



Substitute House Bill No. 6279

Public Act No. 11-16

AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES INCLUDING THE UTILIZATION OF RESPECTFUL LANGUAGE WHEN REFERRING TO PERSONS WITH INTELLECTUAL DISABILITY.

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

Section 1. Section 1-1g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For the purposes of sections 4a-60, [17a-274, 17a-281] 17a-210b, as amended by this act, 17a-580, 38a-816, 45a-669 to 45a-684, inclusive, 46a-11a to 46a-11g, inclusive, as amended by this act, 46a-51, 46a-64b, 46b-84, 53a-46a, 53a-59a, 53a-60b, 53a-60c, [and] 53a-61a, 53a-320 and 54-56d, mental retardation means a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(b) For the purposes of sections 17a-210, as amended by this act, 17a-210b, as amended by this act, 17a-215c, 17a-217 to 17a-218a, inclusive, as amended by this act, 17a-220, as amended by this act, 17a-226 to 17a-227a, inclusive, as amended by this act, 17a-228, as amended by this act, 17a-231 to 17a-233, inclusive, as amended by this act, 17a-247 to 17a-247b, inclusive, as amended by this act, 17a-270, as amended by this act, 17a-272 to 17a-274, inclusive, as amended by this act, 17a-

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276, as amended by this act, 17a-277, as amended by this act, 17a-281, as amended by this act, 17a-282, as amended by this act, and 46a-11a to 46a-11g, inclusive, as amended by this act, "intellectual disability" shall have the same meaning as "mental retardation" as defined in subsection (a) of this section.

[(b)] (c) As used in subsection (a) of this section, "general intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for that purpose and standardized on a significantly adequate population and administered by a person or persons formally trained in test administration; "significantly subaverage" means an intelligence quotient more than two standard deviations below the mean for the test; "adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for the individual's age and cultural group; and "developmental period" means the period of time between birth and the eighteenth birthday.

Sec. 2. Section 17a-210 of the general statutes is 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 Developmental Services, shall be responsible for the planning, development and administration of complete, comprehensive and integrated state-wide services for persons with [mental retardation] intellectual disability 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 Developmental Services may advise the Governor on the appointment. The commissioner shall be a person who has background, training,

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education or experience in administering programs for the care, training, education, treatment and custody of persons with [mental retardation] intellectual disability. The commissioner shall be responsible, with the advice of the council, for: (1) Planning and developing complete, comprehensive and integrated state-wide services for persons with [mental retardation] intellectual disability; (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] intellectual disability. The commissioner shall be responsible for the administration and operation of the state training school, state developmental services regions and all state-operated community-based residential facilities established for the diagnosis, care and training of persons with [mental retardation] intellectual disability. 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] intellectual disability and work activity programs operated pursuant to section 17a-226, as amended by this act. The commissioner shall stimulate research by public and private agencies, institutions of higher education and hospitals, in the interest of the elimination and amelioration of [mental retardation] intellectual disability and care and training of persons with [mental retardation] intellectual disability. 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] intellectual disability 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

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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 the 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 review raises questions about the appropriateness of care. The department's mortality review process and the Independent Mortality Review Board shall operate in accordance with the peer review provisions established under section 19a-17b for medical review teams and confidentiality of records provisions established under section 19a-25 for the Department of Public Health.

(b) The commissioner shall be responsible for the development of criteria as to the eligibility of any person with [mental retardation] intellectual disability 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 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

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

(c) Any person with [mental retardation] intellectual disability who is eighteen years of age or older and who resides at any institution or facility operated by the Department of Developmental Services, or the parent, guardian, conservator or other legal representative of any person with [mental retardation] intellectual disability who resides at any such institution or facility, may object to any transfer of such person from one institution or facility to another for any reason other than a medical reason or an emergency, or may request such a transfer. In the event of any such objection or request, the commissioner shall conduct a hearing on such proposed transfer, provided no such hearing shall be required if the commissioner withdraws such proposed transfer. In any such transfer hearing, the proponent of a transfer shall have the burden of showing, by clear and convincing evidence, that the proposed transfer is in the best interest of the resident being considered for transfer and that the facility and programs to which transfer is proposed (1) are safe and effectively supervised and monitored, and (2) provide a greater opportunity for personal development than the resident's present setting. Such hearing shall be conducted in accordance with the provisions of chapter 54.

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

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

(f) Any person with [~~mental retardation~~] intellectual disability or the parent, guardian, conservator or other legal representative of such person, may object to (1) a proposed approval by the department of a program for such person that includes the use of behavior-modifying medications or aversive procedures, or (2) a proposed determination of the department that community placement is inappropriate for such person placed under the direction of the commissioner. The department shall provide written notice of any such proposed approval or determination to the person, or to the parent, guardian, conservator or other legal representative of such person, at least ten days prior to making such approval or determination. In the event of an objection to such proposed approval or determination, the commissioner shall conduct a hearing in accordance with the provisions of chapter 54, provided no such hearing shall be required if the commissioner withdraws such proposed approval or determination.

Sec. 3. Section 17a-210b of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective from passage*):

The absence of a diagnosis of, or reference to, mental retardation, intellectual disability or developmental disability within an individual's school records or medical records shall not preclude the Department of Developmental Services from making a finding of [mental retardation] intellectual disability, as defined in section 1-1g, as amended by this act.

Sec. 4. Subsection (a) of section 17a-210c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Whenever the term "Department of Mental Retardation" is used or referred to in the following sections of the general statutes, the term "Department of Developmental Services" shall be substituted in lieu thereof: 1-101aa, 4-38c, 4-61aa, 4a-12, 4a-16, 4a-82, 5-259, 8-206d, 10-15d, 10-76d, 10-145d, 17a-33, 17a-114, 17a-145, 17a-210, as amended by this act, 17a-210a, 17a-210b, as amended by this act, 17a-211, 17a-211a, 17a-211b, 17a-212a, 17a-214, 17a-215, 17a-215a, 17a-215b, [17a-216,] 17a-217, as amended by this act, 17a-218, as amended by this act, 17a-219b, 17a-219c, 17a-220, as amended by this act, 17a-226, as amended by this act, 17a-227, as amended by this act, 17a-227a, as amended by this act, 17a-228, as amended by this act, 17a-236, 17a-238, 17a-240, 17a-246, as amended by this act, 17a-247, as amended by this act, 17a-247a, as amended by this act, 17a-247b, 17a-247e, 17a-248, 17a-248g, 17a-270, as amended by this act, 17a-273, as amended by this act, 17a-274, as amended by this act, 17a-276, as amended by this act, 17a-277, as amended by this act, 17a-281, as amended by this act, 17a-475a, 17b-337, 17b-352, 17b-360, 17b-492b, 19-570, 19a-509d, 19a-576, 38a-488a, 38a-514, 45a-654, 45a-656, 45a-674, 45a-676, as amended by this act, 45a-677, 45a-681, 46a-11, 46a-11a, as amended by this act, 46a-11c, as amended by this act, 46a-11d, as amended by this act, and 46a-11f, as amended by this act.

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Sec. 5. Section 17a-215 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Department of Developmental Services shall serve as the lead agency to coordinate, where possible, the functions of the several state agencies which have responsibility for providing services to [autistic] persons diagnosed with autism spectrum disorder.

Sec. 6. Section 17a-217 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Department of Developmental Services shall develop day care programs, day camp programs and recreational programs for children and adults with [mental retardation] intellectual disability. Any nonprofit organization which establishes or maintains day care programs, day camp programs or recreational programs for children or adults with [mental retardation] intellectual disability may apply to the Department of Developmental Services for funds to be used to assist in establishing, maintaining or expanding such programs. For the purposes of this section: (1) A day care program (A) may provide for the care and training of preschool age children to enable them to achieve their maximum social, physical and emotional potential; (B) may provide adolescents and adults with [mental retardation] intellectual disability with an activity program which includes training in one or more of the following areas: (i) Self-care, (ii) activities of daily living, (iii) personal and social adjustment, (iv) work habits, and (v) skills, speech and language development; (2) a day camp program may provide children or adults with [mental retardation] intellectual disability with a supervised program of [out-of-doors] outdoor activities which may be conducted during all or part of the months of June, July, August and September; and (3) a recreational program may provide planned and supervised recreational activities for children or adults with [mental retardation] intellectual disability, which activities may be of a social, athletic or purely diversionary nature and which

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programs shall be considered separate and apart from the day camp program described in subdivision (2) of this subsection.

(b) No grant made under this section to assist in establishing, maintaining or expanding any program set forth in subsection (a) of this section shall exceed the ordinary and recurring annual operating expenses of such program, nor shall any grant be made to pay for all or any part of capital expenditures. The Department of Developmental Services shall: (1) Define minimum requirements to be met by each program in order to be eligible to receive funds as provided for by this section in regard to qualification and number of staff members and program operation, including, but not limited to, physical plant and record keeping; (2) establish procedures to be used in making application for such funds; and (3) adopt regulations, in accordance with chapter 54, governing the granting of funds to assist in the establishment of day care programs, day camp programs and recreational programs for persons with [mental retardation] intellectual disability. Upon receipt of proper application, the Department of Developmental Services, within available appropriations, may grant such funds, provided the plans for financing and the standards of operation of such programs shall be approved by the department in accordance with the provisions of this section. For the purpose of developing such programs, the department may accept grants from the federal government, a municipality or any other source.

Sec. 7. Section 17a-217a of 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

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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 Arc 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 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 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.

(b) The advisory committee shall promote communication regarding camp services and develop recommendations for the commissioner regarding the use of Camp Harkness.

[(c) Not later than October 1, 2002, and annually thereafter, the advisory committee shall submit a report to the commissioner and to the joint standing committee of the General Assembly having

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cognizance of matters relating to public health concerning the status of Camp Harkness. Such report shall be submitted in accordance with section 11-4a.]

Sec. 8. Section 17a-218 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For purposes of this section, the following terms have the following meanings: "Commissioner" means the Commissioner of Developmental Services; "department" means the Department of Developmental Services; and "emergency placement" means cases in which there has been a request for a residential accommodation for an individual for whom there is an unforeseen emergency in his current living arrangement, or cases in which the department has had no previous knowledge of a need for placement, or cases in which such a placement is needed because of actions of another state agency or department, including, but not limited to, the Department of Mental Health and Addiction Services, the Department of Children and Families, and any court, or cases prior to any other planned placements, because the health or safety of the individual needing such placement would be adversely affected without such placement.

(b) The commissioner shall plan, develop and administer a comprehensive program of community-based residential facilities including, but not limited to, transitional facilities, group homes, community [training homes] companion homes, community living arrangements and supervised apartments. [On and after January 1, 1997, every contract by the commissioner for the construction, renovation or rehabilitation of a community-based residential facility shall be awarded to the lowest responsible and qualified bidder on the basis of competitive bids in accordance with procedures which the commissioner shall establish in regulations adopted by the commissioner in accordance with the provisions of chapter 54.]

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(c) The commissioner may provide, within available appropriations, subsidies to persons with [mental retardation] intellectual disability who are placed in supervised apartments, condominiums or homes which do not receive housing payments under section 17b-244, in order to assist such persons to meet housing costs.

(d) The commissioner may provide, within available appropriations, respite care services which may be administered directly by the department, or through contracts for services with providers of such services, or by means of direct subsidy to parents of [mentally retarded] persons with intellectual disability to enable [them] the parents to purchase such services.

(e) The commissioner may, within available appropriations and in accordance with individualized plans of care, provide a full range of services to support persons with [mental retardation] intellectual disability living with their families, caretakers, independently or in community-based residential facilities licensed pursuant to section 17a-227, as amended by this act. Such services may include, but are not limited to, education and training programs, social services, counseling services, medical services, physical or occupational therapy, parent training, recreation and transportation. Such services may be provided by the department or be purchased from persons or private agencies through contracts pursuant to subsection (d) of section 4-70b or purchased directly by the service recipient or his family. The department may provide a direct subsidy to persons with [mental retardation] intellectual disability or their families to be used for such purchases of such support services. The recipient of such subsidy shall provide a documented accounting of such subsidy to the department.

(f) Notwithstanding the provisions of part III of chapter 59, the commissioner may, within available appropriations, enter into a rental or lease agreement for an apartment, home, or similar private residence if it has been determined by the commissioner that an

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individual is in need of an emergency placement. Such agreements shall not exceed the fair market price for the area in which the leased premises are located and shall not be for more than twelve months. Upon entering such agreements, the commissioner shall notify the State Properties Review Board and shall begin the leasing procedures outlined in [said] part III of chapter 59.

(g) Any person who is in or is seeking a placement through the Department of Developmental Services or is receiving any support or service that is included within or covered by any federal program being administered and operated by the Department of Social Services and the Department of Developmental Services, and who meets the eligibility criteria for the federal program, shall enroll in such program in order to continue in the existing placement or to remain eligible for a placement or continue to receive such support or service. Any person who is ineligible for such federal program due to excess income or assets may continue in existing placement, or continue to receive existing supports and services through the Department of Developmental Services while spending down available excess income and assets until such person qualifies for enrollment in the applicable federal program. The Commissioner of Developmental Services may make exceptions to the requirements of this provision and provide or continue to provide, within available appropriations, placement, support or services to individuals who are not eligible for enrollment in such federal programs and for whom it is determined there is a legal requirement to serve pursuant to state or federal law or court order.

Sec. 9. Section 17a-218a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Developmental Services shall continue the operation of the Southbury Training School and shall establish criteria to evaluate the current population of the training school in regard to community placement and training school placement. The criteria shall

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include, at a minimum, consideration of the client's age, physical disabilities, medical fragility, level of [mental retardation] intellectual disability, length of residence at the school and availability of an appropriate placement.

(b) The commissioner shall no longer accept new admissions at the Southbury Training School.

[(c) For the fiscal years ending June 30, 1998, and June 30, 1999, the commissioner shall not certify additional beds as immediate care facilities for the mentally retarded (ICFMR) at the Southbury Training School beyond a total of six hundred sixteen.]

Sec. 10. Subdivision (5) of section 17a-220 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(5) "Community residential facility" means a community-based residential facility which houses up to six persons with [mental retardation] intellectual disability or autism spectrum disorder and which provides food, shelter, personal guidance and, to the extent necessary, continuing health-related services and care for persons requiring assistance to live in the community, provided any such facilities in operation on July 1, 1985, which house more than six persons with [mental retardation] intellectual disability or autism spectrum disorder shall be eligible for loans for rehabilitation under this section and sections 17a-221 to 17a-225, inclusive, as amended by this act. Such facility shall be licensed and may be certified;

Sec. 11. Section 17a-224 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The department may administer the residential facility revolving loan program through a purchase-of-service contract with any state-wide private nonprofit housing development corporation which is

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organized for the purpose of expanding independent living opportunities for [disabled] persons with disabilities.

Sec. 12. Section 17a-226 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Commissioner of Developmental Services shall develop, [to the extent funding is available] within available appropriations, a program of employment opportunities and day services for adults with [mental retardation] intellectual disability. Any nonprofit organization which provides such services may apply to the Department of Developmental Services for funds to be used to assist in establishing, maintaining or expanding its program. No funding to assist in establishing, maintaining or expanding programs of employment opportunities and day services under the provisions of this section shall exceed the ordinary and recurring operating expenses of such employment opportunities and day services. The Commissioner of Developmental Services shall establish the requirements to be met by such organizations in order to be eligible to receive funds as provided by this section and establish procedures to be used in making application for such funds. Upon receipt of proper application, the Department of Developmental Services [, if funding is available,] shall, within available appropriations, provide such funds, provided the organization meets the requirements established by the commissioner in accordance with the provisions of this section. The Department of Developmental Services may receive federal, municipal or private funds available or tendered on a matching or supporting basis for the development, maintenance and promotion of employment opportunities and day services. [For purposes of this section, "employment opportunities and day services" means the following programs operated or funded by the Department of Developmental Services for adults: Supported employment, sheltered employment, community experience, adult day treatment and opportunities for

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older adults.]

Sec. 13. Section 17a-227 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person, firm or corporation shall [conduct or maintain] operate within this state a [residential facility] community living arrangement or community companion home which it owns, leases or rents for the lodging, care or treatment of persons with [mental retardation or autistic persons] intellectual disability, Prader-Willi syndrome or autism spectrum disorder unless such person, firm or corporation, upon written application, verified by oath, has obtained a license issued by the Department of Developmental Services.

(b) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to insure the comfort, safety, adequate medical care and treatment of such persons at [such] the residential facilities described in subsection (a) of this section. Such regulations shall include requirements that: (1) All residential facility staff be certified in cardiopulmonary resuscitation in a manner and timeframe prescribed by the commissioner; (2) records of staffing schedules and actual staff hours worked, by residential facility, be available for inspection by the department upon advance notice; (3) each residential facility develop and implement emergency plans and staff training to address emergencies that may pose a threat to the health and safety of the residents of the facility; (4) department [inspectors] staff verify during quality service reviews and licensing inspections, that (A) staff is adequately trained to respond in an emergency, and (B) a summary of information on each resident is available to emergency medical personnel for use in an emergency; and (5) [at least half] not less than one-half of the quality service reviews, licensing inspections or facility visits conducted by the department after initial licensure are unannounced.

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(c) After receiving an application and making such investigation as is deemed necessary and after finding the specified requirements to have been fulfilled, the department shall grant a license to such applicant to [conduct] operate a facility of the character described in such application, which license shall specify the name of the person to have charge and the location of [such facility] each facility operated under the license. Any person, firm or corporation aggrieved by any requirement of the regulations or by the refusal to grant any license may [within twenty days of any order directing the enforcement of any provision of such regulations or the refusal of such license, appeal therefrom] request an administrative hearing in accordance with the provisions of [section 4-183, except venue for such appeal shall be in the judicial district in which such facility is located] chapter 54. If the licensee of any such facility desires to place in charge thereof a person other than the one specified in the license, application shall be made to the Department of Developmental Services, in the same manner as provided for the original application, for permission to make such change. Such application shall be acted upon [within] not later than ten calendar days from the date of the filing of [same] the application. Each such license shall be renewed annually upon such terms as may be established by regulations and may be revoked by the department upon proof that the facility for which such license was issued is being improperly [conducted] operated, or for the violation of any of the provisions of this section or of the regulations adopted pursuant to this [subsection] section, provided the licensee shall first be given a reasonable opportunity to be heard in reference to such proposed revocation. Any person, firm or corporation aggrieved by such revocation may [appeal in the same manner as hereinbefore provided] request an administrative hearing in accordance with the provisions of chapter 54. Each person, firm or corporation, upon filing an application under the provisions of this section for a license for a [facility providing residential services for five or more persons] community living arrangement, shall pay to the State Treasurer the sum of fifty

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dollars.

(d) [Notwithstanding any regulation to the contrary, subject to the provisions of this section, the] The Department of Developmental Services may contract, within available appropriations, with any [organization] qualified provider for the operation of a community-based residential facility, provided [such facility] the qualified provider is licensed by the department to operate such facilities. The department shall include in all contracts with such [organizations] licensed qualified providers, provisions requiring the department to (1) conduct periodic reviews of contract performance, and (2) take progressive enforcement actions if the department finds poor performance or noncompliance with the contract, as follows: (A) The [organization] licensed qualified provider may be placed on a strict schedule of monitoring and oversight by the department; (B) the [organization] licensed qualified provider may be placed on a partial-year contract; and (C) payments due under the contract may be reduced by specific amounts on a monthly basis until the [organization] licensed qualified provider complies with the contract. If compliance cannot be achieved, the department shall terminate the contract.

(e) The department may contract with any person, firm or corporation to provide residential support services for persons with [mental retardation] intellectual disability, Prader-Willi syndrome or autism spectrum disorder who reside in settings which are not licensed by the department. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to ensure the safety, adequate supervision and support of persons receiving such residential support services.

(f) Any person, firm or corporation who [conducts] operates any facility contrary to the provisions of this section shall be fined not more than one thousand dollars or imprisoned not more than six months or

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both. Any person, firm or corporation who [conducts] operates any facility contrary to the regulations adopted pursuant to subsection (b) of this section shall be fined not more than one thousand dollars.

Sec. 14. Subsections (a) and (b) of section 17a-227a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Developmental Services shall require each applicant for employment in a Department of Developmental Services program that provides direct services to persons with [mental retardation] intellectual disability to submit to a check of such applicant's state criminal background.

(b) The commissioner may require private sector service providers under contract with or licensed by the department to provide residential, day or support services to persons with [mental retardation] intellectual disability, to require each applicant for employment who will have direct and ongoing contact with persons and families receiving such services to submit to a check of such applicant's state criminal background. If the department requires such providers to have such applicants submit to such checks, the administrative costs associated with such checks shall be considered an allowable cost on the annual cost report.

Sec. 15. Section 17a-228 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) If a person with [mental retardation] intellectual disability residing in a residential facility for [the mentally retarded] persons with intellectual disability licensed pursuant to section 17a-227, as amended by this act, but not certified to participate in the Title XIX Medicaid program as an intermediate care facility for the mentally retarded, qualifies for the program of state supplementation to the

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Supplemental Security Income Program, the Commissioner of Social Services shall pay, under such qualifying program, on behalf of such person the rate established pursuant to subsection (b) of section 17b-244 for room and board, after a reasonable deduction, as determined by the commissioner, to reflect such person's income. The Department of Developmental Services shall pay the rate established pursuant to subsection (b) of section 17b-244 for services other than room and board provided on behalf of any person whose admission to the facility has been authorized by the Department of Developmental Services.

(b) Notwithstanding the provisions of subsection (a) of this section, persons residing in residential facilities for [the mentally retarded] persons with intellectual disability licensed pursuant to section 17a-227, as amended by this act, and receiving state payment for the cost of such services on October 1, 1983, shall be deemed to have been authorized for admission by the Department of Developmental Services. In addition, any person who is admitted to a residential facility for [the mentally retarded] persons with intellectual disability after October 1, 1983, and not later than December 31, 1983, which facility is licensed pursuant to said section after October 1, 1983, and who is receiving state payment for the cost of such services, shall be deemed to have been authorized for admission by the Department of Developmental Services if (1) not later than July 15, 1983, the applicant for licensure owns or has an interest in the facility or land upon which the facility shall be located, or concludes a closing transaction on any mortgage loan secured by mortgage on such facility or land, (2) such facility is licensed not later than December 31, 1983, and (3) the applicant for licensure presents evidence to the Commissioner of Developmental Services that commitments had been made by such applicant not later than July 15, 1983, for the placement of individuals in such facility.

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(c) The Department of Social Services shall continue to make payments on behalf of persons residing, on or before October 1, 1983, in residential facilities licensed pursuant to section 17a-227, as amended by this act, on or before October 1, 1983, but not certified as intermediate care facilities for the mentally retarded, and on behalf of persons authorized for admission into such facilities by the Department of Developmental Services after October 1, 1983, who are otherwise eligible for assistance under sections 17b-600 to 17b-604, inclusive. Such payment shall be on the same basis and at the same rate which is in effect on October 1, 1983, and shall continue to pay such rate until the next succeeding annual rate is determined as provided in section 17b-244 and in this section.

(d) Each individual authorized for admission pursuant to subsections (a) or (b) of this section into a residential facility for [the mentally retarded] persons with intellectual disability licensed pursuant to section 17a-227, as amended by this act, shall be reviewed annually by the Department of Developmental Services. Upon completion of the annual review, the Department of Developmental Services may (1) renew the authorization of the individual for continued state-assisted care in the residential facility, (2) refuse to renew the authorization of the individual for continued state-assisted care in the residential facility but authorize admission into alternate facilities or (3) refuse to renew the authorization of the individual for continued state-assisted care in the facility and refuse to authorize continued state-assisted care in alternate facilities. If the Department of Developmental Services refuses to renew the authorization of the individual for continued state-assisted care in the residential facility and either authorizes admission into alternative facilities or refuses to authorize the individual for state-assisted care in any such alternative facility, the Department of Developmental Services shall continue to pay the rate established pursuant to section 17b-244 for such time as may be administratively necessary for the Department of

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Developmental Services to arrange for an appropriate transfer.

(e) Whenever the Department of Developmental Services refuses to renew the authorization of a person for continued state-assisted care in a licensed residential facility for [the mentally retarded] persons with intellectual disability pursuant to subsection (d) of this section and either authorizes the individual for admission into alternate facilities or refuses to authorize the individual for continued state-assisted care in any alternative facility, the Department of Developmental Services shall give thirty days' notice of its determination to the previously authorized individual and to such individual's parent, conservator, guardian or other legal representative. Such notice shall also notify each such individual or his legal representative of the individual's right to contest the determination by submitting a request for a hearing in writing to the Commissioner of Developmental Services [within] not later than fifteen days [of] after the date of receiving the notice required by this subsection. Such hearing, if requested, shall be conducted in accordance with the provisions of sections 4-176e to 4-184, inclusive. State-assisted care shall continue in the present facility pending final disposition of any such hearing.

(f) Whenever the Department of Social Services is notified that a facility receiving payments from the Department of Developmental Services under the provisions of this section has been certified as an intermediate care facility for persons with mental retardation, as defined in 42 CFR 440.50, the Commissioner of Social Services shall notify the Governor and the Governor, with the approval of the Finance Advisory Committee, may transfer from the appropriation for the Department of Developmental Services to the Department of Social Services, sufficient funds to cover the cost of all services previously paid by the Department of Developmental Services that are reimbursable, at the rate established for services provided by such certified facilities. Subsequent budget requests from both departments

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shall reflect such transfer of responsibility.

Sec. 16. Section 17a-231 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this section and sections 17a-232 to 17a-237, inclusive, as amended by this act, unless the context otherwise requires:

(1) "Residential facility for [mentally retarded persons]" persons with intellectual disability" means a residential facility for persons with [mental retardation] intellectual disability that is licensed, or required to be licensed, pursuant to section 17a-227, as amended by this act, including staffing and other program resources associated with such facility;

(2) "Emergency" means a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a residential facility for [mentally retarded] persons with intellectual disability;

(3) "Transfer trauma" means the medical and psychological reactions to physical transfer that increase the risk of death, or grave illness, or both, in persons with [mental retardation] with intellectual disability;

(4) "Substantial violation" means a violation of regulations adopted pursuant to section 17a-227, as amended by this act, which presents a reasonable likelihood of serious physical or mental harm to residents of a residential facility for [mentally retarded] persons with intellectual disability; and

(5) "Habitual violation" means a violation of regulations adopted pursuant to section 17a-227, as amended by this act, which, due to its repetition, presents a reasonable likelihood of serious physical or mental harm to residents of a residential facility for [mentally

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retarded] persons with intellectual disability.

Sec. 17. Subsection (a) of section 17a-232 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) An application to appoint a receiver for a residential facility for [mentally retarded] persons with intellectual disability may be filed in the Superior Court by the Commissioner of Developmental Services or the director of the Office of Protection and Advocacy for Persons with Disabilities. A resident of the facility or the resident's legally liable relative, conservator, or guardian may file a written complaint with the Commissioner of Developmental Services specifying conditions at the facility which warrant an application to appoint a receiver. If the Commissioner of Developmental Services fails to resolve the complaint within forty-five days of its receipt or, in the case of a facility which intends to close, within seven days of its receipt, the person who filed the complaint may file an application in the Superior Court for the appointment of a receiver for the facility. The court shall immediately notify the Attorney General of the application. The court shall hold a hearing not later than ten days after the date the application is filed. Notice of the hearing shall be given to the owner of the facility or the owner's agent for service of process not less than five days prior to the hearing. The notice shall be posted by the court in a conspicuous place inside the facility for not less than three days prior to the hearing.

Sec. 18. Section 17a-233 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The court may grant an application for the appointment of a receiver for a residential facility for [mentally retarded] persons with intellectual disability upon a finding of any of the following: (1) The facility is operating without a license issued pursuant to section 17a-227, as amended by this act; (2) the facility intends to close and

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adequate arrangements for relocation of its residents have not been made [at least] not less than thirty days prior to the date of the intended closing; (3) there exists in the facility a condition in substantial violation of regulations established pursuant to section 17a-227, as amended by this act; (4) there exists in the facility a practice of habitual violation of regulations established pursuant to section 17a-227, as amended by this act.

(b) It shall be a sufficient defense to a receivership application if any owner of a residential facility for [mentally retarded] persons with intellectual disability establishes that: (1) He did not have knowledge or could not reasonably have known that any conditions in violation of section 17a-227, as amended by this act, existed, or (2) he did not have a reasonable time in which to correct such violations, or (3) the violations listed in the application do not, in fact, exist, or (4) in the event the grounds upon which the petition is based are those set forth in subdivision (2) of subsection (a) of this section, the facility does not intend to close.

Sec. 19. Section 17a-246 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The amount of payments to be paid by the state to any organization which provides employment opportunities and day services for persons referred by any state agency shall be determined annually by the Commissioners of Developmental Services, Social Services, Mental Health and Addiction Services and any other state agency which purchases employment opportunities and day services using a uniform payment system. Nothing contained herein shall authorize a payment by the state in excess of the charges for comparable services to the general public. [For purposes of this section, "employment opportunities and day services" means the following programs: Supported employment, sheltered employment, community experience, adult day treatment and opportunities for

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older adults.]

[(b) Notwithstanding the provisions of the general statutes or the regulations of the Connecticut state agencies, for the fiscal year commencing July 1, 1989, and ending June 30, 1990, the Department of Developmental Services, in conjunction with the Departments of Mental Health and Addiction Services and Social Services, shall prorate any reduction in available appropriations to any agency funded pursuant to sections 19a-476 to 19a-482, inclusive, of the general statutes, revision of 1958, revised to 1989. Such proration shall not be construed to authorize a reduction in the level of services to persons receiving services pursuant to said sections as of May 31, 1989, except that upon a showing of hardship to the appropriate commissioner, an agency may be granted relief. Any agency accredited by an appropriate national accrediting body on June 30, 1989, shall continue such accreditation through June 30, 1990.]

[(c)] (b) The Commissioner of Developmental Services, in consultation with the Commissioners of Mental Health and Addiction Services, Social Services and any other agency which pays for employment opportunities and day services, shall adopt regulations, in accordance with chapter 54, to implement the provisions of subsection (a) of this section.

Sec. 20. Subsection (b) of section 17a-247 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The Department of Developmental Services shall not take or threaten to take any action against any employee of the department in retaliation for such employee's conduct as a guardian or limited guardian of a [mentally retarded] person with intellectual disability.

Sec. 21. Subdivision (2) of section 17a-247a of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) "Authorized agency" means any agency authorized in accordance with the general statutes to conduct abuse and neglect investigations and responsible for issuing or carrying out protective services for persons with [mental retardation] intellectual disability.

Sec. 22. Section 17a-270 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(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] intellectual disability 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] intellectual disability, to serve for terms of two years each; four shall be appointed by members of the General Assembly for two-year terms, one of whom shall be a parent or guardian of a person with [mental retardation] intellectual disability, 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 of whom shall be a parent or guardian of a person with [mental retardation] intellectual disability, appointed by the minority leader of the Senate; and one 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 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

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on Developmental Services without vote and shall attend its meetings. No employee of any state agency engaged in the care or training of persons with [mental retardation] intellectual disability 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.

(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 persons with [mental retardation] intellectual disability. 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 persons with [mental retardation] intellectual disability.

Sec. 23. Subsection (a) of section 17a-272 of 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 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 with intellectual disability. 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 developmental services region.

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Sec. 24. Subsections (a) and (b) of section 17a-273 of the general statutes are 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 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] intellectual disability 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 engaged in the care or training of persons with [mental retardation] intellectual disability shall be eligible for appointment. At least one member shall be designated by 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] intellectual disability. 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.

Sec. 25. Section 17a-274 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any court of probate shall have the power to place any person residing in its district whom it finds to be a [mentally retarded] person

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with intellectual disability with the Department of Developmental Services for placement in any appropriate setting which meets [his individual] the person's habilitative needs in the least restrictive environment available or which can be created within existing resources of the department, in accordance with the provisions of this section and section 17a-276, as amended by this act. No person shall be so placed unless the court has found the person [is mentally retarded] has intellectual disability and (1) is unable to provide for himself or herself at least one of the following: Education, habilitation, care for personal health and mental health needs, meals, clothing, safe shelter or protection from harm; (2) has no family or guardian to care for him or her, or his or her family or guardian can no longer provide adequate care for him or her; (3) is unable to obtain adequate, appropriate services which would enable him or her to receive care, treatment and education or habilitation without placement by a court of probate; and (4) is not willing to be placed under the custody and control of the Department of Developmental Services or its agents or voluntary admission has been sought by the guardian or limited guardian of such person appointed pursuant to chapter 779a or the provisions of sections 45a-711 to 45a-725, inclusive, and such voluntary admission has been opposed by the ward or his or her next of kin.

(b) Application to the Probate Court for placement under this section may be made by any interested party. The application and all records of Probate Court proceedings held as a result of the filing of such application, except for the name of any guardian of the respondent, shall be sealed and shall be made available only to the respondent or the respondent's counsel or guardian, and to the Commissioner of Developmental Services or the commissioner's designee, unless the Probate Court, after hearing held with notice to the respondent or the respondent's counsel or guardian, and to the commissioner or the commissioner's designee, determines that such application and records should be disclosed for cause shown. The

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application shall allege that the respondent is a person with [mental retardation] intellectual disability and (1) is unable to provide for himself or herself at least one of the following: Education, habilitation, care for personal health and mental health needs, meals, clothing, safe shelter or protection from harm; (2) has no family or guardian to care for the respondent or the respondent's family or guardian can no longer provide adequate care for the respondent; (3) is unable to obtain adequate, appropriate services which would enable the respondent to receive care, treatment and education or habilitation without placement by a court of probate; and (4) is not willing to be placed under the custody and control of the Department of Developmental Services or its agents or voluntary admission has been sought by the guardian or limited guardian of the respondent appointed pursuant to chapter 779a or the provisions of sections 45a-711 to 45a-725, inclusive, and such voluntary admission has been opposed by the ward or the ward's next of kin.

(c) Immediately upon the filing of the application, the Probate Court shall assign a time, date and place for a hearing, such hearing to be held not later than thirty business days from the date of receipt of the application. The court shall give notice of the hearing to the respondent, the respondent's guardian or conservator, the respondent's spouse or, if none, the respondent's children or, if none, the respondent's parents or, if none, the respondent's siblings, the Commissioner of Developmental Services, the director of the Office of Protection and Advocacy for Persons with Disabilities, and any other person who has shown an interest in the respondent.

(d) Notice to the respondent and Commissioner of Developmental Services shall include: The names of all persons filing the application, the allegations made in the application, the time, date and place of the hearing, and the name, address and telephone number of the attorney who will represent the respondent. The notice shall state the right of

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the respondent to be present at the hearing, to present evidence, to cross-examine witnesses who testify at the hearing, and to an independent diagnostic and evaluative examination by a licensed psychologist of his own choice, who may testify on his behalf. If the court finds the respondent is indigent, the notice shall further state the respondent may be represented by counsel of his own choosing, and, if the court finds the respondent is indigent, that counsel shall be provided without cost. The reasonable compensation for counsel provided to indigent respondents shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(e) Unless the respondent is represented by counsel, the court shall immediately appoint an attorney to represent the respondent from a list of attorneys admitted to practice in this state provided by the Probate Court Administrator in accordance with regulations adopted by the Probate Court Administrator in accordance with section 45a-77. Such attorney may, unless replaced, attend all examinations preceding the hearing and may copy or inspect any and all reports concerning the respondent.

(f) The court shall appoint a licensed psychologist from a panel of psychologists provided by the Office of the Probate Court Administrator to examine the respondent. The psychologist shall prepare a report on a form provided by the Probate Court. Such report shall include a statement as to whether the respondent [is mentally retarded] has intellectual disability and an explanation of how the determination was reached. The explanation shall include the results of a psychological assessment within the past year, an interview or observation of the respondent, and an evaluation of adaptive behavior.

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Such report shall include a statement of the respondent's needs. Duplicate copies of the report shall be filed with the Commissioner of Developmental Services and all attorneys of record [at least] not less than five days prior to the date of the hearing. The court shall order the psychologist to appear for cross-examination at the request of the respondent if the respondent makes such request [at least] not less than three days [before] prior to the date of the hearing.

(g) If the court, after hearing, finds there is clear and convincing evidence that the respondent [is mentally retarded] has intellectual disability and meets the criteria set out in subsection (a) of this section, [it] the court shall order the respondent placed with the Department of Developmental Services for placement in the least restrictive environment available or which can be created within existing resources of the department.

(h) If, after hearing, the court determines that the respondent's need for placement is so critical as to require immediate placement, the court shall order the respondent to be temporarily placed in the most appropriate available placement. The Department of Developmental Services upon receipt of such order shall place the respondent in such setting and shall proceed according to subsection (i) of this section.

(i) The Department of Developmental Services, upon receipt of an order pursuant to subsection (g) of this section, shall arrange for an interdisciplinary team to evaluate the respondent, determine the respondent's priority needs for programming and determine the least restrictive environments in which those needs could be met. The Department of Developmental Services shall place the [respondent] respondent's name on the waiting list for all facilities which have been identified. If no placement has become available [within] not later than sixty days after the date that the respondent's name was placed on the waiting list, the Commissioner of Developmental Services shall so advise the court and shall continue to report to the court every thirty

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days thereafter until an appropriate placement is available.

(j) Upon receipt of a report under subsection (i) of this section, the Court of Probate, if it determines that the respondent's need is so critical as to require immediate placement, shall order the respondent to be temporarily placed in the most appropriate available placement.

(k) Any person or agency having reasonable cause to believe that a person [is mentally retarded] has intellectual disability and in need of immediate care and treatment for his or her safety and welfare, which care and treatment is not being provided by his or her family or guardian, shall make a written report to the Commissioner of Developmental Services. The report shall contain the name and address of the person believed to [be mentally retarded] have intellectual disability and in need of immediate care and treatment, and his or her parent or other person responsible for his or her care, and all evidence forming the basis for such belief and shall be signed and dated by the person making such report. The Commissioner of Developmental Services shall promptly determine whether there is reasonable cause to believe that the person named in the report [is mentally retarded] has intellectual disability and in need of immediate care and treatment, which care and treatment is not being provided by such person's family or guardian, and if the commissioner so determines, shall assume the care and custody of such person. The commissioner or his designee shall, within twenty-four hours, excluding Saturdays, Sundays and legal holidays, after assuming the care and custody of such person, (1) notify the [office of protection and advocacy] Office of Protection and Advocacy for Persons with Disabilities, and (2) file an application pursuant to subsection (b) of this section in the court of probate for the district in which such person resided prior to emergency placement. The court of probate in which such application is filed shall assign a time and place for a hearing pursuant to subsection (c) of this section.

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(l) In the event that any person placed under the provisions of this section is recommended for transfer by the Department of Developmental Services, the department shall proceed as required by subsection (c) of section 17a-210, as amended by this act, and shall in addition notify the probate court which made the placement.

(m) Any person who wilfully files or attempts to file, or conspires with any person to file a fraudulent or malicious application for the placement of any person pursuant to this section, shall be fined not more than one thousand dollars or imprisoned not more than five years or both.

(n) For the purposes of this section, (1) "interdisciplinary team" means a group of persons appointed by the Commissioner of Developmental Services, including a social worker, psychologist, nurse, residential programmer, educational or vocational programmer and such other persons as may be appropriate; (2) ["mentally retarded person" means a person who has mental retardation] "intellectual disability" shall have the same meaning as [defined] provided in section 1-1g, as amended by this act; (3) "respondent" means a person alleged to be a [mentally retarded] person with intellectual disability for whom an application for placement has been filed; (4) "placement" means placement in a community [training home] companion home, community living arrangement, group home, regional facility, [or] other residential facility or residential program for [mentally retarded] persons with intellectual disability.

Sec. 26. Section 17a-275 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

When any person is [found to be mentally retarded upon proceedings had under sections 17a-210 to 17a-247, inclusive, and 17a-274] involuntarily placed with the Department of Developmental Services pursuant to the provisions of section 17a-274, as amended by

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this act, all fees and expenses incurred upon such proceedings shall be paid by the state; and, if such person is [found not to be mentally retarded] not involuntarily placed with the department, such fees and expenses shall be paid by the petitioner.

Sec. 27. Section 17a-276 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) All persons admitted to a state training school, regional facility or other facility provided for the care and training of [the mentally retarded] persons with intellectual disability shall, until discharged therefrom either by the commissioner or by operation of law, be under the custody and control of the director of such facility. All costs of care and training shall be provided pursuant to section 17b-223. Notice of discharge shall be sent by the Department of Developmental Services to such person, his parent or guardian and the Probate Court.

(b) Any person with intellectual disability placed with the Department of Developmental Services pursuant to section 17a-274, as amended by this act, may request a review of his or her placement by the Probate Court at any time after issuance of the original order of placement and once a year thereafter. Such request shall be in writing, shall state the reasons for review and shall be made by the [patient] person with intellectual disability or any other person acting on his or her behalf. Such request shall be filed with the Probate Court, one copy shall be served on the Commissioner of Developmental Services and one copy shall be served on the person in charge of the facility in which the [patient] person with intellectual disability is placed. The hearing on such request shall be held [within] not later than ten days, excluding Saturdays, Sundays and holidays, after the date of the filing of such request.

(c) At such hearing the [patient] person with intellectual disability shall have the same rights as provided under subsections (c), (d), (e)

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and (f) of section 17a-274, as amended by this act. The Department of Developmental Services shall notify each person placed pursuant to section 17a-274, as amended by this act, at least annually that such person has the right to a hearing to review the appropriateness and adequacy of his or her placement. At such hearing, if the court finds that the person is no longer in need of placement, [it] the court shall order the placement terminated. If the court finds that the person's placement does not adequately meet his or her needs in the least restrictive environment available or which can be created within existing resources of the department, [it] the court shall order the department to place such person in such least restrictive environment as the court deems available.

(d) If, within five years from the date of placement, any person placed on or after October 1, 1982, has not requested a hearing to review his or her placement, the Department of Developmental Services shall notify the court of probate which placed such person. The court of probate, upon such notice, shall proceed in accordance with subsections (b) and (c) of this section to schedule a hearing to determine if the placement should be continued and whether such placement adequately meets his or her habilitative needs in the least restrictive environment available or which can be created within existing resources of the department.

Sec. 28. Section 17a-277 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The director of any state training school, regional facility or other facility for the care and training of persons with [mental retardation] intellectual disability may place any resident with [mental retardation] intellectual disability committed or admitted to such training school, regional facility or other facility provided for the care and training of persons with [mental retardation] intellectual disability, under the provisions of sections 17a-210 to 17a-247, inclusive, as amended by this

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act, and 17a-273, as amended by this act, in a community companion home, community living arrangement, private boarding home, group home, [or] other residential facility or residential program to be cared for in accordance with the following conditions:

(1) Such resident shall, despite such transfer, remain subject to the control of the director of such training school, regional facility or other facility provided for the care and training of persons with [mental retardation] intellectual disability and the director may, at any time, order and provide for the return of any such resident to such training school, regional facility or other facility provided for the care and training of persons with [mental retardation] intellectual disability, subject to any limitations of the term of commitment contained in the order of commitment under which such resident was committed;

(2) When the transfer of any such resident has been authorized or when, having been transferred to a community companion home, community living arrangement, private boarding home, group home, [or] other residential facility or residential program for persons with [mental retardation] intellectual disability, such resident has been returned to the training school, regional facility or other facility, the director of such training school, regional facility or other facility shall forthwith so notify the Commissioner of Developmental Services;

(3) Such community companion home, community living arrangement, private boarding home, group home, [or] other residential facility or residential program shall be licensed by the Department of Developmental Services, the Department of Children and Families or the Department of Public Health under such regulations as the departments adopt, in accordance with chapter 54; and

(4) The Commissioner of Developmental Services shall, upon request, be given access to the complete record of any resident placed

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in a community companion home, community living arrangement, private boarding home, group home, [or] other residential facility or residential program pursuant to this section.

Sec. 29. Section 17a-281 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Any person who is a resident of Connecticut at the time an application is made by [him or on his behalf] such resident or on behalf of such resident under the provisions of this section, and who is, or appears to be, or believes himself or herself to be a person with [mental retardation] intellectual disability, may apply, in writing, to the Commissioner of Developmental Services, on a form prescribed by [said] the commissioner, for admission to any facility for persons with [mental retardation] intellectual disability. Such application shall be accompanied by a medical history of the applicant, including any medical or physical condition requiring special attention, treatment or precautions, a written psychological report provided by a psychologist either licensed under the provisions of chapter 383 or employed by the Department of Developmental Services, who has personally examined the applicant prior to the filing of application for residential placement or a copy of the determination of eligibility made in accordance with section 17a-212 and the regulations adopted thereunder. The written psychological report shall include (1) a statement that the psychologist has personally examined the applicant not more than ninety days prior to the date of filing of the application, (2) the results of a psychometric assessment conducted not more than one year prior to the date of filing of the application, and (3) an evaluation of the applicant's current level of adaptive functioning, including self-care, mental health, social, academic and vocational needs. In the event of an emergency, admission to a residential facility may be made and the required medical history and psychologist's report may be submitted [within] not later than thirty days after the date of such admission. The

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application for such person, if such person is a minor, may be made by a parent, guardian of the person of, or person having custody of, such minor. If such person is an adult who has had a guardian appointed pursuant to sections 45a-669 to 45a-684, inclusive, as amended by this act, [his] such person's guardian may apply for admission and the commissioner may admit such person, provided [said] the commissioner is satisfied that there is no conflict concerning the admission between the guardian and his or her ward or the ward's next of kin. If such conflict exists, the applicant may only be admitted under the provisions of section 17a-274, as amended by this act. The commissioner may approve any such application for admission if the person on whose behalf application is made is suitable for admission and if space is available and may terminate such admission at any time when [he] the commissioner feels such person will not profit from continued placement. The provisions of this section shall not apply to persons who apply to the commissioner for respite care services for a period not to exceed thirty days.

Sec. 30. Section 17a-282 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No person admitted to a facility for persons with [mental retardation] intellectual disability under the provisions of section 17a-281, as amended by this act, shall be detained in such facility for more than seven days after [he] such person has given notice in writing, or, if such person is a minor or adult incompetent, after such notice has been given on his or her behalf by his or her parent, guardian, conservator or person having custody, to the Commissioner of Developmental Services, of his or her intention or desire to leave such facility. If [said] the commissioner is of the opinion that such person is in need of further treatment or observation, [he] the commissioner may make and file, in the probate court for the district within which such person resides, application for the involuntary placement of such

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person to such facility and the probate court shall proceed thereon in the same manner as is provided in section 17a-274, as amended by this act.

Sec. 31. Section 17a-451d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

There is established a nonlapsing fund that shall contain (1) any moneys received by the state from the sale, lease or transfer of all or any part of Norwich Hospital or any regional center that takes place after January 1, 2001, and (2) any other moneys required by law to be deposited in a separate account within the General Fund for purposes of this section, section 17a-212a [or 17a-283a] or section 4 of public act 01-154. The Treasurer shall credit the fund with its investment earnings. Any balance remaining in said fund at the end of any fiscal year shall be carried forward in the fund for the fiscal year next succeeding. The principal and interest of the fund shall be used solely for the purpose of site acquisition, capital development and infrastructure costs necessary to provide services to persons with mental retardation or psychiatric disabilities, provided amounts in the fund may be expended only pursuant to appropriation by the General Assembly.

Sec. 32. Subsection (b) of section 17b-229 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The provisions of sections [17a-278,] 17a-502, 17b-222, 17b-223, 17b-228, 17b-232, 17b-745, 46b-215 and 53-304 shall not affect or impair the responsibility of any patient or patient's estate for his care in a state humane institution prior to July 1, 1955, and the same may be enforced by any action by which such responsibility would have been enforceable prior to July 1, 1955, but only to the extent of that portion of such estate as is not needed for the support of the spouse, parents

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and dependent children of such patient.

Sec. 33. Subsection (a) of section 17b-243 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The rate to be paid by the state to rehabilitation centers, including but not limited to, centers affiliated with the Easter Seal Society of Connecticut, Inc., for services to patients referred by any state agency, except employment opportunities and day services, [as defined in section 17a-246,] shall be determined annually by the Commissioner of Social Services who shall prescribe uniform forms on which such rehabilitation centers shall report their costs, except that rates effective April 30, 1989, shall remain in effect through May 31, 1990, and rates in effect February 1, 1991, shall remain in effect through December 31, 1992, except those which would be decreased effective January 1, 1992, shall be decreased. For the rate years beginning January 1, 1993, through December 31, 1995, any rate increase shall not exceed the most recent annual increase in the consumer price index for urban consumers. Such rates shall be determined on the basis of a reasonable payment for necessary services rendered. Nothing contained herein shall authorize a payment by the state to any such rehabilitation center in excess of the charges made by such center for comparable services to the general public. The Commissioner of Social Services shall establish a fee schedule for rehabilitation services to be effective on and after January 1, 1996. The fee schedule may be adjusted annually beginning July 1, 1997, to reflect necessary increases in the cost of services.

Sec. 34. Subsection (a) of section 17b-245 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The rates to be paid by the state to the day care and vocational

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training programs sponsored by the associations affiliated with United Cerebral Palsy of Connecticut, Inc., Epilepsy Foundation of America, Inc., Goodwill Industries of America, Inc. and to any private, nonprofit agency providing such programs for [autistic or neurologically impaired] persons with a neurological impairment or autism spectrum disorder, for services to clients referred by any state agency, except employment opportunities and day services, [as defined in section 17a-246,] shall be determined annually by the Commissioner of Social Services who shall prescribe uniform forms on which such day care and vocational training programs shall report their costs, except that rates effective April 30, 1989, shall remain in effect through May 31, 1990. Such rates shall be determined on the basis of a reasonable payment for necessary services rendered. Nothing contained herein shall authorize a payment by the state to any such day care or vocational training program in excess of the charges made by such programs for comparable services to the general public.

Sec. 35. Subsection (i) of section 45a-676 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(i) No person shall be excluded from serving as a plenary guardian or limited guardian solely because such person is licensed by the Department of Developmental Services to operate a community [training] companion home, except that (1) no such licensee, nor any of such licensee's relatives or household members, may be appointed as a plenary guardian or limited guardian of a person with mental retardation residing in a community [training] companion home operated by such licensee, and (2) no such licensee shall be so appointed unless no other suitable person to serve as plenary guardian or limited guardian can be found.

Sec. 36. Section 46a-11a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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For the purposes of sections 46a-11a to 46a-11g, as amended by this act, inclusive:

(1) "Abuse" means the wilful infliction of physical pain or injury or the wilful deprivation by a caretaker of services which are necessary to the person's health or safety;

(2) "Neglect" means a situation where a person with [mental retardation] intellectual disability either is living alone and is not able to provide for himself the services which are necessary to maintain his physical and mental health or is not receiving such necessary services from the caretaker;

(3) "Caretaker" means a person who has the responsibility for the care of a person with [mental retardation] intellectual disability as a result of a family relationship or who has assumed the responsibility for the care of the person with [mental retardation] intellectual disability voluntarily, by contract or by order of a court of competent jurisdiction. Neither a guardian nor a conservator need be a caretaker;

(4) "Conservator" means a conservator of the person or of the estate appointed pursuant to section 45a-644 to 45a-662, inclusive;

(5) "Director" means the director of the Office of Protection and Advocacy for Persons with Disabilities;

(6) "Facility" means any public or private hospital, nursing home facility, training school, regional facility, group home, community [training] companion home, school or other program serving persons with [mental retardation] intellectual disability;

(7) "Guardian" means the guardian or limited guardian of a person with [mental retardation] intellectual disability appointed pursuant to sections 45a-669 to 45a-684, inclusive, as amended by this act;

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(8) "Person with [mental retardation]" intellectual disability" means a person who: (A) Has [mental retardation] intellectual disability, as [defined] provided in section 1-1g, as amended by this act, (B) is at least the age of eighteen and under the age of sixty, except for purposes of subsection (b) of section 46a-11c, as amended by this act, is eighteen years of age or older, and (C) is substantially unable to protect himself from abuse and includes all such persons living in residential facilities under the jurisdiction of the Department of Developmental Services;

(9) "Protective services" means services provided by the state or any other governmental or private organization or individual which are necessary to prevent abuse or neglect. Such services may include the provision of medical care for physical and mental health needs; the provision of support services in the facility, including the time limited placement of department staff in such facility; the relocation of a person with [mental retardation] intellectual disability to a facility able to offer such care pursuant to section 17a-210, as amended by this act, 17a-274, as amended by this act, or 17a-277, as amended by this act, as applicable; assistance in personal hygiene; food; clothing; adequately heated and ventilated shelter; protection from health and safety hazards; protection from maltreatment, the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment; and transportation necessary to secure any of the above-stated services, except that this term shall not include taking such person into custody without consent; and

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

Sec. 37. Section 46a-11b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any physician or surgeon licensed under the provisions of

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chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, any person paid for caring for persons in any facility and any licensed practical nurse, medical examiner, dental hygienist, dentist, occupational therapist, optometrist, chiropractor, psychologist, podiatrist, social worker, school teacher, school principal, school guidance counselor, school paraprofessional, mental health professional, physician assistant, licensed or certified substance abuse counselor, licensed marital and family therapist, speech and language pathologist, clergyman, police officer, pharmacist, physical therapist, licensed professional counselor or sexual assault counselor or battered women's counselor, as defined in section 52-146k, who has reasonable cause to suspect or believe that any person with [mental retardation] intellectual disability has been abused or neglected shall, as soon as practicable but not later than seventy-two hours after such person has reasonable cause to suspect or believe that a person with [mental retardation] intellectual disability has been abused or neglected, report such information or cause a report to be made in any reasonable manner to the director or persons the director designates to receive such reports. Such initial report shall be followed up by a written report not later than five calendar days after the initial report was made. Any person required to report under this subsection who fails to make such report shall be fined not more than five hundred dollars.

(b) Such report shall contain the name and address of the allegedly abused or neglected person, a statement from the person making the report indicating his belief that such person [is mentally retarded] has intellectual disability, information supporting the supposition that such person is substantially unable to protect himself from abuse or neglect, information regarding the nature and extent of the abuse or neglect and any other information which the person making such report believes might be helpful in an investigation of the case and the protection of such person with mental retardation.

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(c) Each facility, as defined in section 46a-11a, as amended by this act, shall inform residents of their rights and the staff of their responsibility to report abuse or neglect and shall establish appropriate policies and procedures to facilitate such reporting.

(d) Any other person having reasonable cause to believe that a person with [mental retardation] intellectual disability is being or has been abused or neglected may report such information, in any reasonable manner, to the director or to his designee.

(e) Any person who makes any report pursuant to sections 46a-11a to 46a-11g, inclusive, as amended by this act, or who testifies in any administrative or judicial proceeding arising from such report shall be immune from any civil or criminal liability on account of such report or testimony, except for liability for perjury, unless such person acted in bad faith or with malicious purpose. Any person who obstructs, hinders or endangers any person reporting or investigating abuse or neglect or providing protective services or who makes a report in bad faith or with malicious purpose and who is not subject to any other penalty shall be fined not more than five hundred dollars. No resident or employee of a facility, as defined in section 46a-11a, as amended by this act, shall be subject to reprisal or discharge because of his actions in reporting pursuant to sections 46a-11a to 46a-11g, inclusive, as amended by this act.

(f) For purposes of said sections, the treatment of any person with [mental retardation] intellectual disability by a Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute grounds for the implementation of protective services.

(g) When the director of the Office of Protection and Advocacy for Persons with Disabilities or persons designated by such director are required to investigate or monitor abuse or neglect reports that are

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referred to the Office of Protection and Advocacy for Persons with Disabilities from another agency, all provisions of this section shall apply to any investigation or monitoring of such case or report.

Sec. 38. Subsections (a) and (b) of section 46a-11c of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The director, upon receiving a report that a person with [mental retardation] intellectual disability allegedly is being or has been abused or neglected, shall make an initial determination whether such person has [mental retardation] intellectual disability, shall determine if the report warrants investigation and shall cause, in cases that so warrant, a prompt, thorough evaluation to be made to determine whether the person has [mental retardation] intellectual disability and has been abused or neglected. For the purposes of sections 46a-11a to 46a-11g, inclusive, as amended by this act, the determination of [mental retardation] intellectual disability may be made by means of a review of records and shall not require the director to conduct a full psychological examination of the person. Any delay in making such determination of [mental retardation] intellectual disability shall not delay the investigation of abuse or neglect or recommendation of provision of protective services. The evaluation shall include a visit to the named person with [mental retardation] intellectual disability and consultation with those individuals having knowledge of the facts of the particular case. All state, local and private agencies shall have a duty to cooperate with any investigation conducted by the Office of Protection and Advocacy for Persons with Disabilities under this section, including the release of complete client records for review, inspection and copying, except where the person with [mental retardation] intellectual disability refuses to permit his or her record to be released. The director shall have subpoena powers to compel any information related to such investigation. All client records shall be

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kept confidential by said office. Upon completion of the evaluation of each case, written findings shall be prepared which shall include a determination of whether abuse or neglect has occurred and recommendations as to whether protective services are needed. The director, except in cases where the parent or guardian is the alleged perpetrator of abuse or is residing with the alleged perpetrator, shall notify the parents or guardian, if any, of the person with [mental retardation] intellectual disability if a report of abuse or neglect is made which the director determines warrants investigation. The director shall provide the parents or guardians who the director determines are entitled to such information with further information upon request. The person filing the report of abuse or neglect shall be notified of the findings upon request.

(b) In cases where there is a death of a person with [mental retardation] intellectual disability for whom the Department of Developmental Services has direct or oversight responsibility for medical care, and there is reasonable cause to suspect or believe that such death may be due to abuse or neglect, the Commissioner of Developmental Services shall notify the director or the director's designee not later than twenty-four hours after the commissioner determines that there is reasonable cause to suspect or believe that such death may be due to abuse or neglect and the director shall conduct an investigation to determine whether abuse or neglect occurred, except as may be otherwise required by court order. The director, in consultation with the Commissioner of Developmental Services, shall establish protocols for conducting such investigations.

Sec. 39. Section 46a-11d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) If it is determined that a person with [mental retardation] intellectual disability has been abused or neglected, the director shall refer the case to the Department of Developmental Services for the

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development and implementation of a plan of protective services. Said referral shall be accompanied by a copy of the evaluation report. The name of the person making the report of abuse or neglect shall not be disclosed without his consent.

(b) If the caretaker of a person with [mental retardation] intellectual disability who has consented to the receipt of protective services refuses to allow the provision of such services to such person, the commissioner may petition the Superior Court for an order enjoining the caretaker from interfering with the provision of protective services to the person with [mental retardation] intellectual disability. The petition shall allege specific facts sufficient to show that the person with [mental retardation] intellectual disability is in need of protective services and consents to their provision and that the caretaker refuses to allow the provision of such services. If the court finds that the person with [mental retardation] intellectual disability is in need of such services and has been prevented by the caretaker from receiving the same, the court may issue an order enjoining the caretaker from interfering with the provision of protective services to the person with [mental retardation] intellectual disability.

Sec. 40. Section 46a-11e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) If a person with [mental retardation] intellectual disability does not consent to the receipt of protective services, or if such person withdraws his consent, such services shall not be provided or continued, except that if the commissioner has reason to believe that such person with [mental retardation] intellectual disability lacks capacity to consent to or refuse such services, he may petition the Probate Court for the appointment of a guardian. If any guardian, appointed pursuant to the provisions of this section, does not consent to the provision of such services, the commissioner may petition the Probate Court for the removal and replacement of said guardian.

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(b) The commissioner, [within] shall, not later than fifteen calendar days [of the] after the date of referral of any case for the provision of protective services, [shall] furnish the director with a written plan of services. The director may comment on the proposed plan and recommend modifications. The commissioner shall cooperate with the director in resolving disagreements concerning the plan. Any comments made by the director shall be placed on file with the commissioner and the director.

(c) If the director commences an investigation and finds that the person with [mental retardation] intellectual disability is seriously in need of immediate protective services, he shall report the facts of the case to the commissioner and the commissioner shall not delay the commencement of protective services pending the full evaluation report. If the commissioner's proposed action involves the removal from his home of a person with [mental retardation] intellectual disability under guardianship or of a person with [mental retardation] intellectual disability who is competent and does not voluntarily consent to his removal, the commissioner shall follow the procedures mandated in section 17a-274, as amended by this act.

Sec. 41. Subsections (a) and (b) of section 46a-11f of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Concurrent with the implementation of any protective services for which payment is required, an evaluation shall be undertaken by the commissioner regarding the ability of the person with [mental retardation] intellectual disability to pay for the protective services. If the person is so able, procedures for reimbursement for the cost of providing the services shall be initiated. If it is determined that the person is not capable of paying for such services, the services shall be provided in accordance with policies and procedures established by the [Commissioner of Developmental Services] commissioner.

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(b) Subsequent to the initial provision of protective services, the Department of Developmental Services shall review each case, including meeting with the person with [mental retardation] intellectual disability at least once every six months, to determine whether continuation or modification of the services is warranted. Said department shall advise the director relative to the continuation of protective services for each such person with [mental retardation] intellectual disability. The commissioner may terminate protective services upon the request of the person with [mental retardation] intellectual disability or his guardian, pursuant to section 46a-11e, as amended by this act, or upon agreement by the commissioner and the director that such services are no longer required.

Sec. 42. Section 46a-11g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

If, as a result of any investigation initiated under the provisions of sections 46a-11a to 46a-11f, inclusive, as amended by this act, a determination is made that a caretaker or other person has abused a person with [mental retardation] intellectual disability, the director shall refer such information in writing to the appropriate office of the state's attorney, which shall conduct such further investigation as may be deemed necessary and shall determine whether criminal proceedings should be initiated against such caretaker or other person, in accordance with applicable state law. If any initial investigation by the director discloses evidence of an immediate and serious threat to the health or life of a person with [mental retardation] intellectual disability, said office shall immediately refer the matter to state or local police, as appropriate, who shall immediately investigate the matter.

Sec. 43. Sections 17a-213, 17a-216, 17a-278 to 17a-280, inclusive, and 17a-283a of the general statutes are repealed. (*Effective from passage*)

Approved May 24, 2011