fund's investors and (2) the owner's audited and certified financial statements. Under current law, these statements are only required if requested by DPH. The financial statement must include a balance sheet from the end of the most recent fiscal year and income statements from the most recent fiscal year (or an applicable shorter period if the owner has not existed for a full fiscal year).

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6678 (File 74) (§ 2), favorably reported by the Aging Committee, has identical provisions.

§ 9 — FOR-PROFIT NURSING HOME RELATED PARTY REPORTING

Broadens nursing home related party cost reporting requirements by removing the cost threshold

The bill broadens related party reporting requirements for for-profit nursing homes that receive Medicaid funding. Current law requires these nursing homes to include in their annual reports a profit and loss statement from each related party (i.e., a company related to the home through family association, common ownership, control, or business association with the home's owners or operators) that receives at least \$50,000 of income from the home per year. The bill removes this income threshold, requiring statements from each related party that received any income from the home.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6678 (File 74) (§ 3), favorably reported by the Aging Committee, also removes the income requirement, and further expands the reporting requirement to nonprofit nursing homes.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 20 Nay 1 (03/28/2023)