



General Assembly

Amendment

February Session, 2002

LCO No. 4553

HB0547704553SD0

Offered by:

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To: Subst. House Bill No. 5477

File No. 344

Cal. No. 225

**"AN ACT REQUIRING THE DEPARTMENT OF MENTAL
RETARDATION TO REPORT ALL DEATHS AND SIGNIFICANT
INJURIES TO THE OFFICE OF PROTECTION AND ADVOCACY
FOR PERSONS WITH DISABILITIES."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (New) (*Effective from passage*) (a) There is established an
4 Independent Mortality Review Board. The board shall be comprised of
5 the following members: (1) The director of health and clinical services
6 of the Department of Mental Retardation or said director's designee;
7 (2) the director of quality assurance of the Department of Mental
8 Retardation or said director's designee; (3) the director of
9 investigations of the Department of Mental Retardation or said
10 director's designee; (4) the Chief Medical Examiner or said Chief
11 Medical Examiner's designee; (5) the Commissioner of Public Health or
12 said commissioner's designee; (6) a physician to be jointly appointed

13 by the Commissioner of Mental Retardation and the executive director
14 of the Office of Protection and Advocacy for Persons with Disabilities;
15 (7) a private provider of health care to be jointly appointed by the
16 Commissioner of Mental Retardation and the executive director of the
17 Office of Protection and Advocacy for Persons with Disabilities; and
18 (8) two members to be appointed by the executive director of the
19 Office of Protection and Advocacy for Persons with Disabilities.

20 (b) A majority of the members of said board shall not be employees
21 of the Department of Mental Retardation. The chairperson of said
22 board shall be appointed by the Commissioner of Mental Retardation,
23 in consultation with the executive director of the Office of Protection
24 and Advocacy for Persons with Disabilities.

25 Sec. 2. (NEW) (*Effective from passage*) (a) Subject to the provisions of
26 section 4 of this act, the Independent Mortality Review Board,
27 established pursuant to section 1 of this act, shall be the sole entity in
28 the state to review the medical care and circumstances surrounding the
29 death of a client of the Department of Mental Retardation when (1)
30 such death is determined by the Commissioner of Mental Retardation
31 or the executive director of the Office of Protection and Advocacy for
32 Persons with Disabilities to be likely caused by abuse or neglect, or (2)
33 said board determines that such a review is warranted. Nothing in this
34 subsection shall be construed to limit any investigation by a peace
35 officer, as defined in subdivision (9) of section 53a-3 of the general
36 statutes, or by the Chief Medical Examiner.

37 (b) The board shall also conduct expedited reviews of cases pending
38 before the regional mortality review committees at the request of the
39 Commissioner of Mental Retardation or the executive director of the
40 Office of Protection and Advocacy for Persons with Disabilities.

41 (c) After conducting a review pursuant to subsection (a) or (b) of
42 this section, the board shall report its findings and recommendations
43 to the appropriate entities while ensuring that the privacy rights of
44 individuals, families and staff are not jeopardized and that such

45 reporting does not inhibit or compromise the need for prompt and
46 truthful reporting of abuse, neglect or other incidents.

47 (d) The board shall annually report its data, analysis and
48 recommendations, in accordance with section 11-4a of the general
49 statutes, to the Governor and the joint standing committee of the
50 General Assembly having cognizance of matters relating to public
51 health.

52 Sec. 3. (NEW) (*Effective from passage*) (a) There is established a
53 Fatality Review Board for Persons with Disabilities. The board shall be
54 comprised of the following members appointed by the Governor: (1)
55 One law enforcement professional with a background in forensic
56 investigations; (2) one mental retardation professional; (3) the Chief
57 State's Attorney or said Chief State's Attorney's designee; and (4) two
58 medical professionals.

59 (b) The Commissioner of Mental Retardation or said commissioner's
60 designee shall serve as a nonvoting liaison to the Fatality Review
61 Board for Persons with Disabilities.

62 Sec. 4. (NEW) (*Effective from passage*) (a) The Fatality Review Board
63 for Persons with Disabilities, established pursuant to section 3 of this
64 act, shall investigate the circumstances surrounding untimely deaths
65 that, in the opinion of the executive director of the Office of Protection
66 and Advocacy for Persons with Disabilities, warrant a full and
67 independent investigation. For purposes of facilitating a timely
68 investigation, said executive director may refer a case being reviewed
69 by the Independent Mortality Review Board, established by subsection
70 (a) of section 1 of this act, to the Fatality Review Board for Persons
71 with Disabilities, prior to the completion of the review by the
72 Independent Mortality Review Board.

73 (b) The Commissioner of Mental Retardation and the executive
74 director of the Office of Protection and Advocacy for Persons with
75 Disabilities shall enter into a memorandum of understanding with the
76 Fatality Review Board for Persons with Disabilities, established

77 pursuant to section 3 of this act, for purposes of outlining the
78 information to be shared between said board, commissioner and
79 executive director.

80 (c) The board shall annually report its findings and
81 recommendations, in accordance with section 11-4a of the general
82 statutes, to the Governor and the joint standing committee of the
83 General Assembly having cognizance of matters relating to public
84 health.

85 Sec. 5. (NEW) (*Effective from passage*) The Department of Mental
86 Retardation shall:

87 (1) Employ a nurse with the division of investigations to review, in
88 conjunction with the Division of State Police within the Department of
89 Public Safety, any untimely death of a client of the Department of
90 Mental Retardation;

91 (2) Perform unannounced visits to private and public facilities
92 licensed by the department; and

93 (3) Require all providers to post their licensing inspection report
94 either in hard copy within each facility or on the Internet.

95 Sec. 6. (NEW) (*Effective October 1, 2002*) The Commissioner of Mental
96 Retardation shall, not later than forty-eight hours after the death or
97 severe physical injury of any client receiving residential or day services
98 from the Department of Mental Retardation, report the circumstances
99 of such death or injury to the Office of Protection and Advocacy for
100 Persons with Disabilities.

101 Sec. 7. (NEW) (*Effective October 1, 2002*) The Department of Mental
102 Retardation shall provide each of its clients and the guardian of each
103 such client, if any, with a pamphlet informing the client and such
104 client's family or guardian about all the services available to clients
105 from the Office of Protection and Advocacy for Persons with
106 Disabilities, established pursuant to section 46a-10 of the general

107 statutes. Said pamphlet shall be available to family members upon
108 request. The Commissioner of Mental Retardation shall confer with the
109 director of the Office of Protection and Advocacy for Persons with
110 Disabilities for the purpose of creating and designing the pamphlet.

111 Sec. 8. Section 46a-11 of the general statutes is repealed and the
112 following is substituted in lieu thereof (*Effective October 1, 2002*):

113 The director may, within available appropriations:

114 (1) Purchase or contract for necessary services including, but not
115 limited to, legal services;

116 (2) Receive and spend, pursuant to the purposes of this chapter,
117 moneys in the form of gifts, bequests, state appropriations, state or
118 private grants or federal grants;

119 (3) Establish a state-wide toll-free telephone information and
120 referral system for persons with disabilities for referral of such persons
121 to appropriate public or private agencies or services. Such information
122 and referral system may be coordinated with the Governor's state-
123 wide information bureau or any other existing information and referral
124 services;

125 (4) Receive and investigate complaints from persons with
126 disabilities, parents or guardians of such persons or in writing from
127 any other interested person, act as an advocate for any person with a
128 disability and initiate or fund legal actions to protect the rights of any
129 person with a disability;

130 (5) Request and receive information, including personal data,
131 concerning a person with a disability from any state or private agency,
132 with the consent of such person with a disability, or the parent or
133 guardian of such person, as appropriate. With respect to a
134 developmentally disabled adult who has no guardian or whose
135 guardian is an employee of the Department of Mental Retardation, the
136 director may request and receive such information only if:

- 137 (A) A request for advocacy services has been made on his behalf;
- 138 (B) Such person does not indicate refusal to give consent to receipt
139 to the information by the director;
- 140 (C) Such person resides in a facility for developmentally disabled
141 persons, including any institution as defined in subsection (a) of
142 section 19a-490, or has been placed in a boarding home, group home or
143 other residential facility pursuant to section 17a-277, as amended;
- 144 (D) Such person has received an explanation of the manner in which
145 any information obtained concerning him will be used by the advocacy
146 office;
- 147 (E) Such person has received an explanation of his right to refuse to
148 allow the director to request or receive such information; ~~]~~ and
- 149 (F) The director has documented his conscientious efforts to provide
150 the required explanations and verified that the developmentally
151 disabled person has not indicated refusal to give consent;
- 152 (6) Oversee the review process conducted by the Department of
153 Mental Retardation for incidents involving the death of or serious
154 injury to a person with mental retardation in a state or state funded
155 residential or day program and ensure the full disclosure of such
156 incidents to family members and legal representatives of such person
157 with mental retardation;
- 158 ~~[(6)]~~ (7) Coordinate and cooperate with other private and public
159 agencies concerned with the implementation, monitoring and
160 enforcement of the rights of persons with disabilities and enter into
161 cooperative agreements with public or private agencies for furtherance
162 of the rights of persons with disabilities;
- 163 ~~[(7)]~~ (8) Represent, appear, intervene in or bring an action on behalf
164 of any person with a disability or class of persons, with the consent of
165 such person or the parent or legal guardian of such person, in any
166 proceeding before any court, agency, board or commission in this state

167 in which matters related to this chapter are in issue;

168 ~~[(8)]~~ (9) Implement, with the approval of the individual using a
 169 service provided by the advocacy office, a case follow-up system;

170 ~~[(9)]~~ (10) Research and identify the needs of persons with disabilities
 171 and programs and services available to meet those needs;

172 ~~[(10)]~~ (11) Develop and maintain a program of public education and
 173 information, such program to include, but not be limited to, education
 174 of the public concerning the needs and rights of persons with
 175 disabilities, in cooperation with existing state and private agencies, an
 176 outreach effort to discover persons with disabilities in need of
 177 assistance or an advocate and provisions for a class or group advocacy
 178 service;

179 ~~[(11)]~~ (12) Develop and maintain an individual advocacy service for
 180 persons with disabilities which shall investigate referred problems or
 181 complaints; [and]

182 ~~[(12)]~~ (13) Receive, review and make such recommendations as he
 183 deems appropriate on applications for waivers from the requirements
 184 of the State Building Code, submitted by the State Building Inspector
 185 pursuant to the provisions of subsection (b) of section 29-269; and

186 (14) Establish standards for abuse and neglect investigations
 187 conducted by employees of the Department of Mental Retardation.

188 Sec. 9. (NEW) (*Effective October 1, 2002*) The Department of Mental
 189 Retardation shall provide to the Office of Protection and Advocacy for
 190 Persons with Disabilities all information that the department possesses
 191 relating to any incident involving the death of or serious injury to a
 192 person with mental retardation in a state or state funded residential or
 193 day program."

This act shall take effect as follows:	
Section 1	<i>from passage</i>

Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>
Sec. 8	<i>October 1, 2002</i>
Sec. 9	<i>October 1, 2002</i>