



# Senate

General Assembly

**File No. 359**

February Session, 2004

Substitute Senate Bill No. 521

*Senate, March 31, 2004*

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING STATE LICENSING FOR CHANGE OF USE OF GROUP HOMES.**

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

1 Section 1. Section 17a-227 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

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

9 (b) The commissioner shall adopt regulations, in accordance with  
10 the provisions of chapter 54, to insure the comfort, safety, adequate  
11 medical care and treatment of such persons at such residential  
12 facilities. After receiving an application and making such investigation

13 as is deemed necessary and after finding the specified requirements to  
14 have been fulfilled, the department shall grant a license to such  
15 applicant to conduct a facility of the character described in such  
16 application, which license shall specify the name of the person to have  
17 charge and the location of such facility. Any person, firm or  
18 corporation aggrieved by any requirement of the regulations or by the  
19 refusal to grant any license may within twenty days of any order  
20 directing the enforcement of any provision of such regulations or the  
21 refusal of such license, appeal therefrom in accordance with the  
22 provisions of section 4-183, except venue for such appeal shall be in the  
23 judicial district in which such facility is located. If the licensee of any  
24 such facility desires to place in charge thereof a person other than the  
25 one specified in the license, application shall be made to the  
26 Department of Mental Retardation, in the same manner as provided  
27 for the original application, for permission to make such change. Such  
28 application shall be acted upon within ten days from the date of the  
29 filing of same. Each such license shall be renewed annually upon such  
30 terms as may be established by regulations and may be revoked by the  
31 department upon proof that the facility for which such license was  
32 issued is being improperly conducted, or for the violation of any of the  
33 provisions of this section or of the regulations adopted pursuant to this  
34 subsection, provided the licensee shall first be given a reasonable  
35 opportunity to be heard in reference to such proposed revocation. Any  
36 person, firm or corporation aggrieved by such revocation may appeal  
37 in the same manner as hereinbefore provided. Each person, firm or  
38 corporation, upon filing an application under the provisions of this  
39 section for a license for a facility providing residential services for five  
40 or more persons, shall pay to the State Treasurer the sum of fifty  
41 dollars. Any license issued pursuant to this section shall be invalid  
42 upon a change in the use of such facility from the lodging, care or  
43 treatment of persons with mental retardation or autistic persons to any  
44 other use. Any such change in use shall require the filing of an  
45 application for a new license with the appropriate state agency, as  
46 determined by such newly proposed use.

47 (c) Notwithstanding any regulation, [to the contrary,] subject to the

48 provisions of this section, the Department of Mental Retardation may  
49 contract, within available appropriations, with any organization for the  
50 operation of a community-based residential facility, provided such  
51 facility is licensed by the Department of Mental Retardation.

52 (d) The department may contract with any person, firm or  
53 corporation to provide residential support services for persons with  
54 mental retardation who reside in settings which are not licensed by the  
55 department. The commissioner shall adopt regulations, in accordance  
56 with the provisions of chapter 54, to ensure the safety, adequate  
57 supervision and support of persons receiving residential support  
58 services.

59 (e) Any person, firm or corporation who conducts any facility  
60 contrary to the provisions of this section shall be fined not more than  
61 one thousand dollars or imprisoned not more than six months or both.  
62 Any person, firm or corporation who conducts any facility contrary to  
63 the regulations adopted pursuant to subsection (b) of this section shall  
64 be fined not more than one thousand dollars.

65 Sec. 2. Section 17a-227 of the general statutes, as amended by section  
66 2 of public act 03-146, is repealed and the following is substituted in  
67 lieu thereof (*Effective July 1, 2004*):

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

74 (b) The commissioner shall adopt regulations, in accordance with  
75 the provisions of chapter 54, to insure the comfort, safety, adequate  
76 medical care and treatment of such persons at such residential  
77 facilities. Such regulations shall include requirements that: (1) All  
78 residential facility staff be certified in cardiopulmonary resuscitation in  
79 a manner and timeframe prescribed by the commissioner; (2) records

80 of staffing schedules and actual staff hours worked, by residential  
81 facility, be available for inspection by the department upon advance  
82 notice; (3) each residential facility develop and implement emergency  
83 plans and staff training to address emergencies that may pose a threat  
84 to the health and safety of the residents of the facility; (4) department  
85 inspectors verify during licensing inspections, that (A) staff is  
86 adequately trained to respond in an emergency, and (B) a summary of  
87 information on each resident is available to emergency medical  
88 personnel for use in an emergency; and (5) at least half of the  
89 inspections conducted by the department after initial licensure are  
90 unannounced.

91 (c) After receiving an application and making such investigation as  
92 is deemed necessary and after finding the specified requirements to  
93 have been fulfilled, the department shall grant a license to such  
94 applicant to conduct a facility of the character described in such  
95 application, which license shall specify the name of the person to have  
96 charge and the location of such facility. Any person, firm or  
97 corporation aggrieved by any requirement of the regulations or by the  
98 refusal to grant any license may within twenty days of any order  
99 directing the enforcement of any provision of such regulations or the  
100 refusal of such license, appeal therefrom in accordance with the  
101 provisions of section 4-183, except venue for such appeal shall be in the  
102 judicial district in which such facility is located. If the licensee of any  
103 such facility desires to place in charge thereof a person other than the  
104 one specified in the license, application shall be made to the  
105 Department of Mental Retardation, in the same manner as provided  
106 for the original application, for permission to make such change. Such  
107 application shall be acted upon within ten days from the date of the  
108 filing of same. Each such license shall be renewed annually upon such  
109 terms as may be established by regulations and may be revoked by the  
110 department upon proof that the facility for which such license was  
111 issued is being improperly conducted, or for the violation of any of the  
112 provisions of this section or of the regulations adopted pursuant to this  
113 subsection, provided the licensee shall first be given a reasonable  
114 opportunity to be heard in reference to such proposed revocation. Any

115 person, firm or corporation aggrieved by such revocation may appeal  
116 in the same manner as hereinbefore provided. Each person, firm or  
117 corporation, upon filing an application under the provisions of this  
118 section for a license for a facility providing residential services for five  
119 or more persons, shall pay to the State Treasurer the sum of fifty  
120 dollars. Any license issued pursuant to this section shall be invalid  
121 upon a change in the use of such facility from the lodging, care or  
122 treatment of persons with mental retardation or autistic persons to any  
123 other use. Any such change in use shall require the filing of an  
124 application for a new license with the appropriate state agency, as  
125 determined by such newly proposed use.

126 (d) Notwithstanding any regulation, [to the contrary,] subject to the  
127 provisions of this section, the Department of Mental Retardation may  
128 contract, within available appropriations, with any organization for the  
129 operation of a community-based residential facility, provided such  
130 facility is licensed by the department. The department shall include in  
131 all contracts with such organizations, provisions requiring the  
132 department to (1) conduct periodic reviews of contract performance,  
133 and (2) take progressive enforcement actions if the department finds  
134 poor performance or noncompliance with the contract, as follows: (A)  
135 The organization may be placed on a strict schedule of monitoring and  
136 oversight by the department; (B) the organization may be placed on a  
137 partial-year contract; and (C) payments due under the contract may be  
138 reduced by specific amounts on a monthly basis until the organization  
139 complies with the contract. If compliance cannot be achieved, the  
140 department shall terminate the contract.

141 (e) The department may contract with any person, firm or  
142 corporation to provide residential support services for persons with  
143 mental retardation who reside in settings which are not licensed by the  
144 department. The commissioner shall adopt regulations, in accordance  
145 with the provisions of chapter 54, to ensure the safety, adequate  
146 supervision and support of persons receiving residential support  
147 services.

148 (f) Any person, firm or corporation who conducts any facility  
 149 contrary to the provisions of this section shall be fined not more than  
 150 one thousand dollars or imprisoned not more than six months or both.  
 151 Any person, firm or corporation who conducts any facility contrary to  
 152 the regulations adopted pursuant to subsection (b) of this section shall  
 153 be fined not more than one thousand dollars.

154 Sec. 3. (NEW) (*Effective from passage*) Notwithstanding any other  
 155 regulation, any license issued by the Commissioner of Children and  
 156 Families for a group home or residential care facility pursuant to  
 157 chapter 319 or 319a of the general statutes shall be invalid upon a  
 158 change of use for such facility. Any such change of use for such facility  
 159 shall require the filing of an application for a new license with the  
 160 appropriate state agency, as determined by such newly proposed use.

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

**GAE**      *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
Departments of Children and Families and Mental Retardation	Uncertain

**Municipal Impact:** None

**Explanation**

The bill makes changes to the validity of a license issued to a residential facility by the Departments of Mental Retardation (DMR) and Children and Families (DCF) upon change of use.

Currently, DMR does issue licenses to residential facilities that provide lodging, care or treatment of persons with mental retardation or autistic persons. It is unclear how the provisions of the bill will be implemented and what variance from current DMR licensure, contractual and funding practices for residential facilities will result.

The fiscal impact associated with Section 3 of the bill is uncertain as it relates to DCF. Since the bill neither defines "change in use," nor specifies the process by which such a change would be determined to have occurred, it is unclear how a child caring facility license would be deemed invalid.

The DCF currently licenses private organizations operating twenty-two group homes (including two maternity homes), twenty-three residential treatment facilities, eighteen temporary shelters and five permanent family residences. It enters into contracts with the majority of these organizations for the provision of services to children and youth placed by the agency. Each such contract states that any program change - which may include, but not be limited to: (a) an

increase in population, (b) changes in client's acuity, (c) change in gender of clients, or (d) a shift from caring for children with physical disabilities to those with behavioral issues - must obtain prior approval from the department. Private agencies seeking to make programmatic changes are currently required to submit written information concerning the proposed modifications to DCF for consideration by its licensure staff, which has authority to recommend that the request be denied if the proposal is not consistent with agency regulations.

Additionally, since DCF is the principal financial supporter of most of these facilities it is anticipated that any significant programmatic changes would presently only be pursued with the department's foreknowledge and consent.

**OLR Bill Analysis**

sSB 521

***AN ACT CONCERNING STATE LICENSING FOR CHANGE OF USE OF GROUP HOMES*****SUMMARY:**

The law requires most residential facilities in Connecticut for the lodging, care, or treatment of mentally retarded and autistic people to obtain a license from the Department of Mental Retardation (DMR). This bill makes that license invalid when the facility's use changes from those purposes and requires the facility to file an application for a new license with the appropriate state agency, as the new proposed use determines. It also makes a license the Department of Children and Families (DCF) commissioner issues for a DCF home or residential care facility invalid upon the facility's change of use. DMR homes or facilities must file an application for a new license with the appropriate state agency, as the new proposed use determines.

EFFECTIVE DATE: Upon passage

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17    Nay 0