



**Substitute Senate Bill No. 242**

**Public Act No. 08-7**

**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:

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 Subsections (a) and (b) of section 17a-210 of the 2008 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

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responsible, with the advice of the council, for: (1) Planning and developing complete, comprehensive and integrated state-wide services for persons with mental retardation; (2) the implementation and where appropriate the funding of such services; and (3) the coordination of the efforts of the Department of Developmental Services with those of other state departments and agencies, municipal governments and private agencies concerned with and providing services for persons with mental retardation. The commissioner shall be responsible for the administration and operation of the state training school, state [mental retardation] developmental services regions and all state-operated community-based residential facilities established for the diagnosis, care and training of persons with mental retardation. The commissioner shall be responsible for establishing standards, providing technical assistance and exercising the requisite supervision of all state-supported residential, day and program support services for persons with mental retardation and work activity programs operated pursuant to section 17a-226 of the 2008 supplement to the general statutes. The commissioner shall conduct or monitor investigations into allegations of abuse and neglect and file reports as requested by state agencies having statutory responsibility for the conduct and oversight of such investigations. In the event of the death of a person with mental retardation for whom the department has direct or oversight responsibility for medical care, the commissioner shall ensure that a comprehensive and timely review of the events, overall care, quality of life issues and medical care preceding such death is conducted by the department and shall, as requested, provide information and assistance to the Independent Mortality Review Board established by Executive Order No. 25 of Governor John G. Rowland. The commissioner shall report to the board and the board shall review any death: (A) Involving an allegation of abuse or neglect; (B) for which the Office of Chief Medical Examiner or local medical examiner has accepted jurisdiction; (C) in which an autopsy was performed; (D) which was sudden and unexpected; or (E) in which the commissioner's

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review raises questions about the appropriateness of care. The commissioner shall stimulate research by public and private agencies, institutions of higher learning and hospitals, in the interest of the elimination and amelioration of mental retardation and care and training of persons with mental retardation.

(b) The commissioner shall be responsible for the development of criteria as to the eligibility of any person with mental retardation for residential care in any public or state-supported private institution and, after considering the recommendation of a properly designated diagnostic agency, may assign such person to a public or state-supported private institution. The commissioner may transfer such persons from one such institution to another when necessary and desirable for their welfare, provided such person and such person's parent, conservator, guardian or other legal representative receive written notice of their right to object to such transfer at least ten days prior to the proposed transfer of such person from any such institution or facility. Such prior notice shall not be required when transfers are made between residential units within the training school or a state [mental retardation] developmental services region or when necessary to avoid a serious and immediate threat to the life or physical or mental health of such person or others residing in such institution or facility. The notice required by this subsection shall notify the recipient of his or her right to object to such transfer, except in the case of an emergency transfer as provided in this subsection, and shall include the name, address and telephone number of the Office of Protection and Advocacy for Persons with Disabilities. In the event of an emergency transfer, the notice required by this subsection shall notify the recipient of his or her right to request a hearing in accordance with subsection (c) of this section and shall be given within ten days following the emergency transfer. In the event of an objection to the proposed transfer, the commissioner shall conduct a hearing in accordance with subsection (c) of this section and the transfer shall be

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stayed pending final disposition of the hearing, provided no such hearing shall be required if the commissioner withdraws such proposed transfer.

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

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

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

(c) Upon the vacancy of the director of the ombudsman office by the person serving in such position on July 1, 2004, and whenever thereafter the term of such position expires or there is a vacancy in such position, the Governor shall appoint the director of the ombudsman office from a list of candidates prepared and submitted to the Governor by the Council on ~~[Mental Retardation]~~ Developmental Services, established by section 17a-270 of the 2008 supplement to the general statutes, as amended by this act. The Governor shall notify the council of the pending expiration of the term of an incumbent ombudsman not less than ninety days prior to the final day of the ombudsman's term in office. If a vacancy occurs in the position of ombudsman, the Governor shall notify the council immediately of the

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vacancy. The council shall meet to consider qualified candidates for the position of ombudsman and shall submit a list of not more than five candidates to the Governor ranked in order of preference, not more than sixty days after receiving notice from the Governor of the pending expiration of the ombudsman's term or the occurrence of a vacancy. The Governor shall designate, not more than sixty days after receipt of the list of candidates from the council, one candidate from the list for the position of ombudsman. If, after the list is submitted to the Governor by the council, any candidate withdraws from consideration, the Governor shall designate a candidate from those remaining on the list. If the Governor fails to designate a candidate within sixty days of receipt of the list from the council, the council shall refer the candidate with the highest ranking on the list to the General Assembly for confirmation. If the General Assembly is not in session at the time of the Governor's or council's designation of a candidate, the candidate shall serve as the acting ombudsman until the General Assembly meets and confirms the candidate as ombudsman. A candidate serving as acting ombudsman shall be entitled to compensation and have all the powers, duties and privileges of the ombudsman. An ombudsman shall serve a term of four years, not including any time served as acting ombudsman, and may be reappointed by the Governor or shall remain in the position until a successor is appointed pursuant to this subsection. Although an incumbent ombudsman may be reappointed, the Governor shall also consider additional candidates from a list submitted by the council as provided in this section.

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

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

(a) There is established a Council on [Mental Retardation] Developmental Services which shall consist of thirteen members appointed as follows: Eight shall be appointed by the Governor, one of whom shall be a doctor of medicine, one of whom shall be a person with mental retardation who is receiving services from the Department of Developmental Services and at least two of whom shall be parents or guardians of persons with mental retardation, to serve for terms of two years each; four shall be appointed by members of the General Assembly for two-year terms, one who shall be a parent or guardian of a person with mental retardation, appointed by the speaker of the House, one appointed by the minority leader of the House, one appointed by the president pro tempore of the Senate and one who shall be a parent or guardian of a person with mental retardation, appointed by the minority leader of the Senate; and one who shall be a member of the board of trustees of the Southbury Training School, appointed by said board for a term of one year. No member may serve more than six consecutive years. The members of the council shall serve without compensation except for necessary expenses incurred in performing their duties. The Commissioner of Developmental Services or the commissioner's designee shall be an ex-officio member of the Council on [Mental Retardation] Developmental Services without vote and shall attend its meetings. No employee of any state agency or institution engaged in the care or training of persons with mental retardation shall be eligible for appointment to the council. The council shall appoint annually, from among its members, a [chairman] chairperson, vice [chairman] chairperson and secretary. The council may make rules for the conduct of its affairs. The council shall meet at least bimonthly and at other times upon the call of the chair or the written request of any two members.

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

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

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

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

(c) No employee or staff member of said commissioners or any superintendent, director, employee or staff member of any chronic disease hospital or state training school or state [mental retardation] developmental services region shall be held personally liable in any civil action for damages on account of any official act or omission not wanton or wilful of such superintendent, director, employee or staff member.

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

(e) Any person to whom the provisions of subsection (b), (c) or (d) hereof are applicable and against whom any action shall be brought on

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account of any act alleged to be an official act or omission as aforesaid or any other act as to which protection is afforded by the provisions of this section shall be represented therein by the Attorney General in the manner provided in chapter 35.

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

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

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

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

(a) The Commissioner of Developmental Services shall appoint at least one advisory and planning council for each state [mental

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retardation] developmental services region operated by the Department of Developmental Services, which council shall have the responsibility of consulting with and advising the director of the region on the needs of [mentally retarded] persons with mental retardation in the region, the annual plan and budget of the region and other matters deemed appropriate by the council.

(b) Each such council shall consist of at least ten members appointed from the state [mental retardation] developmental services region. No employee of any state agency or institution engaged in the care or training of [mentally retarded] persons with mental retardation shall be eligible for appointment. At least one member shall be designated by the incorporated local association for mentally retarded citizens in the region. In cases where a state [mental retardation] developmental services region serves an area with more than one such association, at least two members of the council shall be designated by such associations. At least one member of each council shall be an attorney practicing law in the state of Connecticut who is familiar with issues in the field of mental retardation. At least two members shall be parents of persons [who are mentally retarded] with mental retardation. Members shall be appointed for terms of three years. No member may serve more than two consecutive terms. Each council shall appoint annually, from among its members, a chairperson, vice-chairperson and secretary. The council may make rules for the conduct of its affairs. The director of the region shall be an ex-officio member of the council without vote and shall attend its meetings.

(c) The council shall meet at least six times a year and at other times upon the call of the chair or the director of the state [mental retardation] developmental services region or on the written request of any two members. A majority of the council members in office shall constitute a quorum. Any member who fails to attend three consecutive meetings or who fails to attend fifty per cent of all

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meetings held during any calendar year shall be deemed to have resigned from office.

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

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

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

(c) Mentally ill persons may be transferred from any such institution to any state hospital for the mentally ill upon agreement of the superintendents of the respective institutions from and to which it is desired to make such a transfer. The state hospitals for the mentally ill may transfer any [mentally retarded] person with mental retardation, not psychotic, to the Southbury Training School, a state [mental retardation] developmental services region or any state facility provided for the care and training of [the mentally retarded] persons with mental retardation upon agreement of the superintendents or directors of the respective institutions from and to which it is desired to make such a transfer.

(d) The cost of any transfer or recommitment shall be paid by the

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institution from which the transfer is made. When a patient or resident of any institution is transferred, the order of commitment shall be retained in the original institution to which the patient or resident was committed and a certified copy of such commitment, with the agreement of transfer, shall accompany [him] the patient or resident to the institution to which [he] the patient or resident is transferred.

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

(a) There shall be a Camp Harkness Advisory Committee to advise the Commissioner of Developmental Services with respect to issues concerning the health and safety of persons who attend and utilize the facilities at Camp Harkness. The advisory committee shall be composed of twelve members as follows: (1) The director of Camp Harkness, who shall serve [ex officio] ex-officio, one member representing the Southeastern Connecticut Association for [the Retarded] Developmental Disabilities, one member representing the Southbury Training School, one member representing the Association for Retarded Citizens of New London County, one consumer representing persons who use the camp on a residential basis and one member representing parents or guardians of persons who use the camp, all of whom shall be appointed by the Governor; (2) one member representing parents or guardians of persons who use the camp, who shall be appointed by the president pro tempore of the Senate; (3) one consumer from the Family Support Council established pursuant to section 17a-219c of the 2008 supplement to the general statutes representing persons who use the camp on a day basis, who shall be appointed by the speaker of the House of Representatives; (4) one member representing the board of selectmen of the town of Waterford, who shall be appointed by the majority leader of the House of Representatives; (5) one member representing the Camp Harkness

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Booster Club, who shall be appointed by the majority leader of the Senate; (6) one member representing the Connecticut Institute for the Blind and the Oak Hill School, who shall be appointed by the minority leader of the House of Representatives; and (7) one member representing the United Cerebral Palsy Association, who shall be appointed by the minority leader of the Senate.

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

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

Approved April 29, 2008