



House of Representatives

General Assembly

File No. 104

January Session, 2009

Substitute House Bill No. 6309

House of Representatives, March 19, 2009

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ADMINISTRATION OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

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

1 Section 1. Section 17a-248 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 As used in this section and sections 17a-248b to 17a-248g, inclusive,
4 38a-490a and 38a-516a, unless the context otherwise requires:

5 (1) "Commissioner" means the Commissioner of Developmental
6 Services.

7 (2) "Council" means the State Interagency Birth-to-Three
8 Coordinating Council established pursuant to section 17a-248b.

9 (3) "Early intervention services" means early intervention services,
10 as defined in 34 CFR Part 303.12, as from time to time amended.

11 (4) "Eligible children" means children from birth to thirty-six months
12 of age, who are not eligible for special education and related services
13 pursuant to sections 10-76a to 10-76h, inclusive, and who need early
14 intervention services because such children are:

15 (A) Experiencing a significant developmental delay as measured by
16 standardized diagnostic instruments and procedures, including
17 informed clinical opinion, in one or more of the following areas: (i)
18 Cognitive development; (ii) physical development, including vision or
19 hearing; (iii) communication development; (iv) social or emotional
20 development; or (v) adaptive skills; or

21 (B) Diagnosed as having a physical or mental condition that has a
22 high probability of resulting in developmental delay.

23 (5) "Evaluation" means a multidisciplinary professional, objective
24 assessment conducted by appropriately qualified personnel in order to
25 determine a child's eligibility for early intervention services.

26 (6) "Individualized family service plan" means a written plan for
27 providing early intervention services to an eligible child and the child's
28 family.

29 (7) "Lead agency" means the Department of Developmental
30 Services, the public agency responsible for the administration of the
31 birth-to-three system in collaboration with the participating agencies.

32 (8) "Parent" means the child's parent or a person in a parental
33 relationship to the child. With respect to a child who has no parent or
34 person in a parental relationship, "parent" means the person
35 designated to serve in a parental relationship for the purposes of this
36 section and sections 17a-248b to 17a-248g, inclusive, 38a-490a and 38a-
37 516a, pursuant to regulations of the Department of Developmental
38 Services, adopted in accordance with chapter 54 in consultation with
39 the Department of Children and Families, for children in foster care.

40 (9) "Participating agencies" includes, but is not limited to, the
41 Departments of Education, Social Services, Public Health, Children

42 and Families and Developmental Services, the Insurance Department,
43 the Board of Education and Services for the Blind, the Commission on
44 the Deaf and Hearing Impaired and the Office of Protection and
45 Advocacy for Persons with Disabilities.

46 (10) "Qualified personnel" means persons who meet the standards
47 specified in 34 CFR Part 303.12(e), as from time to time amended, and
48 who are licensed physicians or psychologists or persons holding a
49 state-approved or recognized license, certificate or registration in one
50 or more of the following fields: (A) Special education, including
51 teaching of the blind and the deaf; (B) speech and language pathology
52 and audiology; (C) occupational therapy; (D) physical therapy; (E)
53 social work; (F) nursing; (G) dietary or nutritional counseling; and (H)
54 other fields designated by the commissioner that meet requirements
55 that apply to the area in which the person is providing early
56 intervention services, provided there is no conflict with existing
57 professional licensing, certification and registration requirements.

58 [(11) "Region" means a region within the Department of
59 Developmental Services.]

60 [(12)] (11) "Service coordinator" means a person carrying out service
61 coordination, as defined in 34 CFR Part 303.22, as from time to time
62 amended.

63 [(13)] (12) "Primary care provider" means physicians and advanced
64 practice registered nurses, licensed by the Department of Public
65 Health, who are responsible for performing or directly supervising the
66 primary care services for children enrolled in the birth-to-three
67 program.

68 Sec. 2. Section 17a-248c of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2009*):

70 (a) The commissioner [shall] may establish [at least] one local
71 interagency coordinating council in each region of the state. Each
72 council shall consist of five or more individuals interested in the

73 welfare of children ages birth to three years with disabilities or
74 developmental delays.

75 (b) Each local interagency coordinating council established pursuant
76 to subsection (a) of this section shall meet at least four times a year and
77 shall advise and assist the [regional birth-to-three managers] lead
78 agency regarding any matter relating to early intervention policies and
79 procedures within the towns served by that council that is brought to
80 its attention by parents, providers, public agencies or others, including
81 the transition from early intervention services to services and
82 programs under sections 10-76a to 10-76g, inclusive, and other early
83 childhood programs.

84 (c) Council members who are parents of children with disabilities
85 shall be reimbursed for reasonable and necessary expenses incurred in
86 the performance of their duties.

87 Sec. 3. Subsection (a) of section 17a-248d of the general statutes is
88 repealed and the following is substituted in lieu thereof (*Effective*
89 *October 1, 2009*):

90 (a) The lead agency, in coordination with the participating agencies
91 and in consultation with the council, shall establish and maintain a
92 state-wide birth-to-three system of early intervention services pursuant
93 to Part [H] C of the Individuals with Disabilities Education Act, 20
94 USC [1471] 1431 et seq., for eligible children and families of such
95 children.

96 Sec. 4. Section 17a-248e of the general statutes is repealed and the
97 following is substituted in lieu thereof (*Effective October 1, 2009*):

98 (a) Each eligible child and his family shall receive (1) a
99 multidisciplinary assessment of the child's unique needs and the
100 identification of services appropriate to meet such needs, (2) a written
101 individualized family service plan developed by a multidisciplinary
102 team, including the parent, within forty-five days after the referral, and
103 (3) review of the individualized family service plan with the family at

104 least every six months, with evaluation of the individualized family
105 service plan at least annually.

106 (b) The individualized family service plan shall be in writing and
107 contain: (1) A statement of the child's present level of physical
108 development, cognitive development, language and speech
109 development and self-help skills, based on acceptable objective criteria;
110 (2) a statement of the family's priority, resources and concerns relating
111 to enhancing the development of the eligible child; (3) a statement of
112 the major outcomes expected to be achieved for the child and the
113 family and the criteria, procedures and timelines used to determine the
114 degree to which progress toward achieving the outcomes are being
115 made, and whether modifications or revisions of the outcomes are
116 necessary; (4) a statement of specific early intervention services
117 necessary to meet the unique needs of the eligible child and the family,
118 including the frequency, intensity and the method of delivering
119 services; (5) a statement of the natural environments in which the
120 services shall be provided; (6) the projected dates for initiation of
121 services and the anticipated duration of such services; (7) the name of
122 the approved comprehensive service provider that will provide or
123 procure the services specified in the individualized family service plan;
124 (8) the name of the individual service coordinator from the profession
125 most immediately relevant to the eligible child's or the family's needs
126 who will be responsible for the implementation of the plan and
127 coordination with the other agencies and providers or an otherwise
128 qualified provider selected by a parent; and (9) the steps to be taken to
129 support the transition of the child who is eligible for participation in
130 preschool programs under Part B of the Individuals with Disabilities
131 Act, 20 USC 1471 et seq., as appropriate.

132 (c) The individualized family service plan shall be developed in
133 consultation with the child's pediatrician or primary care physician.

134 [(d) On and after July 1, 1996, the parent of any child who received
135 early intervention services, other than service coordination, from a
136 provider prior to said date and remains eligible for such services may

137 choose to have his child continue to receive the services from such
138 provider.]

139 [(e)] (d) The lead agency may contract with providers to deliver
140 early intervention services to eligible children and the families of such
141 children. [, provided during the period from July 1, 1996, to June 30,
142 1997, inclusive, the agency shall, in cases where substantially
143 equivalent proposals are submitted, give preferential consideration to
144 contracting with regional educational service centers and local and
145 regional boards of education that provided such services, including
146 service coordination, prior to July 1, 1996.] The lead agency in
147 contracting or otherwise arranging for early intervention services shall
148 [monitor the expenditures for administrative services, excluding
149 evaluation assessments, and shall justify in writing, on or before
150 September 1, 1997, and annually thereafter, to the Secretary of the
151 Office of Policy and Management and the committees of the General
152 Assembly having cognizance of matters relating to appropriations and
153 to public health, if such expenditure levels exceed twenty per cent of
154 the contracted amount] establish state-wide rates for such services.

155 Sec. 5. Section 17a-248f of the general statutes is repealed and the
156 following is substituted in lieu thereof (*Effective October 1, 2009*):

157 Procedural safeguards shall be the same as required under Part [H]
158 C of the Individuals with Disabilities Education Act, 20 USC [1471]
159 1431 et seq.

160 Sec. 6. Subsection (a) of section 17a-248g of the general statutes is
161 repealed and the following is substituted in lieu thereof (*Effective*
162 *October 1, 2009*):

163 (a) Subject to the provisions of this section, funds appropriated to
164 the lead agency for purposes of section 17a-248, as amended by this
165 act, sections 17a-248b to 17a-248f, inclusive, as amended by this act,
166 this section and sections 38a-490a and 38a-516a shall not be used to
167 satisfy a financial commitment for services that would have been paid
168 from another public or private source but for the enactment of said

169 sections, except for federal funds available pursuant to Part [H] C of
170 the Individuals with Disabilities Education Act, 20 USC [1471] 1431 et
171 seq., except that whenever considered necessary to prevent the delay
172 in the receipt of appropriate early intervention services by the eligible
173 child or family in a timely fashion, funds provided under said sections
174 may be used to pay the service provider pending reimbursement from
175 the public or private source that has ultimate responsibility for the
176 payment.

177 Sec. 7. Subsection (a) of section 17a-270 of the general statutes is
178 repealed and the following is substituted in lieu thereof (*Effective*
179 *October 1, 2009*):

180 (a) There is established a Council on Developmental Services which
181 shall consist of thirteen members appointed as follows: Eight shall be
182 appointed by the Governor, one of whom shall be a doctor of
183 medicine, one of whom shall be a person with mental retardation who
184 is receiving services from the Department of Developmental Services
185 and at least two of whom shall be parents or guardians of persons with
186 mental retardation, to serve for terms of two years each; four shall be
187 appointed by members of the General Assembly for two-year terms,
188 one who shall be a parent or guardian of a person with mental
189 retardation, appointed by the speaker of the House, one appointed by
190 the minority leader of the House, one appointed by the president pro
191 tempore of the Senate and one who shall be a parent or guardian of a
192 person with mental retardation, appointed by the minority leader of
193 the Senate; and one who shall be a member of the board of trustees of
194 the Southbury Training School, appointed by said board for a term of
195 one year. [No] A member may serve [more than] for a maximum term
196 of up to six consecutive years or until the member's successor is
197 appointed, whichever is later. The members of the council shall serve
198 without compensation except for necessary expenses incurred in
199 performing their duties. The Commissioner of Developmental Services
200 or the commissioner's designee shall be an ex-officio member of the
201 Council on Developmental Services without vote and shall attend its
202 meetings. No employee of any state agency or institution engaged in

203 the care or training of persons with mental retardation shall be eligible
204 for appointment to the council. The council shall appoint annually,
205 from among its members, a chairperson, vice chairperson and
206 secretary. The council may make rules for the conduct of its affairs.
207 The council shall meet at least bimonthly and at other times upon the
208 call of the chair or the written request of any two members.

209 Sec. 8. Subsection (a) of section 17a-217a of the general statutes is
210 repealed and the following is substituted in lieu thereof (*Effective*
211 *October 1, 2009*):

212 (a) There shall be a Camp Harkness Advisory Committee to advise
213 the Commissioner of Developmental Services with respect to issues
214 concerning the health and safety of persons who attend and utilize the
215 facilities at Camp Harkness. The advisory committee shall be
216 composed of twelve members as follows: (1) The director of Camp
217 Harkness, who shall serve ex-officio, one member representing the
218 Southeastern Connecticut Association for Developmental Disabilities,
219 one member representing the Southbury Training School, one member
220 representing the Association for Retarded Citizens of New London
221 County, one consumer representing persons who use the camp on a
222 residential basis and one member representing parents or guardians of
223 persons who use the camp, all of whom shall be appointed by the
224 Governor; (2) one member representing parents or guardians of
225 persons who use the camp, who shall be appointed by the president
226 pro tempore of the Senate; (3) one consumer from the Family Support
227 Council established pursuant to section 17a-219c representing persons
228 who use the camp on a day basis, who shall be appointed by the
229 speaker of the House of Representatives; (4) one member representing
230 the board of selectmen of the town of Waterford, who shall be
231 appointed by the majority leader of the House of Representatives; (5)
232 one member representing [the Camp Harkness Booster Club] a private
233 nonprofit corporation that is: (A) Tax-exempt under Section 501(c)(3)
234 of the Internal Revenue Code of 1986, or any subsequent
235 corresponding internal revenue code of the United States, as from time
236 to time amended, and (B) established to promote and support Camp

237 Harkness and its camping programs, who shall be appointed by the
238 majority leader of the Senate; (6) one member representing the
239 Connecticut Institute for the Blind and the Oak Hill School, who shall
240 be appointed by the minority leader of the House of Representatives;
241 and (7) one member representing the United Cerebral Palsy
242 Association, who shall be appointed by the minority leader of the
243 Senate.

244 Sec. 9. Subsection (a) of section 17a-219c of the general statutes is
245 repealed and the following is substituted in lieu thereof (*Effective*
246 *October 1, 2009*):

247 (a) There is established a Family Support Council to assist the
248 Department of Developmental Services and other state agencies that
249 administer or fund family support services to act in concert and,
250 within available appropriations, to (1) establish a comprehensive,
251 coordinated system of family support services, (2) use existing state
252 and other resources efficiently and effectively as appropriate for such
253 services, (3) identify and address services that are needed for families
254 of children with disabilities, and (4) promote state-wide availability of
255 such services. The council shall consist of twenty-seven voting
256 members including the Commissioners of Public Health,
257 Developmental Services, Children and Families, Education and Social
258 Services, or their designees, the Child Advocate or the Child
259 Advocate's designee, the executive director of the Office of Protection
260 and Advocacy for Persons with Disabilities, or the executive director's
261 designee, the chairperson of the State Interagency Birth-to-Three
262 Coordinating Council, as established pursuant to section 17a-248b, the
263 executive director of the Commission on Children, or the executive
264 director's designee, and family members of, or individuals who
265 advocate for, children with disabilities. The family members or
266 individuals who advocate for children with disabilities shall comprise
267 two-thirds of the council and shall be appointed as follows: Six by the
268 Governor, three by the president pro tempore of the Senate, two by the
269 majority leader of the Senate, one by the minority leader of the Senate,
270 three by the speaker of the House of Representatives, two by the

271 majority leader of the House of Representatives and one by the
 272 minority leader of the House of Representatives. Members shall be
 273 appointed for a term of four years. [Members shall be limited to two
 274 consecutive terms.] The council shall meet at least quarterly and shall
 275 select its own chairperson. Council members shall serve without
 276 compensation but shall be reimbursed for necessary expenses
 277 incurred. The costs of administering the council shall be within
 278 available appropriations in accordance with sections 17a-219a to 17a-
 279 219c, inclusive.

280 Sec. 10. Subdivision (31) of subsection (a) of section 2c-2b is
 281 repealed. *(Effective from passage)*

| | | |
|---|------------------------|------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2009</i> | 17a-248 |
| Sec. 2 | <i>October 1, 2009</i> | 17a-248c |
| Sec. 3 | <i>October 1, 2009</i> | 17a-248d(a) |
| Sec. 4 | <i>October 1, 2009</i> | 17a-248e |
| Sec. 5 | <i>October 1, 2009</i> | 17a-248f |
| Sec. 6 | <i>October 1, 2009</i> | 17a-248g(a) |
| Sec. 7 | <i>October 1, 2009</i> | 17a-270(a) |
| Sec. 8 | <i>October 1, 2009</i> | 17a-217a(a) |
| Sec. 9 | <i>October 1, 2009</i> | 17a-219c(a) |
| Sec. 10 | <i>from passage</i> | Repealer section |

Statement of Legislative Commissioners:

In section 7(a), "appointed" was substituted in place of "chosen" for internal consistency.

PH *Joint Favorable C/R*

GAE

GAE *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None, See Below

Municipal Impact: None

Explanation

The bill makes various minor technical changes that are not anticipated to have any fiscal impact to the Department of Developmental Services (DDS).

The bill also requires DDS to establish statewide rates for paying the Birth-to-Three service providers with whom it contracts or arranges for early intervention services. As this change codifies current practice, it has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

Sources: Department of Developmental Services, Office of Legislative Research

OLR Bill Analysis

HB 6309

AN ACT CONCERNING ADMINISTRATION OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

SUMMARY:

This bill makes minor changes to the Department of Developmental Services' (DDS) Birth-to-Three program and several departmental advisory bodies. It also removes DDS' abuse and neglect registry from the sunset review process under which it is scheduled to terminate on July 1, 2010 unless reestablished.

EFFECTIVE DATE: October 1, 2009, except for the removal of the DDS abuse and neglect registry from sunset review, which is effective upon passage.

BIRTH-TO-THREE

The bill permits DDS to arrange for Birth-to-Three services through means other than contracts (e.g., memoranda of understanding with other state agencies). It requires DDS to establish statewide rates for paying the Birth-to-Three service providers with which it contracts or otherwise arranges for early intervention services. (DSS has already set statewide rates.) And it removes a requirement for DDS to monitor contractors' administrative spending and annually justify to the Appropriations and Public Health committees and Office of Policy and Management secretary expenditures over 20% of the contracted amount.

The bill allows DDS to establish a local interagency coordinating council in each region of the state; under current law, DDS must establish at least one council per region. But the bill removes the definition of region, which currently ties these councils to DDS' three

regions; consequently, it is not clear where the councils could be located under the bill. Lastly, it requires these councils to advise DDS rather than the regional Birth-to-Three managers.

It also corrects references to federal laws governing the Birth-to-Three program and repeals several obsolete statutes.

ADVISORY COMMITTEES

The bill allows an appointed member of the Council on Developmental Services who has served the maximum six-year term to continue to serve until a successor is chosen. The council advises the DDS commissioner on state programs and can recommend legislation to the governor and General Assembly.

The bill allows the Office of Protection and Advocacy and Children's Commission executive directors and the child advocate to appoint designees to the Family Support Council. It also removes members' two-term limit. The council helps DDS and other state agencies identify and promote needed services and coordinate their activities.

Finally, the bill removes the Camp Harkness Booster Club representative from the Camp Harkness Advisory Committee. Instead, it installs a representative of a tax-exempt, nonprofit corporation that promotes and supports the camp and its camping programs.

BACKGROUND

Sunset Review

Under the sunset review law, licensing, regulatory, and other state agencies and programs terminate on set dates unless the General Assembly reestablishes them after the Legislative Program Review and Investigations Committee conducts a performance audit of each. The committee must review the public need for each entity or program according to established criteria and report its recommendations to the legislature for the entity's or program's abolition, reestablishment, modification, or consolidation (CGS § 2c-2b).

COMMITTEE ACTION

Public Health Committee

Joint Favorable Change of Reference

Yea 30 Nay 0 (02/18/2009)

Government Administration and Elections Committee

Joint Favorable

Yea 15 Nay 0 (03/06/2009)