
OLR Bill Analysis

sHB 5293

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. Principally, it:

1. codifies existing practice by establishing an Oral Health and Dental Services Unit within DDS's Health and Clinical Services Division, and allows DDS to contract with dentists or provisionally licensed dentists for this purpose;
2. revises a recently enacted grant program for providers of supportive housing for people with developmental disabilities, such as (a) shifting primary responsibility for the program from DDS to the Department of Housing (DOH) and (b) expanding the types of entities eligible for program grants;
3. removes the statutory cap of 11 DDS self-advocate coordinators;
4. updates and revises the law on transfers from DDS-operated or -funded residential facilities, such as authorizing DDS to temporarily transfer residents for up to 90 days during certain emergency situations;
5. codifies existing practice by establishing in law a human rights committee and program review committee within each DDS service region and the Southbury Training School;
6. makes information in DDS's abuse and neglect registry available to the Office of Labor Relations to determine whether an applicant for employment with DDS or certain other state agencies appears on the registry;

7. specifically names the DDS ombudsperson office in law as the “Office of the Developmental Services Ombudsperson;” and
8. updates notice requirements related to intermediate care facilities for individuals with intellectual disability (ICF/IIDs) related to the certificate of need (CON) process, such as requiring facility closure notices to go to the Office of the Developmental Services Ombudsperson rather than the Office of the Long-Term Care Ombudsman, and requiring the ombudsperson’s office to hold informational sessions related to these closures. (The bill does not change the underlying CON requirements.)

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions on residential transfers take effect July 1, 2024, and those on the supportive housing grant program take effect October 1, 2024.

§§ 1 & 2 — ORAL HEALTH AND DENTAL SERVICES UNIT

The bill codifies existing practice by establishing an Oral Health and Dental Services Unit within DDS’s Health and Clinical Services Division. Under the bill, the unit must:

1. support people with intellectual disability by helping them reach and maintain their optimal oral health;
2. provide them access to oral and dental health care;
3. educate them, their families, and support staff on oral disease prevention and early detection, and give them oral health and dental information; and
4. participate in oral health-related research and education.

The bill allows the Oral Health and Dental Services Unit to provide dental care services to people with intellectual disability at designated dental offices in any DDS service region. These services must be (1) specialized and individualized to meet their needs and (2) provided under the scope of practice of a dentist or dental hygienist.

Under the bill, the DDS commissioner may contract with (1) licensed dentists or (2) dentists with provisional licenses (see below) to carry out the unit's duties.

Provisional Licenses (§ 2)

Existing law allows for provisional licensure for an in-state dental school's full time faculty member who is not licensed in Connecticut but who is licensed in another state or has exceptional qualifications, upon approval by the state Dental Commission. Under current law, the provisional license allows dental practice only at the dentistry school where the person is a faculty member or affiliated hospitals. The bill additionally allows dental practice under this provisional license in DDS's Oral Health and Dental Services Unit.

§ 3 — SUPPORTIVE HOUSING ASSISTANCE PROGRAM

PA 23-137, § 53, requires the DDS commissioner to give grants to private nonprofits for supportive housing for people with an intellectual disability or other developmental disabilities, including autism spectrum disorder (ASD).

This bill makes several changes to this program. It transfers to the DOH commissioner the responsibility to provide assistance under the program in consultation with the DDS commissioner and makes related conforming changes. For example, it requires (1) the DOH commissioner, rather than the DDS commissioner, to develop program guidelines and an application form, and extends from July 1, 2024, to October 1, 2024, the deadline for these materials to be posted online; (2) recipients of program assistance to annually report to DOH rather than DDS; and (3) DOH, rather than DDS, to annually report to specified legislative committees on the program.

The bill expands the allowable assistance under the program to include deferred loans. It targets the assistance to eligible developers (e.g., nonprofit corporations, housing construction businesses meeting certain requirements, or municipal developers), rather than just nonprofit organizations, for this supportive housing. It adds the condition that the developer have partnered with a DDS-qualified

provider or a provider approved to provide services supporting people receiving services under the Department of Social Services's (DSS) ASD Medicaid waiver program.

Current law requires DDS, when providing assistance under the program, to prioritize nonprofits that reserve at least 50% of a housing site's initial residential capacity for people with these disabilities who are on a supportive housing waiting list DDS or DSS maintains. The bill instead requires DOH to prioritize developers that reserve up to 25% of the initial residential capacity to people with these disabilities on a waiting list or who wish to move from a more structured setting to supportive housing.

§§ 4-6 — DDS SELF-ADVOCATE COORDINATORS

The bill removes the statutory cap of 11 DDS self-advocates in a general worker position who are eligible for specified sick, vacation, and personal leave and holiday pay benefits. In practice, these positions are self-advocate coordinators.

The bill also specifies that the Department of Administrative Services commissioner's authority to issue regulations on granting holiday time to certain non-permanent state employees is subject to the standard regulation approval process.

§§ 7-8 & 15 — RESIDENT TRANSFERS

By law, the DDS commissioner may assign someone with intellectual disability to a public or state-supported private residential facility. The bill removes the specific requirement that the commissioner consider the recommendations of a properly designated diagnostic agency before making these assignments.

It also updates and revises the law on transfers between these residential facilities. Current law generally requires DDS to give at least 10 days prior notice before transferring a facility resident, except for emergency transfers, for which notice must be provided within 10 days after the transfer. The bill also allows this post-transfer notice, rather than prior notice, for medical transfers.

The bill specifies that for all transfers, including those for emergencies or medical reasons, adult residents of these facilities or residents' legal representatives have the right to request a hearing if they object to a transfer. Current law (1) has conflicting provisions on the right to request a hearing to contest an emergency transfer and (2) does not allow objections to a medical transfer.

The bill also creates a process for temporary emergency transfers, as explained below.

Temporary Emergency Transfers

The bill sets standards and procedures for temporary transfers, without prior notice, due to emergencies or during a declared public health emergency.

Specifically, it allows the DDS commissioner to temporarily transfer anyone from a DDS-operated or state-supported residential facility if he determines that an emergency in the facility must be addressed immediately, including when the facility is left uninhabitable due to a natural disaster, utility malfunction, or temporary concerns with the facility staff's ability to meet resident needs. These transfers remain in place for up to 90 days or until the commissioner rescinds them, whichever is earlier.

The bill also allows the commissioner, during a declared public health emergency, to request that the governor issue an executive order authorizing the commissioner to temporarily transfer a facility resident for reasons of health or safety. If the governor issues the order, the commissioner may make temporary transfers as he deems necessary, and the transfers stay in place until the commissioner rescinds them or the order expires, whichever is earlier.

In either case, the commissioner must notify the person and the person's legal representative (if any) in writing about the temporary transfer as soon as practicable, but no later than 10 days after the transfer. The person cannot object and request a hearing until the 30th day of the transfer, and the hearing follows existing procedures and

standards.

§§ 9-11 — HUMAN RIGHTS AND PROGRAM REVIEW COMMITTEES

The bill codifies existing practice by establishing in law a human rights committee and program review committee within each DDS service region and the Southbury Training School. The respective regional or training school director appoints the committees' members.

Under the bill, the human rights committees must:

1. advise and make recommendations to these directors and the DDS commissioner on best practices and
2. address concerns and complaints on human rights issues involving people receiving DDS services, including those involving aversive procedures (see below), restrictive interventions, intrusive programs or devices, restitution, and pre-sedation medication.

The program review committees must advise the directors and commissioner on best practices for reviewing plans that include things like behavior support strategies, use of psychotropic and behavior modifying medications, and the use of restraints for people receiving DDS services.

For each type of committee, the bill (1) requires the commissioner to establish uniform responsibilities and procedures and (2) allows him to adopt implementing regulations.

Human Rights Committee Recommendations on Aversive Procedures (§ 11)

Current law prohibits using aversive procedures on anyone placed or treated under the direction of the DDS commissioner, except under procedures established by the commissioner. The bill additionally provides that these procedures may occur only in line with recommendations from a regional human rights committee.

By law, an "aversive procedure" is the contingent use of an event that may be unpleasant, noxious, or otherwise cause discomfort and is

designed to change a specific behavior or to protect someone from injuring himself, herself, or others. It can include the use of physical isolation and mechanical and physical restraints.

§ 12 — ABUSE AND NEGLECT REGISTRY

By law, DDS maintains a registry of certain former employees who left or were fired from their jobs because of a substantiated abuse or neglect complaint against them. These are people who were employed by DDS, or an agency, organization, or person who DDS licenses or funds. The information is available only to certain agencies and employers for specified purposes.

The bill makes information in the registry available to the state's Office of Labor Relations for determining whether an applicant for employment with certain state agencies appears on the registry. Specifically, this applies to applicants at DDS or the departments of Children and Families, Mental Health and Addiction Services, and Social Services. Existing law already grants these other agencies and the Department of Administrative Services access to the registry to determine whether applicants appear on it.

§ 13 — OMBUDSPERSON OFFICE

By law, an independent ombudsperson office within DDS receives complaints affecting people under DDS care or agencies with whom the department contracts for services and recommends to the commissioner ways to resolve these complaints. The bill specifically names this office as the "Office of the Developmental Services Ombudsperson."

§ 14 — ICF/IID CON-RELATED NOTICES

By law, long-term care facilities, including Medicaid-certified ICF/IIDs, generally must seek certificate of need (CON) approval from DSS before certain activities (such as introducing new services or eliminating services). In several cases, the law requires the facility to also give related notices to certain other state entities.

The bill updates these notice requirements for ICF/IIDs, generally requiring them to give notices to the Office of the Developmental

Services Ombudsperson (and in some cases, other agencies) rather than the Office of the Long-Term Care Ombudsman. Correspondingly, it requires the former, rather than the latter, office to take certain actions in response. Generally, these notices and related actions are follows:

1. facility notice of intended (a) pre-licensure ownership transfers, (b) new or expanded functions or services, (c) service terminations or substantial decreases in licensed bed capacity, or (d) bed relocations to a different facility;
2. facility notice of closure petition;
3. informational letter on patient rights (for patients and certain other parties) by the ombudsperson's office and the Department of Aging and Disability Services (ADS) that must accompany the closure notice;
4. informational session on the potential closure held by the ombudsperson's office and the Department of Public Health;
5. facility notice when submitting a letter of intent before filing a CON application; and
6. informational letter by the ombudsperson's office and ADS that must accompany a letter of intent on potential service terminations or substantial decreases in bed capacity.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 37 Nay 0 (03/11/2024)