



General Assembly

Substitute Bill No. 1096

January Session, 2007

* SB01096GAE 041807 *

AN ACT CONCERNING THE ESTABLISHMENT OF THE FATALITY REVIEW BOARD FOR PERSONS WITH DISABILITIES.

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

1 Section 1. (NEW) (*Effective from passage*) (a) There is established a
2 Fatality Review Board for Persons with Disabilities. The fatality review
3 board shall investigate the circumstances surrounding the untimely
4 deaths of persons with disabilities, that, in the opinion of the director
5 of the Office of Protection and Advocacy for Persons with Disabilities
6 warrant a full and independent investigation. The fatality review
7 board shall investigate the untimely deaths of clients of the
8 Department of Mental Retardation in accordance with subsection (b) of
9 section 17a-210 of the general statutes, as amended by this act. In
10 addition, the fatality review board may investigate the circumstances
11 surrounding deaths as described in subsection (b) of section 46a-11c of
12 the general statutes. In order to facilitate a prompt investigation of the
13 circumstances surrounding the untimely death of a client under the
14 care of the Department of Mental Retardation, said director may refer a
15 particular case to the fatality review board prior to the completion of a
16 review conducted by the Independent Mortality Review Board
17 pursuant to the provisions of section 17a-210 of the general statutes, as
18 amended by this act.

19 (b) The Fatality Review Board for Persons with Disabilities shall

20 consist of the following six members: The director of the Office of
21 Protection and Advocacy for Persons with Disabilities, the Chief State's
22 Attorney or his designee and four members appointed by the
23 Governor, one of whom shall be a law enforcement professional with a
24 background in forensic investigations, one of whom shall be a mental
25 retardation professional and two of whom shall be medical
26 professionals. The Commissioner of Mental Retardation or the
27 commissioner's designee shall serve as a nonvoting liaison to the
28 fatality review board. The director of the Office of Protection and
29 Advocacy for Persons with Disabilities shall serve as chairperson of the
30 fatality review board and may assign agency staff and hire consultants
31 with expertise as necessary to assist the board in the completion of its
32 investigation.

33 (c) In accordance with section 46a-13a of the general statutes, all
34 relevant state, local or private agencies shall cooperate and assist the
35 fatality review board in the performance of its statutory duties.

36 (d) On or before February 1, 2008, and annually thereafter, the
37 fatality review board shall report, in accordance with section 11-4a of
38 the general statutes, on its investigations to the Governor, and to the
39 joint standing committees of the General Assembly having cognizance
40 of matters relating to human services and public health.

41 Sec. 2. Section 17a-210 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective from passage*):

43 (a) There shall be a Department of Mental Retardation. The
44 Department of Mental Retardation, with the advice of a Council on
45 Mental Retardation, shall be responsible for the planning,
46 development and administration of complete, comprehensive and
47 integrated state-wide services for persons with mental retardation and
48 persons medically diagnosed as having Prader-Willi syndrome. The
49 Department of Mental Retardation shall be under the supervision of a
50 Commissioner of Mental Retardation, who shall be appointed by the
51 Governor in accordance with the provisions of sections 4-5 to 4-8,

52 inclusive. The Council on Mental Retardation may advise the
53 Governor on the appointment. The commissioner shall be a person
54 who has background, training, education or experience in
55 administering programs for the care, training, education, treatment
56 and custody of persons with mental retardation. The commissioner
57 shall be responsible, with the advice of the council, for: (1) Planning
58 and developing complete, comprehensive and integrated state-wide
59 services for persons with mental retardation; (2) the implementation
60 and where appropriate the funding of such services; and (3) the
61 coordination of the efforts of the Department of Mental Retardation
62 with those of other state departments and agencies, municipal
63 governments and private agencies concerned with and providing
64 services for persons with mental retardation. The commissioner shall
65 be responsible for the administration and operation of the state
66 training school, state mental retardation regions and all state-operated
67 community-based residential facilities established for the diagnosis,
68 care and training of persons with mental retardation. The
69 commissioner shall be responsible for establishing standards,
70 providing technical assistance and exercising the requisite supervision
71 of all state-supported residential, day and program support services
72 for persons with mental retardation and work activity programs
73 operated pursuant to section 17a-226. [The commissioner shall conduct
74 or monitor investigations into allegations of abuse and neglect and file
75 reports as requested by state agencies having statutory responsibility
76 for the conduct and oversight of such investigations. In the event of the
77 death of a person with mental retardation for whom the department
78 has direct or oversight responsibility for medical care, the
79 commissioner shall ensure that a comprehensive and timely review of
80 the events, overall care, quality of life issues and medical care
81 preceding such death is conducted by the department and shall, as
82 requested, provide information and assistance to the Independent
83 Mortality Review Board established by Executive Order No. 25 of
84 Governor John G. Rowland. The commissioner shall report to the
85 board and the board shall review any death: (A) Involving an
86 allegation of abuse or neglect; (B) for which the Office of Chief Medical

87 Examiner or local medical examiner has accepted jurisdiction; (C) in
88 which an autopsy was performed; (D) which was sudden and
89 unexpected; or (E) in which the commissioner's review raises questions
90 about the appropriateness of care.] The commissioner shall stimulate
91 research by public and private agencies, institutions of higher learning
92 and hospitals, in the interest of the elimination and amelioration of
93 retardation and care and training of persons with mental retardation.

94 (b) The commissioner shall conduct or monitor investigations into
95 allegations of abuse and neglect and file reports as requested by state
96 agencies having statutory responsibility for the conduct and oversight
97 of such investigations. In the event of the death of a person with
98 mental retardation for whom the department has direct or oversight
99 responsibility for medical care, the commissioner shall: (1) Report such
100 death to the Office of Protection and Advocacy for Persons with
101 Disabilities not later than seventy-two hours after the death, and (2)
102 ensure that a comprehensive and timely review of the events, overall
103 care, quality of life issues and medical care preceding such death is
104 conducted by the department and shall, as requested, provide
105 information and assistance to the Independent Mortality Review Board
106 established by Executive Order No. 25 of Governor John G. Rowland
107 and on and after the effective date of this section, to the Fatality
108 Review Board for Persons with Disabilities, established pursuant to
109 section 1 of this act. The commissioner shall report to such fatality
110 review board and such board shall review any death: (A) Involving an
111 allegation of abuse or neglect; (B) for which the Office of Chief Medical
112 Examiner or local medical examiner has accepted jurisdiction; (C) in
113 which an autopsy was performed; (D) which was sudden and
114 unexpected; or (E) in which the commissioner's review raises questions
115 about the appropriateness of care.

116 [(b)] (c) The commissioner shall be responsible for the development
117 of criteria as to the eligibility of any person with mental retardation for
118 residential care in any public or state-supported private institution
119 and, after considering the recommendation of a properly designated
120 diagnostic agency, may assign such person to a public or state-

121 supported private institution. The commissioner may transfer such
122 persons from one such institution to another when necessary and
123 desirable for their welfare, provided such person and such person's
124 parent, conservator, guardian or other legal representative receive
125 written notice of their right to object to such transfer at least ten days
126 prior to the proposed transfer of such person from any such institution
127 or facility. Such prior notice shall not be required when transfers are
128 made between residential units within the training school or a state
129 mental retardation region or when necessary to avoid a serious and
130 immediate threat to the life or physical or mental health of such person
131 or others residing in such institution or facility. The notice required by
132 this subsection shall notify the recipient of his or her right to object to
133 such transfer, except in the case of an emergency transfer as provided
134 in this subsection, and shall include the name, address and telephone
135 number of the Office of Protection and Advocacy for Persons with
136 Disabilities. In the event of an emergency transfer, the notice required
137 by this subsection shall notify the recipient of his or her right to
138 request a hearing in accordance with subsection [(c)] (d) of this section
139 and shall be given within ten days following the emergency transfer.
140 In the event of an objection to the proposed transfer, the commissioner
141 shall conduct a hearing in accordance with subsection [(c)] (d) of this
142 section and the transfer shall be stayed pending final disposition of the
143 hearing, provided no such hearing shall be required if the
144 commissioner withdraws such proposed transfer.

145 [(c)] (d) Any person with mental retardation who is eighteen years
146 of age or older and who resides at any institution or facility operated
147 by the Department of Mental Retardation, or the parent, guardian,
148 conservator or other legal representative of any person with mental
149 retardation who resides at any such institution or facility, may object to
150 any transfer of such person from one institution or facility to another
151 for any reason other than a medical reason or an emergency, or may
152 request such a transfer. In the event of any such objection or request,
153 the commissioner shall conduct a hearing on such proposed transfer,
154 provided no such hearing shall be required if the commissioner

155 withdraws such proposed transfer. In any such transfer hearing, the
156 proponent of a transfer shall have the burden of showing, by clear and
157 convincing evidence, that the proposed transfer is in the best interest
158 of the resident being considered for transfer and that the facility and
159 programs to which transfer is proposed (1) are safe and effectively
160 supervised and monitored, and (2) provide a greater opportunity for
161 personal development than the resident's present setting. Such hearing
162 shall be conducted in accordance with the provisions of chapter 54.

163 ~~[(d)]~~ (e) Any person, or the parent, guardian, conservator or other
164 legal representative of such person, may request a hearing for any final
165 determination by the department that denies such person eligibility for
166 programs and services of the department. A request for a hearing shall
167 be made in writing to the commissioner. Such hearing shall be
168 conducted in accordance with the provisions of chapter 54.

169 ~~[(e)]~~ (f) Any person with mental retardation, or the parent, guardian,
170 conservator or other legal representative of such person, may request a
171 hearing to contest the priority assignment made by the department for
172 persons seeking residential placement, residential services or
173 residential support. A request for hearing shall be made, in writing, to
174 the commissioner. Such hearing shall be conducted in accordance with
175 the provisions of chapter 54.

176 ~~[(f)]~~ (g) Any person with mental retardation or the parent, guardian,
177 conservator or other legal representative of such person, may object to
178 (1) a proposed approval by the department of a program for such
179 person that includes the use of behavior-modifying medications or
180 aversive procedures, or (2) a proposed determination of the
181 department that community placement is inappropriate for such
182 person placed under the direction of the commissioner. The
183 department shall provide written notice of any such proposed
184 approval or determination to the person, or to the parent, guardian,
185 conservator or other legal representative of such person, at least ten
186 days prior to making such approval or determination. In the event of
187 an objection to such proposed approval or determination, the

