



General Assembly

Substitute Bill No. 242

February Session, 2008

* SB00242PH 031708 *

**AN ACT CONCERNING CHANGES TO STATUTES AFFECTING THE
DEPARTMENT OF DEVELOPMENTAL SERVICES.**

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

1 Section 1. Subsections (a) and (b) of section 17a-210 of the 2008
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective from passage*):

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

20 developing complete, comprehensive and integrated state-wide
21 services for persons with mental retardation; (2) the implementation
22 and where appropriate the funding of such services; and (3) the
23 coordination of the efforts of the Department of Developmental
24 Services with those of other state departments and agencies, municipal
25 governments and private agencies concerned with and providing
26 services for persons with mental retardation. The commissioner shall
27 be responsible for the administration and operation of the state
28 training school, state [mental retardation] developmental services
29 regions and all state-operated community-based residential facilities
30 established for the diagnosis, care and training of persons with mental
31 retardation. The commissioner shall be responsible for establishing
32 standards, providing technical assistance and exercising the requisite
33 supervision of all state-supported residential, day and program
34 support services for persons with mental retardation and work activity
35 programs operated pursuant to section 17a-226 of the 2008 supplement
36 to the general statutes. The commissioner shall conduct or monitor
37 investigations into allegations of abuse and neglect and file reports as
38 requested by state agencies having statutory responsibility for the
39 conduct and oversight of such investigations. In the event of the death
40 of a person with mental retardation for whom the department has
41 direct or oversight responsibility for medical care, the commissioner
42 shall ensure that a comprehensive and timely review of the events,
43 overall care, quality of life issues and medical care preceding such
44 death is conducted by the department and shall, as requested, provide
45 information and assistance to the Independent Mortality Review Board
46 established by Executive Order No. 25 of Governor John G. Rowland.
47 The commissioner shall report to the board and the board shall review
48 any death: (A) Involving an allegation of abuse or neglect; (B) for
49 which the Office of Chief Medical Examiner or local medical examiner
50 has accepted jurisdiction; (C) in which an autopsy was performed; (D)
51 which was sudden and unexpected; or (E) in which the commissioner's
52 review raises questions about the appropriateness of care. The
53 commissioner shall stimulate research by public and private agencies,
54 institutions of higher learning and hospitals, in the interest of the

55 elimination and amelioration of mental retardation and care and
56 training of persons with mental retardation.

57 (b) The commissioner shall be responsible for the development of
58 criteria as to the eligibility of any person with mental retardation for
59 residential care in any public or state-supported private institution
60 and, after considering the recommendation of a properly designated
61 diagnostic agency, may assign such person to a public or state-
62 supported private institution. The commissioner may transfer such
63 persons from one such institution to another when necessary and
64 desirable for their welfare, provided such person and such person's
65 parent, conservator, guardian or other legal representative receive
66 written notice of their right to object to such transfer at least ten days
67 prior to the proposed transfer of such person from any such institution
68 or facility. Such prior notice shall not be required when transfers are
69 made between residential units within the training school or a state
70 [mental retardation] developmental services region or when necessary
71 to avoid a serious and immediate threat to the life or physical or
72 mental health of such person or others residing in such institution or
73 facility. The notice required by this subsection shall notify the recipient
74 of his or her right to object to such transfer, except in the case of an
75 emergency transfer as provided in this subsection, and shall include
76 the name, address and telephone number of the Office of Protection
77 and Advocacy for Persons with Disabilities. In the event of an
78 emergency transfer, the notice required by this subsection shall notify
79 the recipient of his or her right to request a hearing in accordance with
80 subsection (c) of this section and shall be given within ten days
81 following the emergency transfer. In the event of an objection to the
82 proposed transfer, the commissioner shall conduct a hearing in
83 accordance with subsection (c) of this section and the transfer shall be
84 stayed pending final disposition of the hearing, provided no such
85 hearing shall be required if the commissioner withdraws such
86 proposed transfer.

87 Sec. 2. Section 17a-210a of the 2008 supplement to the general
88 statutes is repealed and the following is substituted in lieu thereof

89 (Effective from passage):

90 (a) There is established an independent ombudsman office within
91 the Department of Developmental Services that is responsible for
92 receiving and making recommendations to the commissioner for
93 resolving complaints affecting consumers under the care or
94 supervision of the department or of any public or private agency with
95 which the department has contracted for the provision of services.

96 (b) The director of the ombudsman office shall be appointed by the
97 Governor, with the approval of the General Assembly. Said director
98 shall be an elector of the state with expertise and experience in the
99 fields of [mental retardation] developmental services and advocacy for
100 the rights of the consumers specified in subsection (a) of this section
101 and shall be exempt from the classified service.

102 (c) Upon the vacancy of the director of the ombudsman office by the
103 person serving in such position on July 1, 2004, and whenever
104 thereafter the term of such position expires or there is a vacancy in
105 such position, the Governor shall appoint the director of the
106 ombudsman office from a list of candidates prepared and submitted to
107 the Governor by the Council on [Mental Retardation] Developmental
108 Services, established by section 17a-270 of the 2008 supplement to the
109 general statutes, as amended by this act. The Governor shall notify the
110 council of the pending expiration of the term of an incumbent
111 ombudsman not less than ninety days prior to the final day of the
112 ombudsman's term in office. If a vacancy occurs in the position of
113 ombudsman, the Governor shall notify the council immediately of the
114 vacancy. The council shall meet to consider qualified candidates for
115 the position of ombudsman and shall submit a list of not more than
116 five candidates to the Governor ranked in order of preference, not
117 more than sixty days after receiving notice from the Governor of the
118 pending expiration of the ombudsman's term or the occurrence of a
119 vacancy. The Governor shall designate, not more than sixty days after
120 receipt of the list of candidates from the council, one candidate from
121 the list for the position of ombudsman. If, after the list is submitted to

122 the Governor by the council, any candidate withdraws from
123 consideration, the Governor shall designate a candidate from those
124 remaining on the list. If the Governor fails to designate a candidate
125 within sixty days of receipt of the list from the council, the council
126 shall refer the candidate with the highest ranking on the list to the
127 General Assembly for confirmation. If the General Assembly is not in
128 session at the time of the Governor's or council's designation of a
129 candidate, the candidate shall serve as the acting ombudsman until the
130 General Assembly meets and confirms the candidate as ombudsman.
131 A candidate serving as acting ombudsman shall be entitled to
132 compensation and have all the powers, duties and privileges of the
133 ombudsman. An ombudsman shall serve a term of four years, not
134 including any time served as acting ombudsman, and may be
135 reappointed by the Governor or shall remain in the position until a
136 successor is appointed pursuant to this subsection. Although an
137 incumbent ombudsman may be reappointed, the Governor shall also
138 consider additional candidates from a list submitted by the council as
139 provided in this section.

140 (d) The director of the ombudsman office shall report monthly to
141 the Council on [Mental Retardation] Developmental Services and, in
142 accordance with the provisions of section 11-4a, annually to the joint
143 standing committee of the General Assembly having cognizance of
144 matters relating to public health.

145 Sec. 3. Section 17a-270 of the 2008 supplement to the general statutes
146 is repealed and the following is substituted in lieu thereof (*Effective*
147 *from passage*):

148 (a) There is established a Council on [Mental Retardation]
149 Developmental Services which shall consist of thirteen members
150 appointed as follows: Eight shall be appointed by the Governor, one of
151 whom shall be a doctor of medicine, one of whom shall be a person
152 with mental retardation who is receiving services from the Department
153 of Developmental Services and at least two of whom shall be parents
154 or guardians of persons with mental retardation, to serve for terms of

155 two years each; four shall be appointed by members of the General
156 Assembly for two-year terms, one who shall be a parent or guardian of
157 a person with mental retardation, appointed by the speaker of the
158 House, one appointed by the minority leader of the House, one
159 appointed by the president pro tempore of the Senate and one who
160 shall be a parent or guardian of a person with mental retardation,
161 appointed by the minority leader of the Senate; and one who shall be a
162 member of the board of trustees of the Southbury Training School,
163 appointed by said board for a term of one year. No member may serve
164 more than six consecutive years. The members of the council shall
165 serve without compensation except for necessary expenses incurred in
166 performing their duties. The Commissioner of Developmental Services
167 or the commissioner's designee shall be an ex-officio member of the
168 Council on [Mental Retardation] Developmental Services without vote
169 and shall attend its meetings. No employee of any state agency or
170 institution engaged in the care or training of persons with mental
171 retardation shall be eligible for appointment to the council. The council
172 shall appoint annually, from among its members, a [chairman]
173 chairperson, vice [chairman] chairperson and secretary. The council
174 may make rules for the conduct of its affairs. The council shall meet at
175 least bimonthly and at other times upon the call of the chair or the
176 written request of any two members.

177 (b) The council shall consider and advise on such matters as its
178 members, the board of trustees of the training school and the
179 Commissioner of Developmental Services may request. The council
180 shall consult with the Commissioner of Developmental Services on the
181 administration of the state program for [the mentally retarded] persons
182 with mental retardation. The council shall recommend to the Governor
183 and to the General Assembly such legislation as will in its judgment
184 improve the care and training of [mentally retarded] persons with
185 mental retardation.

186 Sec. 4. Section 19a-24 of the 2008 supplement to the general statutes
187 is repealed and the following is substituted in lieu thereof (*Effective*
188 *from passage*):

189 (a) Any claim for damages in excess of seven thousand five hundred
190 dollars on account of any official act or omission of the Commissioner
191 of Public Health or the Commissioner of Developmental Services or
192 any member of their staffs, any member of the Council on Tuberculosis
193 Control, Hospital Care and Rehabilitation, the Council on [Mental
194 Retardation] Developmental Services or either of the boards of trustees
195 of the state training schools or any member of any regional advisory
196 and planning council or any superintendent, director, employee or
197 staff member of any chronic disease hospital or state training school or
198 state [mental retardation] developmental services region shall be
199 brought as a civil action against the commissioners in their official
200 capacities and said commissioners shall be represented therein by the
201 Attorney General in the manner provided in chapter 35. Damages
202 recovered in such action shall be a proper charge against the General
203 Fund of the state and shall be paid in the manner provided in section
204 3-117 of the 2008 supplement to the general statutes. Any such claim
205 for damages not in excess of seven thousand five hundred dollars shall
206 be presented to the Claims Commissioner in accordance with chapter
207 53 if such claim is otherwise cognizable by the Claims Commissioner.

208 (b) Neither the Commissioner of Public Health nor the
209 Commissioner of Developmental Services nor any member of their
210 staffs, shall be held personally liable in any civil action for damages on
211 account of any official act or omission of any superintendent, director,
212 employee or staff member of any chronic disease hospital or state
213 training school or state [mental retardation] developmental services
214 region nor on account of any official act or omission of such
215 commissioners or member of their staffs or any member of the councils
216 or boards of trustees created by sections 17a-270 of the 2008
217 supplement to the general statutes, as amended by this act and 17a-271
218 of the 2008 supplement to the general statutes.

219 (c) No employee or staff member of said commissioners or any
220 superintendent, director, employee or staff member of any chronic
221 disease hospital or state training school or state [mental retardation]
222 developmental services region shall be held personally liable in any

223 civil action for damages on account of any official act or omission not
224 wanton or wilful of such superintendent, director, employee or staff
225 member.

226 (d) The state of Connecticut shall indemnify and save harmless each
227 member of the councils or boards of trustees established by sections
228 17a-270 of the 2008 supplement to the general statutes, as amended by
229 this act, 17a-271 of the 2008 supplement to the general statutes and
230 17a-273 of the 2008 supplement to the general statutes, as amended by
231 this act, from all claims and demands that may accrue or be asserted
232 by reason of any act of such councils or boards of trustees or any
233 failure to act by such councils or boards of trustees where no malice,
234 fraud or conflict of interest is found to exist. The provisions of this
235 section shall be deemed to apply individually to each member of such
236 councils or boards of trustees.

237 (e) Any person to whom the provisions of subsection (b), (c) or (d)
238 hereof are applicable and against whom any action shall be brought on
239 account of any act alleged to be an official act or omission as aforesaid
240 or any other act as to which protection is afforded by the provisions of
241 this section shall be represented therein by the Attorney General in the
242 manner provided in chapter 35.

243 Sec. 5. Section 17a-272 of the 2008 supplement to the general statutes
244 is repealed and the following is substituted in lieu thereof (*Effective*
245 *from passage*):

246 (a) The director of each training school or state [mental retardation]
247 developmental services region shall be appointed by the
248 Commissioner of Developmental Services, and shall be removable in
249 the same manner. The director shall be a trained administrator of
250 services and facilities engaged in the care, custody, treatment and
251 training of mentally retarded persons. Each director shall be subject to
252 the direction of the Commissioner of Developmental Services and shall
253 be responsible for the operation and the administration of the training
254 school or state [mental retardation] developmental services region.

255 (b) Each director may with the approval of the Commissioner of
256 Developmental Services appoint four assistant directors for the
257 efficient conduct of the business of each training school or state
258 [mental retardation] developmental services region. Each director shall
259 designate an assistant director who shall in the absence or
260 disqualification of the director or on his death, exercise the powers and
261 duties of the director until he resumes his duties or the vacancy is
262 filled. Assistant directors shall be removable by the director.

263 Sec. 6. Section 17a-273 of the 2008 supplement to the general statutes
264 is repealed and the following is substituted in lieu thereof (*Effective*
265 *from passage*):

266 (a) The Commissioner of Developmental Services shall appoint at
267 least one advisory and planning council for each state [mental
268 retardation] developmental services region operated by the
269 Department of Developmental Services, which council shall have the
270 responsibility of consulting with and advising the director of the
271 region on the needs of [mentally retarded] persons with mental
272 retardation in the region, the annual plan and budget of the region and
273 other matters deemed appropriate by the council.

274 (b) Each such council shall consist of at least ten members appointed
275 from the state [mental retardation] developmental services region. No
276 employee of any state agency or institution engaged in the care or
277 training of [mentally retarded] persons with mental retardation shall
278 be eligible for appointment. At least one member shall be designated
279 by the incorporated local association for mentally retarded citizens in
280 the region. In cases where a state [mental retardation] developmental
281 services region serves an area with more than one such association, at
282 least two members of the council shall be designated by such
283 associations. At least one member of each council shall be an attorney
284 practicing law in the state of Connecticut who is familiar with issues in
285 the field of mental retardation. At least two members shall be parents
286 of persons [who are mentally retarded] with mental retardation.
287 Members shall be appointed for terms of three years. No member may

288 serve more than two consecutive terms. Each council shall appoint
289 annually, from among its members, a chairperson, vice-chairperson
290 and secretary. The council may make rules for the conduct of its
291 affairs. The director of the region shall be an ex-officio member of the
292 council without vote and shall attend its meetings.

293 (c) The council shall meet at least six times a year and at other times
294 upon the call of the chair or the director of the state [mental
295 retardation] developmental services region or on the written request of
296 any two members. A majority of the council members in office shall
297 constitute a quorum. Any member who fails to attend three
298 consecutive meetings or who fails to attend fifty per cent of all
299 meetings held during any calendar year shall be deemed to have
300 resigned from office.

301 Sec. 7. Section 17a-280 of the general statutes is repealed and the
302 following is substituted in lieu thereof (*Effective from passage*):

303 (a) [Mentally retarded persons,] Persons with mental retardation
304 who are not serious discipline problems [,] may be recommitted by a
305 [regular] probate court commitment from any institution in the state to
306 the Southbury Training School, a state [mental retardation]
307 developmental services region or any state facility provided for the
308 care and training of [the mentally retarded] persons with mental
309 retardation. The court of probate situated in the town wherein the
310 institution from which such [mentally retarded] person with mental
311 retardation is recommitted shall have jurisdiction.

312 (b) Any [mentally retarded] resident with mental retardation of any
313 such institution may be transferred from the institution to which [he]
314 the resident is committed or admitted to any of the other institutions
315 upon the agreement of the superintendents or directors.

316 (c) Mentally ill persons may be transferred from any such institution
317 to any state hospital for the mentally ill upon agreement of the
318 superintendents of the respective institutions from and to which it is
319 desired to make such a transfer. The state hospitals for the mentally ill

320 may transfer any [mentally retarded] person with mental retardation,
321 not psychotic, to the Southbury Training School, a state [mental
322 retardation] developmental services region or any state facility
323 provided for the care and training of [the mentally retarded] persons
324 with mental retardation upon agreement of the superintendents or
325 directors of the respective institutions from and to which it is desired
326 to make such a transfer.

327 (d) The cost of any transfer or recommitment shall be paid by the
328 institution from which the transfer is made. When a patient or resident
329 of any institution is transferred, the order of commitment shall be
330 retained in the original institution to which the patient or resident was
331 committed and a certified copy of such commitment, with the
332 agreement of transfer, shall accompany [him] the patient or resident to
333 the institution to which [he] the patient or resident is transferred.

334 Sec. 8. Subsection (a) of section 17a-217a of the 2008 supplement to
335 the general statutes is repealed and the following is substituted in lieu
336 thereof (*Effective from passage*):

337 (a) There shall be a Camp Harkness Advisory Committee to advise
338 the Commissioner of Developmental Services with respect to issues
339 concerning the health and safety of persons who attend and utilize the
340 facilities at Camp Harkness. The advisory committee shall be
341 composed of twelve members as follows: (1) The director of Camp
342 Harkness, who shall serve [ex officio] ex-officio, one member
343 representing the Southeastern Connecticut Association for [the
344 Retarded] Developmental Disabilities, one member representing the
345 Southbury Training School, one member representing the Association
346 for Retarded Citizens of New London County, one consumer
347 representing persons who use the camp on a residential basis and one
348 member representing parents or guardians of persons who use the
349 camp, all of whom shall be appointed by the Governor; (2) one
350 member representing parents or guardians of persons who use the
351 camp, who shall be appointed by the president pro tempore of the
352 Senate; (3) one consumer from the Family Support Council established

353 pursuant to section 17a-219c of the 2008 supplement to the general
354 statutes representing persons who use the camp on a day basis, who
355 shall be appointed by the speaker of the House of Representatives; (4)
356 one member representing the board of selectmen of the town of
357 Waterford, who shall be appointed by the majority leader of the House
358 of Representatives; (5) one member representing the Camp Harkness
359 Booster Club, who shall be appointed by the majority leader of the
360 Senate; (6) one member representing the Connecticut Institute for the
361 Blind and the Oak Hill School, who shall be appointed by the minority
362 leader of the House of Representatives; and (7) one member
363 representing the United Cerebral Palsy Association, who shall be
364 appointed by the minority leader of the Senate.

365 Sec. 9. Subsection (e) of section 5-259 of the 2008 supplement to the
366 general statutes is repealed and the following is substituted in lieu
367 thereof (*Effective from passage*):

368 (e) Notwithstanding the provisions of subsection (a) of this section,
369 (1) vending stand operators eligible for membership in the state
370 employee's retirement system pursuant to section 5-175a, shall be
371 eligible for coverage under the group hospitalization and medical and
372 surgical insurance plans procured under this section, provided the cost
373 for such operators' insurance coverage shall be paid by the Board of
374 Education and Services for the Blind from vending machine income
375 pursuant to section 10-303, and (2) blind persons employed in
376 workshops, established pursuant to section 10-298a, on December 31,
377 2002, shall be eligible for coverage under the group hospitalization and
378 medical and surgical insurance plans procured under this section,
379 provided the cost for such persons' insurance coverage shall be paid by
380 the Board of Education and Services for the Blind. General workers
381 employed in positions by the Department of Developmental Services
382 as self-advocates, not to exceed [ten] eleven employees, shall be
383 eligible for sick leave, in accordance with section 5-247 of the 2008
384 supplement to the general statutes, vacation and personal leave, in
385 accordance with section 5-250, and holidays, in accordance with
386 section 5-254.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 17a-210(a) and (b) |
| Sec. 2 | <i>from passage</i> | 17a-210a |
| Sec. 3 | <i>from passage</i> | 17a-270 |
| Sec. 4 | <i>from passage</i> | 19a-24 |
| Sec. 5 | <i>from passage</i> | 17a-272 |
| Sec. 6 | <i>from passage</i> | 17a-273 |
| Sec. 7 | <i>from passage</i> | 17a-280 |
| Sec. 8 | <i>from passage</i> | 17a-217a(a) |
| Sec. 9 | <i>from passage</i> | 5-259(e) |

Statement of Legislative Commissioners:

In Section 1, the reference to the 2008 supplement to the general statutes following the string citation was deleted for clarity.

PH *Joint Favorable Subst.-LCO*