



General Assembly

Substitute Bill No. 971

January Session, 2003

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS
COMMITTEE CONCERNING DEPARTMENT OF MENTAL
RETARDATION CLIENT HEALTH AND SAFETY.**

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

1 Section 1. Subsection (a) of section 17a-210 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2003*):

4 (a) There shall be a Department of Mental Retardation. The
5 Department of Mental Retardation, with the advice of a Council on
6 Mental Retardation, shall be responsible for the planning,
7 development and administration of complete, comprehensive and
8 integrated state-wide services for persons with mental retardation and
9 persons medically diagnosed as having Prader-Willi syndrome. The
10 Department of Mental Retardation shall be under the supervision of a
11 Commissioner of Mental Retardation, who shall be appointed by the
12 Governor in accordance with the provisions of sections 4-5 to 4-8,
13 inclusive. The Council on Mental Retardation may advise the
14 Governor on the appointment. The commissioner shall be a person
15 who has background, training, education or experience in
16 administering programs for the care, training, education, treatment
17 and custody of persons with mental retardation. The commissioner
18 shall be responsible, with the advice of the council, for: (1) Planning

19 and developing complete, comprehensive and integrated state-wide
20 services for persons with mental retardation; (2) the implementation
21 and where appropriate the funding of such services; and (3) the
22 coordination of the efforts of the Department of Mental Retardation
23 with those of other state departments and agencies, municipal
24 governments and private agencies concerned with and providing
25 services for persons with mental retardation. The commissioner shall
26 be responsible for the administration and operation of the state
27 training school, state mental retardation regions and all state-operated
28 community-based residential facilities established for the diagnosis,
29 care and training of persons with mental retardation. The
30 commissioner shall be responsible for establishing standards,
31 providing technical assistance and exercising the requisite supervision
32 of all state-supported residential, day and program support services
33 for persons with mental retardation and work activity programs
34 operated pursuant to section 17a-226. The commissioner shall conduct
35 or monitor investigations into allegations of abuse and neglect and file
36 reports as requested by state agencies having statutory responsibility
37 for the conduct and oversight of such investigations. In the event of the
38 death of a person with mental retardation for whom the department
39 has direct or oversight responsibility for medical care, the
40 commissioner shall ensure that a comprehensive and timely review of
41 the events, overall care, quality of life issues and medical care
42 preceding such death is conducted by the department and shall, as
43 requested, provide information and assistance to the Independent
44 Mortality Review Board established by Executive Order No. 25 of
45 Governor John G. Rowland. The commissioner shall report to the
46 board and the board shall review any death: (A) Involving an
47 allegation of abuse or neglect; (B) for which the Office of Chief Medical
48 Examiner or local medical examiner has accepted jurisdiction; (C) in
49 which an autopsy was performed; (D) which was sudden and
50 unexpected; or (E) in which the commissioner's review raises questions
51 about the appropriateness of care. The commissioner shall stimulate
52 research by public and private agencies, institutions of higher learning
53 and hospitals, in the interest of the elimination and amelioration of

54 retardation and care and training of persons with mental retardation.

55 Sec. 2. Section 17a-227 of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective July 1, 2004*):

57 (a) No person, firm or corporation shall conduct or maintain within
58 this state a residential facility which it owns, leases or rents for the
59 lodging, care or treatment of persons with mental retardation or
60 autistic persons unless such person, firm or corporation, upon written
61 application, verified by oath, has obtained a license issued by the
62 Department of Mental Retardation.

63 (b) The commissioner shall adopt regulations, in accordance with
64 the provisions of chapter 54, to insure the comfort, safety, adequate
65 medical care and treatment of such persons at such residential
66 facilities. Such regulations shall include requirements that: (1) All
67 residential facility staff be certified in cardiopulmonary resuscitation in
68 a manner and timeframe prescribed by the commissioner; (2) records
69 of staffing schedules and actual staff hours worked, by residential
70 facility, be available for inspection by the department upon advance
71 notice; (3) each residential facility develop and implement emergency
72 plans and staff training to address emergencies that may pose a threat
73 to the health and safety of the residents of the facility; (4) department
74 inspectors verify during licensing inspections, that (A) staff is
75 adequately trained to respond in an emergency, and (B) a summary of
76 information on each resident is available to emergency medical
77 personnel for use in an emergency; and (5) at least half of the
78 inspections conducted by the department after initial licensure are
79 unannounced.

80 (c) After receiving an application and making such investigation as
81 is deemed necessary and after finding the specified requirements to
82 have been fulfilled, the department shall grant a license to such
83 applicant to conduct a facility of the character described in such
84 application, which license shall specify the name of the person to have
85 charge and the location of such facility. Any person, firm or

86 corporation aggrieved by any requirement of the regulations or by the
87 refusal to grant any license may within twenty days of any order
88 directing the enforcement of any provision of such regulations or the
89 refusal of such license, appeal therefrom in accordance with the
90 provisions of section 4-183, except venue for such appeal shall be in the
91 judicial district in which such facility is located. If the licensee of any
92 such facility desires to place in charge thereof a person other than the
93 one specified in the license, application shall be made to the
94 Department of Mental Retardation, in the same manner as provided
95 for the original application, for permission to make such change. Such
96 application shall be acted upon within ten days from the date of the
97 filing of same. Each such license shall be renewed annually upon such
98 terms as may be established by regulations and may be revoked by the
99 department upon proof that the facility for which such license was
100 issued is being improperly conducted, or for the violation of any of the
101 provisions of this section or of the regulations adopted pursuant to this
102 subsection, provided the licensee shall first be given a reasonable
103 opportunity to be heard in reference to such proposed revocation. Any
104 person, firm or corporation aggrieved by such revocation may appeal
105 in the same manner as hereinbefore provided. Each person, firm or
106 corporation, upon filing an application under the provisions of this
107 section for a license for a facility providing residential services for five
108 or more persons, shall pay to the State Treasurer the sum of fifty
109 dollars.

110 ~~[(c)]~~ (d) Notwithstanding any regulation to the contrary, subject to
111 the provisions of this section, the Department of Mental Retardation
112 may contract, within available appropriations, with any organization
113 for the operation of a community-based residential facility, provided
114 such facility is licensed by the [Department of Mental Retardation]
115 department. The department shall include in all contracts with such
116 organizations, provisions requiring the department to (1) conduct
117 periodic reviews of contract performance, and (2) take progressive
118 enforcement actions if the department finds poor performance or
119 noncompliance with the contract, as follows: (A) The organization may

120 be placed on a strict schedule of monitoring and oversight by the
121 department; (B) the organization may be placed on a partial-year
122 contract; and (C) payments due under the contract may be reduced by
123 specific amounts on a monthly basis until the organization complies
124 with the contract. If compliance cannot be achieved, the department
125 shall terminate the contract.

126 [(d)] (e) The department may contract with any person, firm or
127 corporation to provide residential support services for persons with
128 mental retardation who reside in settings which are not licensed by the
129 department. The commissioner shall adopt regulations, in accordance
130 with the provisions of chapter 54, to ensure the safety, adequate
131 supervision and support of persons receiving residential support
132 services.

133 [(e)] (f) Any person, firm or corporation who conducts any facility
134 contrary to the provisions of this section shall be fined not more than
135 one thousand dollars or imprisoned not more than six months or both.
136 Any person, firm or corporation who conducts any facility contrary to
137 the regulations adopted pursuant to subsection (b) of this section shall
138 be fined not more than one thousand dollars.

139 Sec. 3. Subsection (a) of section 46a-11c of the general statutes is
140 repealed and the following is substituted in lieu thereof (*Effective*
141 *October 1, 2003*):

142 (a) The director, upon receiving a report that a person with mental
143 retardation allegedly is being or has been abused or neglected, shall
144 make an initial determination whether such person has mental
145 retardation, shall determine if the report warrants investigation and
146 shall cause, in cases that so warrant, a prompt, thorough evaluation to
147 be made to determine whether the person has mental retardation and
148 has been abused or neglected. In cases where there is a death of a
149 person with mental retardation for whom the Department of Mental
150 Retardation has direct or oversight responsibility for medical care, and
151 there are allegations that such death may be due to abuse or neglect,

152 the director shall conduct an investigation to determine whether abuse
153 or neglect occurred, except as may be otherwise required by court
154 order. The director, in consultation with the Commissioner of Mental
155 Retardation, shall establish protocols for conducting such
156 investigations. For the purposes of sections 46a-11a to 46a-11g,
157 inclusive, the determination of mental retardation may be made by
158 means of a review of records and shall not require the director to
159 conduct a full psychological examination of the person. Any delay in
160 making such determination of mental retardation shall not delay the
161 investigation of abuse or neglect or recommendation of provision of
162 protective services. The evaluation shall include a visit to the named
163 person with mental retardation and consultation with those
164 individuals having knowledge of the facts of the particular case. All
165 state, local and private agencies shall have a duty to cooperate with
166 any investigation conducted by the Office of Protection and Advocacy
167 for Persons with Disabilities under this section, including the release of
168 complete client records for review, inspection and copying, except
169 where the person with mental retardation refuses to permit his or her
170 record to be released. The director shall have subpoena powers to
171 compel any information related to [his] such investigation. All client
172 records shall be kept confidential by said office. Upon completion of
173 the evaluation of each case, written findings shall be prepared which
174 shall include a determination of whether abuse or neglect has occurred
175 and recommendations as to whether protective services are needed.
176 The director, except in cases where the parent or guardian is the
177 alleged perpetrator of abuse or is residing with the alleged perpetrator,
178 shall notify the parents or guardian, if any, of the person with mental
179 retardation if a report of abuse or neglect is made which the director
180 determines warrants investigation. The director shall provide the
181 parents or guardians who [he] the director determines are entitled to
182 such information with further information upon request. The person
183 filing the report of abuse or neglect shall be notified of the findings
184 upon request.

185 Sec. 4. (*Effective October 1, 2003*) The Department of Mental

186 Retardation shall transfer to the Office of Protection and Advocacy one
187 investigator position to enable the office to investigate deaths of
188 persons with mental retardation for whom the Department of Mental
189 Retardation has direct or oversight responsibility for medical care
190 where allegations of abuse or neglect are present, as provided in
191 section 46a-11c of the general statutes, as amended by this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>July 1, 2004</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>

PH *Joint Favorable Subst.*