



# Senate

General Assembly

**File No. 356**

February Session, 2004

Substitute Senate Bill No. 470

*Senate, March 31, 2004*

The Committee on Public Health reported through SEN. MURPHY of the 16th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE DEPARTMENT OF MENTAL  
RETARDATION GUARDIANSHIP ASSESSMENT AND REVIEW  
PROCESS.**

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

1 Section 1. Section 45a-674 of the general statutes, as amended by  
2 section 4 of public act 03-51, is repealed and the following is  
3 substituted in lieu thereof (*Effective October 1, 2004*):

4 At any hearing for appointment of a plenary guardian or limited  
5 guardian of the person with mental retardation, the court shall receive  
6 evidence as to the condition of the respondent, including a written  
7 report or testimony by a Department of Mental Retardation assessment  
8 team appointed by the Commissioner of Mental Retardation or his  
9 designee, no member of which is related by blood, marriage or  
10 adoption to either the applicant or the respondent and each member of  
11 which has personally observed or examined the respondent within  
12 forty-five days next preceding such hearing. The assessment team shall

13 be comprised of at least [three] two representatives from among  
14 appropriate disciplines having expertise in the evaluation of persons  
15 alleged to be mentally retarded. The assessment team members shall  
16 make their report on a form provided for that purpose by the Office of  
17 the Probate Court Administrator and shall answer questions on such  
18 form as fully and completely as possible. The report shall contain  
19 specific information regarding the severity of the mental retardation of  
20 the respondent and those specific areas, if any, in which he needs the  
21 supervision and protection of a guardian, and shall state upon the  
22 form the reasons for such opinions. The applicant, respondent or his  
23 counsel shall have the right to present evidence and cross-examine  
24 witnesses who testify at any hearing on the application. If such  
25 respondent or his counsel notifies the court not less than three days  
26 before the hearing that he wishes to cross-examine the witnesses, the  
27 court shall order such witnesses to appear. The fees for such  
28 assessment team shall be paid from funds appropriated to the  
29 Department of Mental Retardation.

30 Sec. 2. Subsection (a) of section 45a-681 of the general statutes, as  
31 amended by section 10 of public act 03-51, is repealed and the  
32 following is substituted in lieu thereof (*Effective October 1, 2004*):

33 (a) The court shall review each guardianship of the person with  
34 mental retardation or limited guardianship of the person with mental  
35 retardation at least every three years and shall either continue, modify  
36 or terminate the order for guardianship. (1) The court shall receive and  
37 review written evidence as to the condition of the ward. [The] Except  
38 as provided in subdivision (2) of this subsection, the guardian, the  
39 attorney for the ward and a Department of Mental Retardation  
40 professional or, if requested by the ward or by the court, an assessment  
41 team appointed by the Commissioner of Mental Retardation or his  
42 designee shall each submit a written report to the court [within] not  
43 later than forty-five days [of] after the court's request for such report.  
44 (2) In the case of a ward who is functioning adaptively and  
45 intellectually within the severe or profound range of mental  
46 retardation, as determined by the Department of Mental Retardation,

47 the court shall receive and review written reports as to the condition of  
 48 the ward only from the guardian and the attorney for the ward,  
 49 provided the court may require a Department of Mental Retardation  
 50 professional or assessment team to submit a written report as to the  
 51 condition of such ward. Each written report shall be submitted to the  
 52 court not later than forty-five days after the court's request for such  
 53 report. (3) If the ward is unable to request or obtain an attorney, the  
 54 court shall appoint an attorney for the ward. If the ward is unable to  
 55 pay for the services of the attorney, the reasonable compensation of  
 56 such attorney shall be established by, and paid from funds  
 57 appropriated to, the Judicial Department; however, if funds have not  
 58 been included in the budget of the Judicial Department for such  
 59 purposes, such compensation shall be established by the Probate Court  
 60 Administrator and paid from the Probate Court Administration Fund.  
 61 The Department of Mental Retardation professional or assessment  
 62 team shall personally observe or examine the ward within the forty-  
 63 five-day period preceding the date of submission of its report.

This act shall take effect as follows:	
Section 1	October 1, 2004
Sec. 2	October 1, 2004

**PH**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect
Department of Mental Retardation	None
Probate Court	None

**Municipal Impact:** None

**Explanation**

The bill reduces the Department of Mental Retardation (DMR) assessment team that is responsible for guardian assessment reports to the Probate Court from three to two staff. In addition, the bill reduces the number of reports required to be submitted by the assessment team to the Probate Court by eliminating reports of those profound or severe level of mental retardation who have guardians. Current law requires a submission every three years.

There are approximately 4,900 individuals within DMR’s system that have guardians appointed by probate courts. The bill would eliminate a reporting requirement by the department for at least half of them (although Probate Court could request one). The bill’s provisions will reduce the workload of impacted DMR staff, however, due to the original assignment of assessment team responsibilities considered additional to their existing workload, staffing needs are not anticipated to be impacted. While guardians reporting requirements to Probate are maintained, it is anticipated that the bill’s provisions will not result in a fiscal impact to the Probate Court.

**OLR Bill Analysis**

sSB 470

**AN ACT CONCERNING THE DEPARTMENT OF MENTAL RETARDATION GUARDIANSHIP ASSESSMENT AND REVIEW PROCESS****SUMMARY:**

This bill reduces, from three to two, the minimum number of Department of Mental Retardation (DMR) staff who must assess an individual as part of a probate court hearing to determine whether to appoint a guardian for him. The DMR assessors must report to the court on the severity of the individual's mental retardation and the specific areas in which he needs a guardian's protection.

By law, the probate court must review the guardianship of anyone with retardation at least every three years based on written evidence submitted by DMR, the guardian, and the ward's attorney. The bill exempts DMR from having to submit evidence when the guardianship of someone with severe or profound mental retardation is reviewed, except if the court requires it to do so. DMR must still submit evidence when a ward has mild or moderate retardation. The law requires DMR to observe or examine the individual in person when it conducts an assessment, and all evidence must be submitted within 45 days of the court's request.

EFFECTIVE DATE: October 1, 2004

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 19    Nay 0