



Substitute House Bill No. 5448

Public Act No. 10-93

**AN ACT CONCERNING THE ADMINISTRATION OF THE
DEPARTMENT OF DEVELOPMENTAL SERVICES.**

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

Section 1. Section 17a-248 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

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

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

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

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

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

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

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

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

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

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

(8) "Parent" means [the child's parent or a person in a parental relationship to the child. With respect to a child who has no parent or person in a parental relationship, "parent" means the person designated to serve in a parental relationship for the purposes of this section and sections 17a-248b to 17a-248g, inclusive, 38a-490a and 38a-516a, pursuant to regulations of the Department of Developmental Services, adopted in accordance with chapter 54 in consultation with the Department of Children and Families, for children in foster care] (A) a biological, adoptive or foster parent of a child; (B) a guardian, except for the Commissioner of Children and Families; (C) an individual acting in the place of a biological or adoptive parent, including, but not limited to, a grandparent, stepparent, or other

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relative with whom the child lives; (D) an individual who is legally responsible for the child's welfare; or (E) an individual appointed to be a surrogate parent.

(9) "Participating agencies" includes, but is not limited to, the Departments of Education, Social Services, Public Health, Children and Families and Developmental Services, the Insurance Department, the Board of Education and Services for the Blind, the Commission on the Deaf and Hearing Impaired and the Office of Protection and Advocacy for Persons with Disabilities.

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

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

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

[(13)] (12) "Primary care provider" means physicians and advanced practice registered nurses, licensed by the Department of Public Health, who are responsible for performing or directly supervising the

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primary care services for children enrolled in the birth-to-three program.

Sec. 2. Section 17a-248c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) The commissioner [shall] may establish [at least] one local interagency coordinating council in each region of the state. Each council shall consist of five or more individuals interested in the welfare of children ages birth to three years with disabilities or developmental delays.

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

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

Sec. 3. Subsection (a) of section 17a-248d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

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

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children.

Sec. 4. Section 17a-248e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) Each eligible child and his family shall receive (1) a multidisciplinary assessment of the child's unique needs and the identification of services appropriate to meet such needs, (2) a written individualized family service plan developed by a multidisciplinary team, including the parent, within forty-five days after the referral, and (3) review of the individualized family service plan with the family at least every six months, with evaluation of the individualized family service plan at least annually.

(b) The individualized family service plan shall be in writing and contain: (1) A statement of the child's present level of physical development, cognitive development, language and speech development and self-help skills, based on acceptable objective criteria; (2) a statement of the family's priority, resources and concerns relating to enhancing the development of the eligible child; (3) a statement of the major outcomes expected to be achieved for the child and the family and the criteria, procedures and timelines used to determine the degree to which progress toward achieving the outcomes are being made, and whether modifications or revisions of the outcomes are necessary; (4) a statement of specific early intervention services necessary to meet the unique needs of the eligible child and the family, including the frequency, intensity and the method of delivering services; (5) a statement of the natural environments in which the services shall be provided; (6) the projected dates for initiation of services and the anticipated duration of such services; (7) the name of the approved comprehensive service provider that will provide or procure the services specified in the individualized family service plan; (8) the name of the individual service coordinator from the profession most immediately relevant to the eligible child's or the family's needs

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who will be responsible for the implementation of the plan and coordination with the other agencies and providers or an otherwise qualified provider selected by a parent; and (9) the steps to be taken to support the transition of the child who is eligible for participation in preschool programs under Part B of the Individuals with Disabilities Act, 20 USC 1471 et seq., as appropriate.

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

[(d) On and after July 1, 1996, the parent of any child who received early intervention services, other than service coordination, from a provider prior to said date and remains eligible for such services may choose to have his child continue to receive the services from such provider.]

[(e)] (d) The lead agency may provide early intervention services, arrange for the delivery of early intervention services by participating agencies or contract with providers to deliver early intervention services to eligible children and the families of such children. [provided during the period from July 1, 1996, to June 30, 1997, inclusive, the agency shall, in cases where substantially equivalent proposals are submitted, give preferential consideration to contracting with regional educational service centers and local and regional boards of education that provided such services, including service coordination, prior to July 1, 1996.] The lead agency in providing, arranging or contracting for early intervention services shall monitor [the expenditures for administrative services, excluding evaluation assessments, and shall justify in writing, on or before September 1, 1997, and annually thereafter, to the Secretary of the Office of Policy and Management and the committees of the General Assembly having cognizance of matters relating to appropriations and to public health, if such expenditure levels exceed twenty per cent of the contracted amount] all birth-to-three service providers for quality and

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accountability in accordance with Section 616 of the Individuals with Disabilities Education Act, 20 USC 1416 and establish state-wide rates for such services.

Sec. 5. Section 17a-248f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

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

Sec. 6. Section 17a-248g of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) Subject to the provisions of this section, funds appropriated to the lead agency for purposes of section 17a-248, as amended by this act, sections 17a-248b to 17a-248f, as amended by this act, inclusive, this section and sections 38a-490a and 38a-516a shall not be used to satisfy a financial commitment for services that would have been paid from another public or private source but for the enactment of said sections, except for federal funds available pursuant to Part [H] C of the Individuals with Disabilities Education Act, 20 USC [1471] 1431 et seq., except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the eligible child or family in a timely fashion, funds provided under said sections may be used to pay the service provider pending reimbursement from the public or private source that has ultimate responsibility for the payment.

(b) Nothing in section 17a-248, as amended by this act, sections 17a-248b to 17a-248f, inclusive, as amended by this act, this section and sections 38a-490a and 38a-516a shall be construed to permit the Department of Social Services or any other state agency to reduce

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medical assistance pursuant to this chapter or other assistance or services available to eligible children. Notwithstanding any provision of the general statutes, costs incurred for early intervention services that otherwise qualify as medical assistance that are furnished to an eligible child who is also eligible for benefits pursuant to this chapter shall be considered medical assistance for purposes of payments to providers and state reimbursement to the extent that federal financial participation is available for such services.

(c) Providers of early intervention services shall, in the first instance and where applicable, seek payment from all third-party payers prior to claiming payment from the birth-to-three system for services rendered to eligible children, provided, for the purpose of seeking payment from the Medicaid program or from other third-party payers as agreed upon by the provider, the obligation to seek payment shall not apply to a payment from a third-party payer who is not prohibited from applying such payment, and who will apply such payment, to an annual or lifetime limit specified in the third-party payer's policy or contract.

(d) The commissioner, in consultation with the Office of Policy and Management and the Insurance Commissioner, shall adopt regulations, pursuant to chapter 54, providing public reimbursement for deductibles and copayments imposed under an insurance policy or health benefit plan to the extent that such deductibles and copayments are applicable to early intervention services.

(e) The commissioner shall establish and periodically revise, in accordance with this section, a schedule of fees based on a sliding scale for early intervention services. The schedule of fees shall consider the cost of such services relative to the financial resources of the state and the parents or legal guardians of eligible children, provided that on and after October 6, 2009, the commissioner shall (1) charge fees to such parents or legal guardians that are sixty per cent greater than the

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amount of the fees charged on the date prior to October 6, 2009; and (2) charge fees for all services provided, including those services provided in the first two months following the enrollment of a child in the program. Fees may be charged to any such parent or guardian, regardless of income, and shall be charged to any such parent or guardian with a gross annual family income of forty-five thousand dollars or more, except that no fee may be charged to the parent or guardian of a child who is eligible for Medicaid. Notwithstanding the provisions of subdivision (8) of section 17a-248, as amended by this act, as used in this subsection, "parent" means the biological or adoptive parent or legal guardian of any child receiving early intervention services. The Department of Developmental Services may assign its right to collect fees to a designee or provider participating in the early intervention program and providing services to a recipient in order to assist the provider in obtaining payment for such services. The commissioner may implement procedures for the collection of the schedule of fees while in the process of adopting or amending such criteria in regulation, provided the commissioner prints notice of intention to adopt or amend the regulations in the Connecticut Law Journal within twenty days of implementing the policy. Such collection procedures and schedule of fees shall be valid until the time the final regulations or amendments are effective.

(f) The commissioner shall develop and implement procedures to hold a recipient harmless for the impact of pursuit of payment for early intervention services against lifetime insurance limits.

(g) Notwithstanding any provision of title 38a relating to the permissible exclusion of payments for services under governmental programs, no such exclusion shall apply with respect to payments made pursuant to section 17a-248, as amended by this act, sections 17a-248b to 17a-248f, inclusive, as amended by this act, this section and sections 38a-490a and 38a-516a. Except as provided in this subsection,

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nothing in this section shall increase or enhance coverages provided for within an insurance contract subject to the provisions of section 10-94f, subsection (a) of section 10-94g, subsection (a) of section 17a-219b, subsection (a) of section 17a-219c, as amended by this act, sections 17a-248, as amended by this act, 17a-248b to 17a-248f, inclusive, as amended by this act, this section, and sections 38a-490a and 38a-516a.

(h) Notwithstanding any provision of the general statutes or the regulations of Connecticut state agencies, the signature on an individualized family service plan of an advanced practice registered nurse, working within said nurse's scope of practice in collaboration with a physician licensed to practice medicine in this state, in accordance with section 20-87a, and performing or directly supervising the primary care services for children enrolled in the birth-to-three program, shall be deemed sufficient to order all such services included in the individualized family service plan and shall be deemed sufficient by the Department of Social Services to substantiate a claim for federal financial participation.

Sec. 7. Subsection (a) of section 17a-270 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) There is established a Council on 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] of whom 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

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president pro tempore of the Senate and one [who] of whom shall be a parent or guardian of a person with mental retardation, appointed by the minority leader of the Senate; and one [who] of whom 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 of the council may serve more than [six consecutive years] three consecutive terms, except that a member may continue to serve until a successor is appointed. 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 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 chairperson, vice 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.

Sec. 8. Subsection (a) of section 17a-217a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(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, one member representing the Southeastern Connecticut Association for Developmental Disabilities, one member representing the Southbury Training School, one member representing the [Association for Retarded Citizens] Arc of New

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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, as amended by this act, 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 Booster Club] a private nonprofit corporation that is: (A) Tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent internal revenue code of the United States, as amended from time to time, and (B) established to promote and support Camp Harkness and its camping programs, 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 (a) of section 17a-219c of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) There is established a Family Support Council to assist the Department of Developmental Services and other state agencies that administer or fund family support services to act in concert and, within available appropriations, to (1) establish a comprehensive, coordinated system of family support services, (2) use existing state

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and other resources efficiently and effectively as appropriate for such services, (3) identify and address services that are needed for families of children with disabilities, and (4) promote state-wide availability of such services. The council shall consist of twenty-seven voting members including the Commissioners of Public Health, Developmental Services, Children and Families, Education and Social Services, or their designees, the Child Advocate or the Child Advocate's designee, the executive director of the Office of Protection and Advocacy for Persons with Disabilities or the executive director's designee, the chairperson of the State Interagency Birth-to-Three Coordinating Council, [as] established pursuant to section 17a-248b, or the chairperson's designee, the executive director of the Commission on Children or the executive director's designee, and family members of, or individuals who advocate for, children with disabilities. The family members or individuals who advocate for children with disabilities shall comprise two-thirds of the council and shall be appointed as follows: Six by the Governor, three by the president pro tempore of the Senate, two by the majority leader of the Senate, one by the minority leader of the Senate, three by the speaker of the House of Representatives, two by the majority leader of the House of Representatives and one by the minority leader of the House of Representatives. All appointed members serving on or after October 5, 2009, including members appointed prior to October 5, 2009, shall serve in accordance with the provisions of section 4-1a. Members serving on or after October 5, 2009, including members appointed prior to October 5, 2009, shall serve no more than eight consecutive years on the council. The council shall meet at least quarterly and shall select its own chairperson. Council members shall serve without compensation but shall be reimbursed for necessary expenses incurred. The costs of administering the council shall be within available appropriations in accordance with this section and sections 17a-219a to 17a-219b, inclusive.

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Sec. 10. Section 17a-273 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) The Commissioner of Developmental Services shall appoint at least one advisory and planning council for each state 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 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 developmental services region. No employee of any state agency [or institution] engaged in the care or training of 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 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] a local chapter of the Arc of Connecticut in the region. At least one member shall be an individual who is eligible for and receives services from the Department of Developmental Services. At least two members shall be parents of persons 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

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upon the call of the chair or the director of the state 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 meetings held during any calendar year shall be deemed to have resigned from office.

Sec. 11. Subsection (g) of section 17a-28 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(g) When the commissioner or his designee determines it to be in a person's best interest, the commissioner or his designee may disclose records, whether or not created by the department and not otherwise privileged or confidential communications under state or federal law, without the consent of a person to:

(1) Multidisciplinary teams which are formed to assist the department in investigation, evaluation or treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services under contract with the department for a child referred to the provider;

(2) Any agency in another state which is responsible for investigating or protecting against child abuse or neglect for the purpose of investigating a child abuse case;

(3) An individual, including a physician, authorized pursuant to section 17a-101f to place a child in protective custody if such individual has before him a child whom he reasonably suspects may be a victim of abuse or neglect and such individual requires the information in a record in order to determine whether to place the child in protective custody;

(4) An individual or public or private agency responsible for a

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person's care or custody and authorized by the department to diagnose, care for, treat or supervise a child who is the subject of a record of child abuse or neglect or a public or private agency responsible for a person's education for a purpose related to the individual's or agency's responsibilities;

(5) The Attorney General or any assistant attorney general providing legal counsel for the department;

(6) Individuals or public or private agencies engaged in medical, psychological or psychiatric diagnosis or treatment of a person perpetrating the abuse or who is unwilling or unable to protect the child from abuse or neglect when the commissioner or his designee determines that the disclosure is needed to accomplish the objectives of diagnosis or treatment;

(7) A person who reports child abuse pursuant to sections 17a-101a to 17a-101c, inclusive, and section 17a-103, who made a report of abuse involving the subject child, provided the information disclosed is limited to (A) the status of the investigation, and (B) in general terms, any action taken by the department;

(8) An individual conducting bona fide research, provided no information identifying the subjects of records shall be disclosed unless (A) such information is essential to the purpose of the research; (B) each person identified in a record or his authorized representative has authorized such disclosure in writing; and (C) the department has given written approval;

(9) The Auditors of Public Accounts or their representative, provided no information identifying the subjects of the records shall be disclosed unless such information is essential to an audit conducted pursuant to section 2-90;

(10) The Department of Social Services, provided the information

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disclosed is necessary to promote the health, safety and welfare of the child;

(11) A judge of the Superior Court for purposes of determining the appropriate disposition of a child convicted as delinquent or a child who is a member of a family with service needs;

(12) The superintendents, or their designees, of state-operated facilities within the department; and

(13) The Department of Developmental Services, to allow said department to determine eligibility, facilitate enrollment and plan for the provision of services to a child, who is a client of said department [but who is not yet participating] and who is applying for participation in said department's voluntary services program or enrolled in said program. Records provided pursuant to this subdivision shall be limited to a written summary of any investigation conducted by the Department of Children and Families pursuant to section 17a-101g. At the time that a parent or guardian completes an application for enrollment of a child in the Department of Developmental Services voluntary services program or at the time that a child's annual individualized plan of care is updated, said department shall notify such parent or guardian that records specified in this subdivision may be provided by the Department of Children and Families to the Department of Developmental Services without the consent of such parent or guardian.

Sec. 12. Subdivision (31) of subsection (a) of section 2c-2b of the 2010 supplement to the general statutes is repealed. (*Effective October 1, 2010*)

Approved May 26, 2010