



House of Representatives

General Assembly

File No. 677

January Session, 2011

Substitute House Bill No. 6440

House of Representatives, May 2, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING APPLICATIONS FOR GUARDIANSHIP OF AN ADULT WITH INTELLECTUAL DISABILITY AND STATUTORY CHANGES RELATED TO INTELLECTUAL DISABILITY.

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

1 Section 1. Section 45a-670 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) An application for guardianship may be filed by the court on its
4 own motion or by any adult person. The application and all records of
5 Probate Court proceedings held as a result of the filing of such
6 application, except for the name of any guardian of the respondent,
7 shall be sealed and shall be made available only to the respondent or
8 the respondent's counsel or guardian, and to the Commissioner of
9 Developmental Services or the commissioner's designee, unless the
10 Probate Court, after hearing held with notice to the respondent or the
11 respondent's counsel or guardian, and to the commissioner or the
12 commissioner's designee, determines that such application and records
13 should be disclosed for cause shown. An application filed by the court

14 on its own motion shall contain a statement of the facts on which the
15 court bases its motion, and such statement of facts shall be included in
16 any notice to the respondent. Any other application filed shall allege
17 that a respondent, by reason of the severity of the respondent's [mental
18 retardation] intellectual disability is unable to meet essential
19 requirements for the respondent's physical health and safety and
20 unable to make informed decisions about matters relating to the
21 respondent's care. Such application shall be filed in the court of
22 probate in the district in which the respondent resides or is domiciled.
23 Such application shall state: (1) Whether there is, in any jurisdiction, a
24 guardian, limited guardian, or conservator for the respondent; (2) the
25 extent of the respondent's inability to meet essential requirements for
26 the respondent's physical health or safety, and the extent of the
27 respondent's inability to make informed decisions about matters
28 related to the respondent's care; (3) any other facts upon which
29 guardianship is sought; and (4) in the case of a limited guardianship,
30 the specific areas of protection and assistance required for the
31 respondent.

32 (b) An application for guardianship may be filed by the parent or
33 guardian of a minor child up to one hundred eighty days prior to the
34 date such child attains the age of eighteen if the parent or guardian
35 anticipates that such minor child will require a guardian upon
36 attaining the age of eighteen. The court may grant such application in
37 accordance with this section, provided such order shall take effect no
38 earlier than the date the child attains the age of eighteen.

39 Sec. 2. Section 1-1g of the general statutes is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2011*):

41 (a) For the purposes of [sections 4a-60, 17a-274, 17a-281, 38a-816,
42 45a-669 to 45a-684, inclusive, 46a-51, 53a-59a, 53a-60b, 53a-60c and 53a-
43 61a, mental retardation] the general statutes, "intellectual disability" or
44 "mental retardation" means a significantly subaverage general
45 intellectual functioning existing concurrently with deficits in adaptive
46 behavior and manifested during the developmental period. To the

47 extent required by federal law, "intellectual disability" shall have the
48 same meaning as "mental retardation".

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

61 Sec. 3. Subsection (b) of section 4b-28 of the general statutes is
62 repealed and the following is substituted in lieu thereof (*Effective*
63 *October 1, 2011*):

64 (b) Each state agency, commission or department, except the
65 Department of Transportation, that plans to construct or enlarge a
66 building or underground utility facility, which project has an
67 estimated cost of one hundred thousand dollars or more, shall give
68 written notice to the chief executive officer of the town, city or borough
69 in which such project is planned, and to the members of the General
70 Assembly representing such town, city or borough, not later than sixty
71 days before advertising for bids for such project. If a state agency,
72 commission or department plans to do such construction or
73 enlargement itself, it shall give such notice not later than sixty days
74 before beginning the work. Notwithstanding the provisions of this
75 subsection, if the executive authority of the agency, commission or
76 department determines that an emergency exists or that compliance
77 with the provisions of this subsection would increase the cost of the
78 construction or enlargement project, such agency, commission or
79 department shall give such notice as soon as practicable. As used in

80 this section, "executive authority" shall be construed as defined in
81 section 4-37e. The provisions of this section shall not apply to a
82 community-based residential facility for [mentally retarded]
83 individuals with intellectual disability or mentally ill individuals.

84 Sec. 4. Section 8-119t of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective October 1, 2011*):

86 (a) The Commissioner of Economic and Community Development
87 shall encourage the development of independent living opportunities
88 for low and moderate income handicapped and developmentally
89 disabled persons by making grants-in-aid, within available
90 appropriations, to state-wide, private, nonprofit housing development
91 corporations which are organized and operating for the purpose of
92 expanding independent living opportunities for such persons. Such
93 grants-in-aid shall be used to facilitate the development of small,
94 noninstitutionalized living units for such persons, through programs
95 including, but not limited to, preproject development, receipt of
96 federal funds, site acquisition and architectural review. For the
97 purposes of this part, "handicapped and developmentally disabled
98 persons" means any persons who are physically or mentally
99 handicapped, including, but not limited to, [mentally retarded,]
100 autistic persons, persons who have intellectual disability or persons
101 who are physically disabled [,] or sensory impaired. [and autistic
102 persons.]

103 (b) The Commissioner of Economic and Community Development
104 shall adopt regulations, in accordance with chapter 54, to carry out the
105 purposes of this section.

106 Sec. 5. Subparagraph (B) of subdivision (7) of section 12-81 of the
107 general statutes is repealed and the following is substituted in lieu
108 thereof (*Effective October 1, 2011*):

109 (B) On and after July 1, 1967, housing subsidized, in whole or in
110 part, by federal, state or local government and housing for persons or
111 families of low and moderate income shall not constitute a charitable

112 purpose under this section. As used in this subdivision, "housing" shall
113 not include real property used for temporary housing belonging to, or
114 held in trust for, any corporation organized exclusively for charitable
115 purposes and exempt from taxation for federal income tax purposes,
116 the primary use of which property is one or more of the following: (i)
117 An orphanage; (ii) a drug or alcohol treatment or rehabilitation facility;
118 (iii) housing for homeless, [retarded or] mentally or physically
119 handicapped individuals or persons with intellectual disability, or for
120 battered or abused women and children; (iv) housing for ex-offenders
121 or for individuals participating in a program sponsored by the state
122 Department of Correction or Judicial Branch; and (v) short-term
123 housing operated by a charitable organization where the average
124 length of stay is less than six months. The operation of such housing,
125 including the receipt of any rental payments, by such charitable
126 organization shall be deemed to be an exclusively charitable purpose;

127 Sec. 6. Subdivision (4) of subsection (a) of section 14-96p of the
128 general statutes is repealed and the following is substituted in lieu
129 thereof (*Effective October 1, 2011*):

130 (4) Flashing or revolving white lights may not be displayed upon a
131 motor vehicle except (A) on fire emergency apparatus, (B) on motor
132 vehicles of paid fire chiefs and their deputies and assistants, up to a
133 total of five individuals per department, and may be displayed in
134 combination with flashing or revolving red lights, (C) on motor
135 vehicles of volunteer fire chiefs and their deputies and assistants, up to
136 a total of five individuals per department, and may be displayed in
137 combination with flashing or revolving red lights, (D) as a means of
138 indicating a right or left turn, (E) in conjunction with flashing red
139 lights on an ambulance responding to an emergency call, or (F) on the
140 top rear of any school bus. For the purpose of this subsection, the term
141 "handicapped students" means [mentally retarded,] students who have
142 intellectual disability or students who are hard of hearing, deaf,
143 speech-impaired, visually handicapped, emotionally disturbed,
144 orthopedically impaired or [other health-impaired students] have
145 other health impairments, or students with specific learning

146 disabilities, who by reason thereof, require special education and
147 related services; and the term "flashing white lights" shall not include
148 the simultaneous flashing of head lamps.

149 Sec. 7. Section 17a-210 of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective October 1, 2011*):

151 (a) There shall be a Department of Developmental Services. The
152 Department of Developmental Services, with the advice of a Council
153 on Developmental Services, shall be responsible for the planning,
154 development and administration of complete, comprehensive and
155 integrated state-wide services for persons with [mental retardation]
156 intellectual disability and persons medically diagnosed as having
157 Prader-Willi syndrome. The Department of Developmental Services
158 shall be under the supervision of a Commissioner of Developmental
159 Services, who shall be appointed by the Governor in accordance with
160 the provisions of sections 4-5 to 4-8, inclusive. The Council on
161 Developmental Services may advise the Governor on the appointment.
162 The commissioner shall be a person who has background, training,
163 education or experience in administering programs for the care,
164 training, education, treatment and custody of persons with [mental
165 retardation] intellectual disability. The commissioner shall be
166 responsible, with the advice of the council, for: (1) Planning and
167 developing complete, comprehensive and integrated state-wide
168 services for persons with [mental retardation] intellectual disability; (2)
169 the implementation and where appropriate the funding of such
170 services; and (3) the coordination of the efforts of the Department of
171 Developmental Services with those of other state departments and
172 agencies, municipal governments and private agencies concerned with
173 and providing services for persons with [mental retardation]
174 intellectual disability. The commissioner shall be responsible for the
175 administration and operation of the state training school, state
176 developmental services regions and all state-operated community-
177 based residential facilities established for the diagnosis, care and
178 training of persons with [mental retardation] intellectual disability.
179 The commissioner shall be responsible for establishing standards,

180 providing technical assistance and exercising the requisite supervision
181 of all state-supported residential, day and program support services
182 for persons with [mental retardation] intellectual disability and work
183 activity programs operated pursuant to section 17a-226, as amended
184 by this act. The commissioner shall stimulate research by public and
185 private agencies, institutions of higher education and hospitals, in the
186 interest of the elimination and amelioration of [mental retardation]
187 intellectual disability and care and training of persons with [mental
188 retardation] intellectual disability. The commissioner shall conduct or
189 monitor investigations into allegations of abuse and neglect and file
190 reports as requested by state agencies having statutory responsibility
191 for the conduct and oversight of such investigations. In the event of the
192 death of a person with [mental retardation] intellectual disability for
193 whom the department has direct or oversight responsibility for
194 medical care, the commissioner shall ensure that a comprehensive and
195 timely review of the events, overall care, quality of life issues and
196 medical care preceding such death is conducted by the department
197 and shall, as requested, provide information and assistance to the
198 Independent Mortality Review Board established by Executive Order
199 No. 25 of Governor John G. Rowland. The commissioner shall report to
200 the board and the board shall review any death: (A) Involving an
201 allegation of abuse or neglect; (B) for which the Office of the Chief
202 Medical Examiner or local medical examiner has accepted jurisdiction;
203 (C) in which an autopsy was performed; (D) which was sudden and
204 unexpected; or (E) in which the commissioner's review raises questions
205 about the appropriateness of care. The department's mortality review
206 process and the Independent Mortality Review Board shall operate in
207 accordance with the peer review provisions established under section
208 19a-17b for medical review teams and confidentiality of records
209 provisions established under section 19a-25 for the Department of
210 Public Health.

211 (b) The commissioner shall be responsible for the development of
212 criteria as to the eligibility of any person with [mental retardation]
213 intellectual disability for residential care in any public or state-
214 supported private institution and, after considering the

215 recommendation of a properly designated diagnostic agency, may
216 assign such person to a public or state-supported private institution.
217 The commissioner may transfer such persons from one such institution
218 to another when necessary and desirable for their welfare, provided
219 such person and such person's parent, conservator, guardian or other
220 legal representative receive written notice of their right to object to
221 such transfer at least ten days prior to the proposed transfer of such
222 person from any such institution or facility. Such prior notice shall not
223 be required when transfers are made between residential units within
224 the training school or a state developmental services region or when
225 necessary to avoid a serious and immediate threat to the life or
226 physical or mental health of such person or others residing in such
227 institution or facility. The notice required by this subsection shall
228 notify the recipient of his or her right to object to such transfer, except
229 in the case of an emergency transfer as provided in this subsection, and
230 shall include the name, address and telephone number of the Office of
231 Protection and Advocacy for Persons with Disabilities. In the event of
232 an emergency transfer, the notice required by this subsection shall
233 notify the recipient of his or her right to request a hearing in
234 accordance with subsection (c) of this section and shall be given within
235 ten days following the emergency transfer. In the event of an objection
236 to the proposed transfer, the commissioner shall conduct a hearing in
237 accordance with subsection (c) of this section and the transfer shall be
238 stayed pending final disposition of the hearing, provided no such
239 hearing shall be required if the commissioner withdraws such
240 proposed transfer.

241 (c) Any person with [mental retardation] intellectual disability who
242 is eighteen years of age or older and who resides at any institution or
243 facility operated by the Department of Developmental Services, or the
244 parent, guardian, conservator or other legal representative of any
245 person with [mental retardation] intellectual disability who resides at
246 any such institution or facility, may object to any transfer of such
247 person from one institution or facility to another for any reason other
248 than a medical reason or an emergency, or may request such a transfer.
249 In the event of any such objection or request, the commissioner shall

250 conduct a hearing on such proposed transfer, provided no such
251 hearing shall be required if the commissioner withdraws such
252 proposed transfer. In any such transfer hearing, the proponent of a
253 transfer shall have the burden of showing, by clear and convincing
254 evidence, that the proposed transfer is in the best interest of the
255 resident being considered for transfer and that the facility and
256 programs to which transfer is proposed (1) are safe and effectively
257 supervised and monitored, and (2) provide a greater opportunity for
258 personal development than the resident's present setting. Such hearing
259 shall be conducted in accordance with the provisions of chapter 54.

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

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

274 (f) Any person with [~~mental retardation~~] intellectual disability or the
275 parent, guardian, conservator or other legal representative of such
276 person, may object to (1) a proposed approval by the department of a
277 program for such person that includes the use of behavior-modifying
278 medications or aversive procedures, or (2) a proposed determination of
279 the department that community placement is inappropriate for such
280 person placed under the direction of the commissioner. The
281 department shall provide written notice of any such proposed
282 approval or determination to the person, or to the parent, guardian,

283 conservator or other legal representative of such person, at least ten
284 days prior to making such approval or determination. In the event of
285 an objection to such proposed approval or determination, the
286 commissioner shall conduct a hearing in accordance with the
287 provisions of chapter 54, provided no such hearing shall be required if
288 the commissioner withdraws such proposed approval or
289 determination.

290 Sec. 8. Section 17a-210b of the general statutes is repealed and the
291 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

298 Sec. 9. Subsections (f) to (i), inclusive, of section 17a-215c of the
299 general statutes are repealed and the following is substituted in lieu
300 thereof (*Effective October 1, 2011*):

301 (f) The Division of Autism Spectrum Services shall research and
302 locate possible funding streams for the continued development and
303 implementation of services for persons with autism spectrum
304 disorders without [mental retardation] intellectual disability. The
305 division shall take all necessary action, in coordination with the
306 Department of Social Services, to secure Medicaid reimbursement for
307 home and community-based individualized support services for adults
308 with autism spectrum disorders, but who [are not mentally retarded]
309 do not have intellectual disability. Such action may include applying
310 for a Medicaid waiver pursuant to Section 1915(c) of the Social Security
311 Act, in order to secure the funding for such services.

312 (g) The Division of Autism Spectrum Services, within available
313 appropriations, shall: (1) Design and implement a training initiative
314 that shall include training to develop a workforce; (2) develop an

315 autism-specific curriculum in coordination with the Department of
316 Higher Education; and (3) to the extent federal reimbursement permits,
317 develop an education and training initiative eligible for the receipt of
318 funding pursuant to the federal Combating Autism Act, P.L. 109-416.

319 (h) The case records of the Division of Autism Spectrum Services
320 maintained by the division for any purpose authorized pursuant to
321 subsections (b) to (g), inclusive, of this section shall be subject to the
322 same confidentiality requirements, under state and federal law, that
323 govern all client records maintained by the Department of
324 Developmental Services.

325 (i) The Commissioner of Social Services, in consultation with the
326 Commissioner of Developmental Services, may seek approval of an
327 amendment to the state Medicaid plan or a waiver from federal law,
328 whichever is sufficient and most expeditious, to establish and
329 implement a Medicaid-financed home and community-based program
330 to provide community-based services and, if necessary, housing
331 assistance, to adults with autism spectrum disorders who [are not
332 mentally retarded] do not have intellectual disability.

333 Sec. 10. Section 17a-217 of the general statutes is repealed and the
334 following is substituted in lieu thereof (*Effective October 1, 2011*):

335 (a) The Department of Developmental Services shall develop day
336 care programs, day camp programs and recreational programs for
337 children and adults with [mental retardation] intellectual disability.
338 Any nonprofit organization which establishes or maintains day care
339 programs, day camp programs or recreational programs for children
340 or adults with [mental retardation] intellectual disability may apply to
341 the Department of Developmental Services for funds to be used to
342 assist in establishing, maintaining or expanding such programs. For
343 the purposes of this section: (1) A day care program (A) may provide
344 for the care and training of preschool age children to enable them to
345 achieve their maximum social, physical and emotional potential; (B)
346 may provide adolescents and adults with [mental retardation]
347 intellectual disability with an activity program which includes training

348 in one or more of the following areas: (i) Self-care, (ii) activities of daily
349 living, (iii) personal and social adjustment, (iv) work habits, and (v)
350 skills, speech and language development; (2) a day camp program may
351 provide children or adults with [mental retardation] intellectual
352 disability with a supervised program of [out-of-doors] outdoor
353 activities which may be conducted during all or part of the months of
354 June, July, August and September; and (3) a recreational program may
355 provide planned and supervised recreational activities for children or
356 adults with [mental retardation] intellectual disability, which activities
357 may be of a social, athletic or purely diversionary nature and which
358 programs shall be considered separate and apart from the day camp
359 program described in subdivision (2) of this subsection.

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

382 Sec. 11. Section 17a-218 of the general statutes is repealed and the
383 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

398 (b) The commissioner shall plan, develop and administer a
399 comprehensive program of community-based residential facilities
400 including, but not limited to, transitional facilities, group homes,
401 community [training homes] companion homes, community living
402 arrangements and supervised apartments. On and after January 1,
403 1997, every contract by the commissioner for the construction,
404 renovation or rehabilitation of a community-based residential facility
405 shall be awarded to the lowest responsible and qualified bidder on the
406 basis of competitive bids in accordance with procedures which the
407 commissioner shall establish in regulations adopted by the
408 commissioner in accordance with the provisions of chapter 54.

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

414 (d) The commissioner may provide, within available appropriations,

415 respite care services which may be administered directly by the
416 department, or through contracts for services with providers of such
417 services, or by means of direct subsidy to parents of [mentally
418 retarded] persons with intellectual disability to enable [them] the
419 parents to purchase such services.

420 (e) The commissioner may, within available appropriations and in
421 accordance with individualized plans of care, provide a full range of
422 services to support persons with [mental retardation] intellectual
423 disability living with their families, caretakers, independently or in
424 community-based residential facilities licensed pursuant to section
425 17a-227, as amended by this act. Such services may include, but are not
426 limited to, education and training programs, social services, counseling
427 services, medical services, physical or occupational therapy, parent
428 training, recreation and transportation. Such services may be provided
429 by the department or be purchased from persons or private agencies
430 through contracts pursuant to subsection (d) of section 4-70b or
431 purchased directly by the service recipient or his family. The
432 department may provide a direct subsidy to persons with [mental
433 retardation] intellectual disability or their families to be used for such
434 purchases of such support services. The recipient of such subsidy shall
435 provide a documented accounting of such subsidy to the department.

436 (f) Notwithstanding the provisions of part III of chapter 59, the
437 commissioner may, within available appropriations, enter into a rental
438 or lease agreement for an apartment, home, or similar private
439 residence if it has been determined by the commissioner that an
440 individual is in need of an emergency placement. Such agreements
441 shall not exceed the fair market price for the area in which the leased
442 premises are located and shall not be for more than twelve months.
443 Upon entering such agreements, the commissioner shall notify the
444 State Properties Review Board and shall begin the leasing procedures
445 outlined in [said] part III of chapter 59.

446 (g) Any person who is in or is seeking a placement through the
447 Department of Developmental Services or is receiving any support or

448 service that is included within or covered by any federal program
449 being administered and operated by the Department of Social Services
450 and the Department of Developmental Services, and who meets the
451 eligibility criteria for the federal program, shall enroll in such program
452 in order to continue in the existing placement or to remain eligible for
453 a placement or continue to receive such support or service. Any person
454 who is ineligible for such federal program due to excess income or
455 assets may continue in existing placement, or continue to receive
456 existing supports and services through the Department of
457 Developmental Services while spending down available excess income
458 and assets until such person qualifies for enrollment in the applicable
459 federal program. The Commissioner of Developmental Services may
460 make exceptions to the requirements of this provision and provide or
461 continue to provide, within available appropriations, placement,
462 support or services to individuals who are not eligible for enrollment
463 in such federal programs and for whom it is determined there is a legal
464 requirement to serve pursuant to state or federal law or court order.

465 Sec. 12. Section 17a-218a of the general statutes is repealed and the
466 following is substituted in lieu thereof (*Effective October 1, 2011*):

467 (a) The Commissioner of Developmental Services shall continue the
468 operation of the Southbury Training School and shall establish criteria
469 to evaluate the current population of the training school in regard to
470 community placement and training school placement. The criteria shall
471 include, at a minimum, consideration of the client's age, physical
472 disabilities, medical fragility, level of [mental retardation] intellectual
473 disability, length of residence at the school and availability of an
474 appropriate placement.

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

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

481 Sec. 13. Subdivision (5) of section 17a-220 of the general statutes is
482 repealed and the following is substituted in lieu thereof (*Effective*
483 *October 1, 2011*):

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

495 Sec. 14. Section 17a-224 of the general statutes is repealed and the
496 following is substituted in lieu thereof (*Effective October 1, 2011*):

497 The department may administer the residential facility revolving
498 loan program through a purchase-of-service contract with any state-
499 wide private nonprofit housing development corporation which is
500 organized for the purpose of expanding independent living
501 opportunities for [disabled] persons with disabilities.

502 Sec. 15. Section 17a-226 of the general statutes is repealed and the
503 following is substituted in lieu thereof (*Effective October 1, 2011*):

504 The Commissioner of Developmental Services shall develop, [to the
505 extent funding is available] within available appropriations, a program
506 of employment opportunities and day services for adults with [mental
507 retardation] intellectual disability. Any nonprofit organization which
508 provides such services may apply to the Department of Developmental
509 Services for funds to be used to assist in establishing, maintaining or
510 expanding its program. No funding to assist in establishing,
511 maintaining or expanding programs of employment opportunities and
512 day services under the provisions of this section shall exceed the

513 ordinary and recurring operating expenses of such employment
514 opportunities and day services. The Commissioner of Developmental
515 Services shall establish the requirements to be met by such
516 organizations in order to be eligible to receive funds as provided by
517 this section and establish procedures to be used in making application
518 for such funds. Upon receipt of proper application, the Department of
519 Developmental Services [, if funding is available,] shall, within
520 available appropriations, provide such funds, provided the
521 organization meets the requirements established by the commissioner
522 in accordance with the provisions of this section. The Department of
523 Developmental Services may receive federal, municipal or private
524 funds available or tendered on a matching or supporting basis for the
525 development, maintenance and promotion of employment
526 opportunities and day services. For purposes of this section,
527 "employment opportunities and day services" means the following
528 programs operated or funded by the Department of Developmental
529 Services for adults: Supported employment, sheltered employment,
530 community experience, adult day treatment and opportunities for
531 older adults.

532 Sec. 16. Subsection (a) of section 17a-227 of the general statutes is
533 repealed and the following is substituted in lieu thereof (*Effective*
534 *October 1, 2011*):

535 (a) No person, firm or corporation shall conduct or maintain within
536 this state a residential facility which it owns, leases or rents for the
537 lodging, care or treatment of persons with [mental retardation]
538 intellectual disability or autistic persons unless such person, firm or
539 corporation, upon written application, verified by oath, has obtained a
540 license issued by the Department of Developmental Services.

541 Sec. 17. Subsection (e) of section 17a-227 of the general statutes is
542 repealed and the following is substituted in lieu thereof (*Effective*
543 *October 1, 2011*):

544 (e) The department may contract with any person, firm or
545 corporation to provide residential support services for persons with

546 [mental retardation] intellectual disability who reside in settings which
547 are not licensed by the department. The commissioner shall adopt
548 regulations, in accordance with the provisions of chapter 54, to ensure
549 the safety, adequate supervision and support of persons receiving
550 residential support services.

551 Sec. 18. Subsections (a) and (b) of section 17a-227a of the general
552 statutes are repealed and the following is substituted in lieu thereof
553 (*Effective October 1, 2011*):

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

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

569 Sec. 19. Section 17a-228 of the general statutes is repealed and the
570 following is substituted in lieu thereof (*Effective October 1, 2011*):

571 (a) If a person with [mental retardation] intellectual disability
572 residing in a residential facility for [the mentally retarded] persons
573 with intellectual disability licensed pursuant to section 17a-227, as
574 amended by this act, but not certified to participate in the Title XIX
575 Medicaid program as an intermediate care facility for the mentally
576 retarded, qualifies for the program of state supplementation to the
577 Supplemental Security Income Program, the Commissioner of Social

578 Services shall pay, under such qualifying program, on behalf of such
579 person the rate established pursuant to subsection (b) of section 17b-
580 244 for room and board, after a reasonable deduction, as determined
581 by the commissioner, to reflect such person's income. The Department
582 of Developmental Services shall pay the rate established pursuant to
583 subsection (b) of section 17b-244 for services other than room and
584 board provided on behalf of any person whose admission to the
585 facility has been authorized by the Department of Developmental
586 Services.

587 (b) Notwithstanding the provisions of subsection (a) of this section,
588 persons residing in residential facilities for [the mentally retarded]
589 persons with intellectual disability licensed pursuant to section 17a-
590 227, as amended by this act, and receiving state payment for the cost of
591 such services on October 1, 1983, shall be deemed to have been
592 authorized for admission by the Department of Developmental
593 Services. In addition, any person who is admitted to a residential
594 facility for [the mentally retarded] persons with intellectual disability
595 after October 1, 1983, and not later than December 31, 1983, which
596 facility is licensed pursuant to said section after October 1, 1983, and
597 who is receiving state payment for the cost of such services, shall be
598 deemed to have been authorized for admission by the Department of
599 Developmental Services if (1) not later than July 15, 1983, the applicant
600 for licensure owns or has an interest in the facility or land upon which
601 the facility shall be located, or concludes a closing transaction on any
602 mortgage loan secured by mortgage on such facility or land, (2) such
603 facility is licensed not later than December 31, 1983, and (3) the
604 applicant for licensure presents evidence to the Commissioner of
605 Developmental Services that commitments had been made by such
606 applicant not later than July 15, 1983, for the placement of individuals
607 in such facility.

608 (c) The Department of Social Services shall continue to make
609 payments on behalf of persons residing, on or before October 1, 1983,
610 in residential facilities licensed pursuant to section 17a-227, as
611 amended by this act, on or before October 1, 1983, but not certified as

612 intermediate care facilities for the mentally retarded, and on behalf of
613 persons authorized for admission into such facilities by the
614 Department of Developmental Services after October 1, 1983, who are
615 otherwise eligible for assistance under sections 17b-600 to 17b-604,
616 inclusive. Such payment shall be on the same basis and at the same
617 rate which is in effect on October 1, 1983, and shall continue to pay
618 such rate until the next succeeding annual rate is determined as
619 provided in section 17b-244 and in this section.

620 (d) Each individual authorized for admission pursuant to
621 subsections (a) or (b) of this section into a residential facility for [the
622 mentally retarded] persons with intellectual disability licensed
623 pursuant to section 17a-227, as amended by this act, shall be reviewed
624 annually by the Department of Developmental Services. Upon
625 completion of the annual review, the Department of Developmental
626 Services may (1) renew the authorization of the individual for
627 continued state-assisted care in the residential facility, (2) refuse to
628 renew the authorization of the individual for continued state-assisted
629 care in the residential facility but authorize admission into alternate
630 facilities or (3) refuse to renew the authorization of the individual for
631 continued state-assisted care in the facility and refuse to authorize
632 continued state-assisted care in alternate facilities. If the Department of
633 Developmental Services refuses to renew the authorization of the
634 individual for continued state-assisted care in the residential facility
635 and either authorizes admission into alternative facilities or refuses to
636 authorize the individual for state-assisted care in any such alternative
637 facility, the Department of Developmental Services shall continue to
638 pay the rate established pursuant to section 17b-244 for such time as
639 may be administratively necessary for the Department of
640 Developmental Services to arrange for an appropriate transfer.

641 (e) Whenever the Department of Developmental Services refuses to
642 renew the authorization of a person for continued state-assisted care in
643 a licensed residential facility for [the mentally retarded] persons with
644 intellectual disability pursuant to subsection (d) of this section and
645 either authorizes the individual for admission into alternate facilities

646 or refuses to authorize the individual for continued state-assisted care
647 in any alternative facility, the Department of Developmental Services
648 shall give thirty days' notice of its determination to the previously
649 authorized individual and to such individual's parent, conservator,
650 guardian or other legal representative. Such notice shall also notify
651 each such individual or his legal representative of the individual's
652 right to contest the determination by submitting a request for a hearing
653 in writing to the Commissioner of Developmental Services [within] not
654 later than fifteen days after the date of receiving the notice required by
655 this subsection. Such hearing, if requested, shall be conducted in
656 accordance with the provisions of sections 4-176e to 4-184, inclusive.
657 State-assisted care shall continue in the present facility pending final
658 disposition of any such hearing.

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

672 Sec. 20. Section 17a-231 of the general statutes is repealed and the
673 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

676 (1) ["Residential facility for mentally retarded persons"] "Residential
677 facility for persons with intellectual disability" means a residential
678 facility for persons with [mental retardation] intellectual disability that

679 is licensed, or required to be licensed, pursuant to section 17a-227, as
680 amended by this act, including staffing and other program resources
681 associated with such facility;

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

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

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

695 (5) "Habitual violation" means a violation of regulations adopted
696 pursuant to section 17a-227, as amended by this act, which, due to its
697 repetition, presents a reasonable likelihood of serious physical or
698 mental harm to residents of a residential facility for [mentally
699 retarded] persons with intellectual disability.

700 Sec. 21. Subsection (a) of section 17a-232 of the general statutes is
701 repealed and the following is substituted in lieu thereof (*Effective*
702 *October 1, 2011*):

703 (a) An application to appoint a receiver for a residential facility for
704 [mentally retarded] persons with intellectual disability may be filed in
705 the Superior Court by the Commissioner of Developmental Services or
706 the director of the Office of Protection and Advocacy for Persons with
707 Disabilities. A resident of the facility or the resident's legally liable
708 relative, conservator, or guardian may file a written complaint with the
709 Commissioner of Developmental Services specifying conditions at the

710 facility which warrant an application to appoint a receiver. If the
711 Commissioner of Developmental Services fails to resolve the complaint
712 within forty-five days of its receipt or, in the case of a facility which
713 intends to close, within seven days of its receipt, the person who filed
714 the complaint may file an application in the Superior Court for the
715 appointment of a receiver for the facility. The court shall immediately
716 notify the Attorney General of the application. The court shall hold a
717 hearing not later than ten days after the date the application is filed.
718 Notice of the hearing shall be given to the owner of the facility or the
719 owner's agent for service of process not less than five days prior to the
720 hearing. The notice shall be posted by the court in a conspicuous place
721 inside the facility for not less than three days prior to the hearing.

722 Sec. 22. Section 17a-233 of the general statutes is repealed and the
723 following is substituted in lieu thereof (*Effective October 1, 2011*):

724 (a) The court may grant an application for the appointment of a
725 receiver for a residential facility for [mentally retarded] persons with
726 intellectual disability upon a finding of any of the following: (1) The
727 facility is operating without a license issued pursuant to section 17a-
728 227, as amended by this act; (2) the facility intends to close and
729 adequate arrangements for relocation of its residents have not been
730 made [at least] not less than thirty days prior to the date of the
731 intended closing; (3) there exists in the facility a condition in
732 substantial violation of regulations established pursuant to section 17a-
733 227, as amended by this act; (4) there exists in the facility a practice of
734 habitual violation of regulations established pursuant to section 17a-
735 227, as amended by this act.

736 (b) It shall be a sufficient defense to a receivership application if any
737 owner of a residential facility for [mentally retarded] persons with
738 intellectual disability establishes that: (1) He did not have knowledge
739 or could not reasonably have known that any conditions in violation of
740 section 17a-227, as amended by this act, existed, or (2) he did not have
741 a reasonable time in which to correct such violations, or (3) the
742 violations listed in the application do not, in fact, exist, or (4) in the

743 event the grounds upon which the petition is based are those set forth
744 in subdivision (2) of subsection (a) of this section, the facility does not
745 intend to close.

746 Sec. 23. Subsection (b) of section 17a-247 of the general statutes is
747 repealed and the following is substituted in lieu thereof (*Effective*
748 *October 1, 2011*):

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

753 Sec. 24. Section 17a-270 of the general statutes is repealed and the
754 following is substituted in lieu thereof (*Effective October 1, 2011*):

755 (a) There is established a Council on Developmental Services which
756 shall consist of thirteen members appointed as follows: Eight shall be
757 appointed by the Governor, one of whom shall be a doctor of
758 medicine, one of whom shall be a person with [mental retardation]
759 intellectual disability who is receiving services from the Department of
760 Developmental Services and at least two of whom shall be parents or
761 guardians of persons with [mental retardation] intellectual disability,
762 to serve for terms of two years each; four shall be appointed by
763 members of the General Assembly for two-year terms, one of whom
764 shall be a parent or guardian of a person with [mental retardation]
765 intellectual disability, appointed by the speaker of the House, one
766 appointed by the minority leader of the House, one appointed by the
767 president pro tempore of the Senate and one of whom shall be a parent
768 or guardian of a person with [mental retardation] intellectual
769 disability, appointed by the minority leader of the Senate; and one of
770 whom shall be a member of the board of trustees of the Southbury
771 Training School, appointed by said board for a term of one year. No
772 member of the council may serve more than three consecutive terms,
773 except that a member may continue to serve until a successor is
774 appointed. The members of the council shall serve without
775 compensation except for necessary expenses incurred in performing

776 their duties. The Commissioner of Developmental Services or the
777 commissioner's designee shall be an ex-officio member of the Council
778 on Developmental Services without vote and shall attend its meetings.
779 No employee of any state agency engaged in the care or training of
780 persons with [mental retardation] intellectual disability shall be
781 eligible for appointment to the council. The council shall appoint
782 annually, from among its members, a chairperson, vice chairperson
783 and secretary. The council may make rules for the conduct of its
784 affairs. The council shall meet at least bimonthly and at other times
785 upon the call of the chair or the written request of any two members.

786 (b) The council shall consider and advise on such matters as its
787 members, the board of trustees of the training school and the
788 Commissioner of Developmental Services may request. The council
789 shall consult with the Commissioner of Developmental Services on the
790 administration of the state program for persons with [mental
791 retardation] intellectual disability. The council shall recommend to the
792 Governor and to the General Assembly such legislation as will in its
793 judgment improve the care and training of persons with [mental
794 retardation] intellectual disability.

795 Sec. 25. Subsection (a) of section 17a-272 of the general statutes is
796 repealed and the following is substituted in lieu thereof (*Effective*
797 *October 1, 2011*):

798 (a) The director of each training school or state developmental
799 services region shall be appointed by the Commissioner of
800 Developmental Services, and shall be removable in the same manner.
801 The director shall be a trained administrator of services and facilities
802 engaged in the care, custody, treatment and training of [mentally
803 retarded] persons with intellectual disability. Each director shall be
804 subject to the direction of the Commissioner of Developmental
805 Services and shall be responsible for the operation and the
806 administration of the training school or state developmental services
807 region.

808 Sec. 26. Subsections (a) and (b) of section 17a-273 of the general

809 statutes are repealed and the following is substituted in lieu thereof
810 (*Effective October 1, 2011*):

811 (a) The Commissioner of Developmental Services shall appoint at
812 least one advisory and planning council for each state developmental
813 services region operated by the Department of Developmental
814 Services, which council shall have the responsibility of consulting with
815 and advising the director of the region on the needs of persons with
816 [mental retardation] intellectual disability in the region, the annual
817 plan and budget of the region and other matters deemed appropriate
818 by the council.

819 (b) Each such council shall consist of at least ten members appointed
820 from the state developmental services region. No employee of any
821 state agency engaged in the care or training of persons with [mental
822 retardation] intellectual disability shall be eligible for appointment. At
823 least one member shall be designated by a local chapter of the Arc of
824 Connecticut in the region. At least one member shall be an individual
825 who is eligible for and receives services from the Department of
826 Developmental Services. At least two members shall be parents of
827 persons with [mental retardation] intellectual disability. Members shall
828 be appointed for terms of three years. No member may serve more
829 than two consecutive terms. Each council shall appoint annually, from
830 among its members, a chairperson, vice-chairperson and secretary. The
831 council may make rules for the conduct of its affairs. The director of
832 the region shall be an ex-officio member of the council without vote
833 and shall attend its meetings.

834 Sec. 27. Section 17a-274 of the general statutes is repealed and the
835 following is substituted in lieu thereof (*Effective October 1, 2011*):

836 (a) Any court of probate shall have the power to place any person
837 residing in its district whom it finds to be a [mentally retarded] person
838 with intellectual disability with the Department of Developmental
839 Services for placement in any appropriate setting which meets [his
840 individual] the person's habilitative needs in the least restrictive
841 environment available or which can be created within existing

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

859 (b) Application to the Probate Court for placement under this
860 section may be made by any interested party. The application and all
861 records of Probate Court proceedings held as a result of the filing of
862 such application, except for the name of any guardian of the
863 respondent, shall be sealed and shall be made available only to the
864 respondent or the respondent's counsel or guardian, and to the
865 Commissioner of Developmental Services or the commissioner's
866 designee, unless the Probate Court, after hearing held with notice to
867 the respondent or the respondent's counsel or guardian, and to the
868 commissioner or the commissioner's designee, determines that such
869 application and records should be disclosed for cause shown. The
870 application shall allege that the respondent is a person with [mental
871 retardation] intellectual disability and (1) is unable to provide for
872 himself or herself at least one of the following: Education, habilitation,
873 care for personal health and mental health needs, meals, clothing, safe
874 shelter or protection from harm; (2) has no family or guardian to care
875 for the respondent or the respondent's family or guardian can no
876 longer provide adequate care for the respondent; (3) is unable to obtain

877 adequate, appropriate services which would enable the respondent to
878 receive care, treatment and education or habilitation without
879 placement by a court of probate; and (4) is not willing to be placed
880 under the custody and control of the Department of Developmental
881 Services or its agents or voluntary admission has been sought by the
882 guardian or limited guardian of the respondent appointed pursuant to
883 chapter 779a or the provisions of sections 45a-711 to 45a-725, inclusive,
884 and such voluntary admission has been opposed by the ward or the
885 ward's next of kin.

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

896 (d) Notice to the respondent and Commissioner of Developmental
897 Services shall include: The names of all persons filing the application,
898 the allegations made in the application, the time, date and place of the
899 hearing, and the name, address and telephone number of the attorney
900 who will represent the respondent. The notice shall state the right of
901 the respondent to be present at the hearing, to present evidence, to
902 cross-examine witnesses who testify at the hearing, and to an
903 independent diagnostic and evaluative examination by a licensed
904 psychologist of his own choice, who may testify on his behalf. If the
905 court finds the respondent is indigent, the notice shall further state the
906 respondent may be represented by counsel of his own choosing, and, if
907 the court finds the respondent is indigent, that counsel shall be
908 provided without cost. The reasonable compensation for counsel
909 provided to indigent respondents shall be established by, and paid
910 from funds appropriated to, the Judicial Department, however, if

911 funds have not been included in the budget of the Judicial Department
912 for such purposes, such compensation shall be established by the
913 Probate Court Administrator and paid from the Probate Court
914 Administration Fund.

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

923 (f) The court shall appoint a licensed psychologist from a panel of
924 psychologists provided by the Office of the Probate Court
925 Administrator to examine the respondent. The psychologist shall
926 prepare a report on a form provided by the Probate Court. Such report
927 shall include a statement as to whether the respondent [is mentally
928 retarded] has intellectual disability and an explanation of how the
929 determination was reached. The explanation shall include the results
930 of a psychological assessment within the past year, an interview or
931 observation of the respondent, and an evaluation of adaptive behavior.
932 Such report shall include a statement of the respondent's needs.
933 Duplicate copies of the report shall be filed with the Commissioner of
934 Developmental Services and all attorneys of record [at least] not less
935 than five days prior to the date of the hearing. The court shall order the
936 psychologist to appear for cross-examination at the request of the
937 respondent if the respondent makes such request [at least] not less
938 than three days before the date of the hearing.

939 (g) If the court, after hearing, finds there is clear and convincing
940 evidence that the respondent [is mentally retarded] has intellectual
941 disability and meets the criteria set out in subsection (a) of this section,
942 [it] the court shall order the respondent placed with the Department of
943 Developmental Services for placement in the least restrictive

944 environment available or which can be created within existing
945 resources of the department.

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

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

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

968 (k) Any person or agency having reasonable cause to believe that a
969 person [is mentally retarded] has intellectual disability and in need of
970 immediate care and treatment for his or her safety and welfare, which
971 care and treatment is not being provided by his or her family or
972 guardian, shall make a written report to the Commissioner of
973 Developmental Services. The report shall contain the name and
974 address of the person believed to [be mentally retarded] have
975 intellectual disability and in need of immediate care and treatment,
976 and his or her parent or other person responsible for his or her care,

977 and all evidence forming the basis for such belief and shall be signed
978 and dated by the person making such report. The Commissioner of
979 Developmental Services shall promptly determine whether there is
980 reasonable cause to believe that the person named in the report [is
981 mentally retarded] has intellectual disability and in need of immediate
982 care and treatment, which care and treatment is not being provided by
983 such person's family or guardian, and if the commissioner so
984 determines, shall assume the care and custody of such person. The
985 commissioner or his designee shall, within twenty-four hours,
986 excluding Saturdays, Sundays and legal holidays, after assuming the
987 care and custody of such person, (1) notify the [office of protection and
988 advocacy] Office of Protection and Advocacy for Persons with
989 Disabilities, and (2) file an application pursuant to subsection (b) of
990 this section in the court of probate for the district in which such person
991 resided prior to emergency placement. The court of probate in which
992 such application is filed shall assign a time and place for a hearing
993 pursuant to subsection (c) of this section.

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

999 (m) Any person who wilfully files or attempts to file, or conspires
1000 with any person to file a fraudulent or malicious application for the
1001 placement of any person pursuant to this section, shall be fined not
1002 more than one thousand dollars or imprisoned not more than five
1003 years or both.

1004 (n) For the purposes of this section, (1) "interdisciplinary team"
1005 means a group of persons appointed by the Commissioner of
1006 Developmental Services, including a social worker, psychologist,
1007 nurse, residential programmer, educational or vocational programmer
1008 and such other persons as may be appropriate; (2) ["mentally retarded
1009 person" means a person who has mental retardation] "intellectual

1010 disability" shall have the same meaning as [defined] provided in
1011 section 1-1g, as amended by this act; (3) "respondent" means a person
1012 alleged to be a [mentally retarded] person with intellectual disability
1013 for whom an application for placement has been filed; (4) "placement"
1014 means placement in a community [training home] companion home,
1015 community living arrangement, group home, regional facility, [or]
1016 other residential facility or residential program for [mentally retarded]
1017 persons with intellectual disability.

1018 Sec. 28. Section 17a-275 of the general statutes is repealed and the
1019 following is substituted in lieu thereof (*Effective October 1, 2011*):

1020 When any person is [found to be mentally retarded upon
1021 proceedings had under sections 17a-210 to 17a-247, inclusive, and 17a-
1022 274] involuntarily placed with the Department of Developmental
1023 Services pursuant to the provisions of section 17a-274, as amended by
1024 this act, all fees and expenses incurred upon such proceedings shall be
1025 paid by the state; and, if such person is [found not to be mentally
1026 retarded] not involuntarily placed with the department, such fees and
1027 expenses shall be paid by the petitioner.

1028 Sec. 29. Section 17a-276 of the general statutes is repealed and the
1029 following is substituted in lieu thereof (*Effective October 1, 2011*):

1030 (a) All persons admitted to a state training school, regional facility
1031 or other facility provided for the care and training of [the mentally
1032 retarded] persons with intellectual disability shall, until discharged
1033 therefrom either by the commissioner or by operation of law, be under
1034 the custody and control of the director of such facility. All costs of care
1035 and training shall be provided pursuant to section 17b-223. Notice of
1036 discharge shall be sent by the Department of Developmental Services
1037 to such person, his parent or guardian and the Probate Court.

1038 (b) Any person with intellectual disability placed with the
1039 Department of Developmental Services pursuant to section 17a-274, as
1040 amended by this act, may request a review of his or her placement by
1041 the Probate Court at any time after issuance of the original order of

1042 placement and once a year thereafter. Such request shall be in writing,
1043 shall state the reasons for review and shall be made by the [patient]
1044 person with intellectual disability or any other person acting on his or
1045 her behalf. Such request shall be filed with the Probate Court, one copy
1046 shall be served on the Commissioner of Developmental Services and
1047 one copy shall be served on the person in charge of the facility in
1048 which the [patient] person with intellectual disability is placed. The
1049 hearing on such request shall be held [within] not later than ten days,
1050 excluding Saturdays, Sundays and holidays, after the date of the filing
1051 of such request.

1052 (c) At such hearing the [patient] person with intellectual disability
1053 shall have the same rights as provided under subsections (c), (d), (e)
1054 and (f) of section 17a-274, as amended by this act. The Department of
1055 Developmental Services shall notify each person placed pursuant to
1056 section 17a-274, as amended by this act, at least annually that such
1057 person has the right to a hearing to review the appropriateness and
1058 adequacy of his or her placement. At such hearing, if the court finds
1059 that the person is no longer in need of placement, [it] the court shall
1060 order the placement terminated. If the court finds that the person's
1061 placement does not adequately meet his or her needs in the least
1062 restrictive environment available or which can be created within
1063 existing resources of the department, [it] the court shall order the
1064 department to place such person in such least restrictive environment
1065 as the court deems available.

1066 (d) If, within five years from the date of placement, any person
1067 placed on or after October 1, 1982, has not requested a hearing to
1068 review his or her placement, the Department of Developmental
1069 Services shall notify the court of probate which placed such person.
1070 The court of probate, upon such notice, shall proceed in accordance
1071 with subsections (b) and (c) of this section to schedule a hearing to
1072 determine if the placement should be continued and whether such
1073 placement adequately meets his or her habilitative needs in the least
1074 restrictive environment available or which can be created within
1075 existing resources of the department.

1076 Sec. 30. Section 17a-277 of the general statutes is repealed and the
1077 following is substituted in lieu thereof (*Effective October 1, 2011*):

1078 The director of any state training school, regional facility or other
1079 facility for the care and training of persons with [mental retardation]
1080 intellectual disability may place any resident with [mental retardation]
1081 intellectual disability committed or admitted to such training school,
1082 regional facility or other facility provided for the care and training of
1083 persons with [mental retardation] intellectual disability, under the
1084 provisions of sections 17a-210 to 17a-247, inclusive, as amended by this
1085 act, and 17a-273, as amended by this act, in a community companion
1086 home, community living arrangement, private boarding home, group
1087 home, [or] other residential facility or residential program to be cared
1088 for in accordance with the following conditions:

1089 (1) Such resident shall, despite such transfer, remain subject to the
1090 control of the director of such training school, regional facility or other
1091 facility provided for the care and training of persons with [mental
1092 retardation] intellectual disability and the director may, at any time,
1093 order and provide for the return of any such resident to such training
1094 school, regional facility or other facility provided for the care and
1095 training of persons with [mental retardation] intellectual disability,
1096 subject to any limitations of the term of commitment contained in the
1097 order of commitment under which such resident was committed;

1098 (2) When the transfer of any such resident has been authorized or
1099 when, having been transferred to a community companion home,
1100 community living arrangement, private boarding home, group home,
1101 [or] other residential facility or residential program for persons with
1102 [mental retardation] intellectual disability, such resident has been
1103 returned to the training school, regional facility or other facility, the
1104 director of such training school, regional facility or other facility shall
1105 forthwith so notify the Commissioner of Developmental Services;

1106 (3) Such community companion home, community living
1107 arrangement, private boarding home, group home, [or] other
1108 residential facility or residential program shall be licensed by the

1109 Department of Developmental Services, the Department of Children
1110 and Families or the Department of Public Health under such
1111 regulations as the departments adopt, in accordance with chapter 54;
1112 and

1113 (4) The Commissioner of Developmental Services shall, upon
1114 request, be given access to the complete record of any resident placed
1115 in a community companion home, community living arrangement,
1116 private boarding home, group home, [or] other residential facility or
1117 residential program pursuant to this section.

1118 Sec. 31. Section 17a-281 of the general statutes is repealed and the
1119 following is substituted in lieu thereof (*Effective October 1, 2011*):

1120 Any person who is a resident of Connecticut at the time an
1121 application is made by [him or on his behalf] such resident or on behalf
1122 of such resident under the provisions of this section, and who is, or
1123 appears to be, or believes himself or herself to be a person with [mental
1124 retardation] intellectual disability, may apply, in writing, to the
1125 Commissioner of Developmental Services, on a form prescribed by
1126 [said] the commissioner, for admission to any facility for persons with
1127 [mental retardation] intellectual disability. Such application shall be
1128 accompanied by a medical history of the applicant, including any
1129 medical or physical condition requiring special attention, treatment or
1130 precautions, a written psychological report provided by a psychologist
1131 either licensed under the provisions of chapter 383 or employed by the
1132 Department of Developmental Services, who has personally examined
1133 the applicant prior to the filing of application for residential placement
1134 or a copy of the determination of eligibility made in accordance with
1135 section 17a-212 and the regulations adopted thereunder. The written
1136 psychological report shall include (1) a statement that the psychologist
1137 has personally examined the applicant not more than ninety days prior
1138 to the date of filing of the application, (2) the results of a psychometric
1139 assessment conducted not more than one year prior to the date of
1140 filing of the application, and (3) an evaluation of the applicant's current
1141 level of adaptive functioning, including self-care, mental health, social,

1142 academic and vocational needs. In the event of an emergency,
1143 admission to a residential facility may be made and the required
1144 medical history and psychologist's report may be submitted [within]
1145 not later than thirty days after the date of such admission. The
1146 application for such person, if such person is a minor, may be made by
1147 a parent, guardian of the person of, or person having custody of, such
1148 minor. If such person is an adult who has had a guardian appointed
1149 pursuant to sections 45a-669 to 45a-684, inclusive, as amended by this
1150 act, [his] such person's guardian may apply for admission and the
1151 commissioner may admit such person, provided [said] the
1152 commissioner is satisfied that there is no conflict concerning the
1153 admission between the guardian and his or her ward or the ward's
1154 next of kin. If such conflict exists, the applicant may only be admitted
1155 under the provisions of section 17a-274, as amended by this act. The
1156 commissioner may approve any such application for admission if the
1157 person on whose behalf application is made is suitable for admission
1158 and if space is available and may terminate such admission at any time
1159 when [he] the commissioner feels such person will not profit from
1160 continued placement. The provisions of this section shall not apply to
1161 persons who apply to the commissioner for respite care services for a
1162 period not to exceed thirty days.

1163 Sec. 32. Section 17a-282 of the general statutes is repealed and the
1164 following is substituted in lieu thereof (*Effective October 1, 2011*):

1165 No person admitted to a facility for persons with [mental
1166 retardation] intellectual disability under the provisions of section 17a-
1167 281, as amended by this act, shall be detained in such facility for more
1168 than seven days after [he] such person has given notice in writing, or,
1169 if such person is a minor or adult incompetent, after such notice has
1170 been given on his or her behalf by his or her parent, guardian,
1171 conservator or person having custody, to the Commissioner of
1172 Developmental Services, of his or her intention or desire to leave such
1173 facility. If [said] the commissioner is of the opinion that such person is
1174 in need of further treatment or observation, [he] the commissioner may
1175 make and file, in the probate court for the district within which such

1176 person resides, application for the involuntary placement of such
1177 person to such facility and the probate court shall proceed thereon in
1178 the same manner as is provided in section 17a-274, as amended by this
1179 act.

1180 Sec. 33. Section 17a-580 of the general statutes is repealed and the
1181 following is substituted in lieu thereof (*Effective October 1, 2011*):

1182 As used in sections 17a-581 to 17a-602, inclusive, and this section:

1183 (1) "Acquittee" means any person found not guilty by reason of
1184 mental disease or defect pursuant to section 53a-13;

1185 (2) "Board" means the Psychiatric Security Review Board established
1186 pursuant to section 17a-581;

1187 (3) "Conditional release" means release subject to the jurisdiction of
1188 the board for supervision and treatment on an outpatient basis and
1189 includes, but is not limited to, the monitoring of mental and physical
1190 health treatment;

1191 (4) "Court" means the Superior Court;

1192 (5) "Danger to himself or others" includes danger to the property of
1193 others;

1194 (6) "Hospital for mental illness" means any public or private
1195 hospital, retreat, institution, house or place in which a person with
1196 psychiatric disabilities or drug-dependent person is received or
1197 detained as a patient, but does not include any correctional institution
1198 of the state;

1199 (7) "Mental illness" includes any mental illness in a state of
1200 remission when the illness may, with reasonable medical probability,
1201 become active;

1202 (8) ["Mental retardation" means mental retardation as defined in
1203 section 1-1g] "Intellectual disability" has the same meaning as provided
1204 in section 1-1g, as amended by this act;

1205 (9) "Person who should be conditionally released" means an
1206 acquittee who has psychiatric disabilities or [is mentally retarded] has
1207 intellectual disability to the extent that his final discharge would
1208 constitute a danger to himself or others but who can be adequately
1209 controlled with available supervision and treatment on conditional
1210 release;

1211 (10) "Person who should be confined" means an acquittee who has
1212 psychiatric disabilities or [is mentally retarded] has intellectual
1213 disability to the extent that [his] such acquittee's discharge or
1214 conditional release would constitute a danger to [himself] the acquittee
1215 or others and who cannot be adequately controlled with available
1216 supervision and treatment on conditional release;

1217 (11) "Person who should be discharged" means an acquittee who
1218 does not have psychiatric disabilities or [is not mentally retarded] does
1219 not have intellectual disability to the extent that [his] such acquittee's
1220 discharge would constitute a danger to [himself] the acquittee or
1221 others;

1222 (12) "Psychiatrist" means a physician specializing in psychiatry and
1223 licensed under the provisions of sections 20-9 to 20-12, inclusive;

1224 (13) "Psychologist" means a clinical psychologist licensed under the
1225 provisions of sections 20-186 to 20-195, inclusive;

1226 (14) "State's attorney" means the state's attorney for the judicial
1227 district wherein the acquittee was found not guilty by reason of mental
1228 disease or defect pursuant to section 53a-13;

1229 (15) "Superintendent" means any person, body of persons or
1230 corporation, or the designee of any such person, body of persons or
1231 corporation, which has the immediate supervision, management and
1232 control of a hospital for mental illness and the patients therein.

1233 Sec. 34. Section 17b-226 of the general statutes is repealed and the
1234 following is substituted in lieu thereof (*Effective October 1, 2011*):

1235 The state shall take into consideration the costs mandated by
1236 collective bargaining agreements with certified collective bargaining
1237 agents or other agreements between employers and employees when
1238 making grants to or entering into contracts for services with the
1239 following: (1) Nonprofit organizations for mental health services
1240 pursuant to section 17a-476; (2) nonprofit organizations concerning
1241 services for drug-dependent and alcohol-dependent persons pursuant
1242 to section 17a-676; (3) residential and educational services pursuant to
1243 subsections (a) and (b) of section 17a-17; (4) psychiatric clinics and
1244 community mental health facilities pursuant to section 17a-20; (5) day
1245 treatment centers pursuant to section 17a-22; (6) youth service bureaus
1246 pursuant to subsection (a) of section 10-19n; (7) programs for the
1247 treatment and prevention of child abuse and neglect and for juvenile
1248 diversion pursuant to section 17a-49; (8) community-based service
1249 programs pursuant to sections 18-101i and 18-101k; (9) programs for
1250 [mentally retarded] children and adults with intellectual disability
1251 pursuant to section 17a-217, as amended by this act; (10) community-
1252 based residential facilities for [mentally retarded] persons with
1253 intellectual disability pursuant to section 17a-218, as amended by this
1254 act; and (11) vocational training programs for [mentally retarded]
1255 adults with intellectual disability pursuant to section 17a-226, as
1256 amended by this act.

1257 Sec. 35. Subdivision (17) of subsection (a) of section 19a-638 of the
1258 general statutes is repealed and the following is substituted in lieu
1259 thereof (*Effective October 1, 2011*):

1260 (17) A residential facility for [the mentally retarded] persons with
1261 intellectual disability licensed pursuant to section 17a-227, as amended
1262 by this act, and certified to participate in the Title XIX Medicaid
1263 program as an intermediate care facility for the mentally retarded;

1264 Sec. 36. Section 45a-674 of the general statutes is repealed and the
1265 following is substituted in lieu thereof (*Effective October 1, 2011*):

1266 At any hearing for appointment of a plenary guardian or limited
1267 guardian of the person with [mental retardation] intellectual disability,

1268 the court shall receive evidence as to the condition of the respondent,
1269 including a written report or testimony by a Department of
1270 Developmental Services assessment team appointed by the
1271 Commissioner of Developmental Services or his designee, no member
1272 of which is related by blood, marriage or adoption to either the
1273 applicant or the respondent and each member of which has personally
1274 observed or examined the respondent within forty-five days next
1275 preceding such hearing. The assessment team shall be comprised of at
1276 least two representatives from among appropriate disciplines having
1277 expertise in the evaluation of persons alleged to [be mentally retarded]
1278 have intellectual disability. The assessment team members shall make
1279 their report on a form provided for that purpose by the Office of the
1280 Probate Court Administrator and shall answer questions on such form
1281 as fully and completely as possible. The report shall contain specific
1282 information regarding the severity of the [mental retardation]
1283 intellectual disability of the respondent and those specific areas, if any,
1284 in which he needs the supervision and protection of a guardian, and
1285 shall state upon the form the reasons for such opinions. The applicant,
1286 respondent or his counsel shall have the right to present evidence and
1287 cross-examine witnesses who testify at any hearing on the application.
1288 If such respondent or his counsel notifies the court not less than three
1289 days before the hearing that he wishes to cross-examine the witnesses,
1290 the court shall order such witnesses to appear. The fees for such
1291 assessment team shall be paid from funds appropriated to the
1292 Department of Developmental Services.

1293 Sec. 37. Section 46a-11b of the general statutes is repealed and the
1294 following is substituted in lieu thereof (*Effective October 1, 2011*):

1295 (a) Any physician or surgeon licensed under the provisions of
1296 chapter 370, any resident physician or intern in any hospital in this
1297 state, whether or not so licensed, any registered nurse, any person paid
1298 for caring for persons in any facility and any licensed practical nurse,
1299 medical examiner, dental hygienist, dentist, occupational therapist,
1300 optometrist, chiropractor, psychologist, podiatrist, social worker,
1301 school teacher, school principal, school guidance counselor, school

1302 paraprofessional, mental health professional, physician assistant,
1303 licensed or certified substance abuse counselor, licensed marital and
1304 family therapist, speech and language pathologist, clergyman, police
1305 officer, pharmacist, physical therapist, licensed professional counselor
1306 or sexual assault counselor or battered women's counselor, as defined
1307 in section 52-146k, who has reasonable cause to suspect or believe that
1308 any person with [mental retardation] intellectual disability has been
1309 abused or neglected shall, as soon as practicable but not later than
1310 seventy-two hours after such person has reasonable cause to suspect or
1311 believe that a person with [mental retardation] intellectual disability
1312 has been abused or neglected, report such information or cause a
1313 report to be made in any reasonable manner to the director or persons
1314 the director designates to receive such reports. Such initial report shall
1315 be followed up by a written report not later than five calendar days
1316 after the initial report was made. Any person required to report under
1317 this subsection who fails to make such report shall be fined not more
1318 than five hundred dollars.

1319 (b) Such report shall contain the name and address of the allegedly
1320 abused or neglected person, a statement from the person making the
1321 report indicating his belief that such person [is mentally retarded] has
1322 intellectual disability, information supporting the supposition that
1323 such person is substantially unable to protect himself from abuse or
1324 neglect, information regarding the nature and extent of the abuse or
1325 neglect and any other information which the person making such
1326 report believes might be helpful in an investigation of the case and the
1327 protection of such person with [mental retardation] intellectual
1328 disability.

1329 (c) Each facility, as defined in section 46a-11a, shall inform residents
1330 of their rights and the staff of their responsibility to report abuse or
1331 neglect and shall establish appropriate policies and procedures to
1332 facilitate such reporting.

1333 (d) Any other person having reasonable cause to believe that a
1334 person with [mental retardation] intellectual disability is being or has

1335 been abused or neglected may report such information, in any
1336 reasonable manner, to the director or to his designee.

1337 (e) Any person who makes any report pursuant to sections 46a-11a
1338 to 46a-11g, inclusive, as amended by this act, or who testifies in any
1339 administrative or judicial proceeding arising from such report shall be
1340 immune from any civil or criminal liability on account of such report
1341 or testimony, except for liability for perjury, unless such person acted
1342 in bad faith or with malicious purpose. Any person who obstructs,
1343 hinders or endangers any person reporting or investigating abuse or
1344 neglect or providing protective services or who makes a report in bad
1345 faith or with malicious purpose and who is not subject to any other
1346 penalty shall be fined not more than five hundred dollars. No resident
1347 or employee of a facility, as defined in section 46a-11a, shall be subject
1348 to reprisal or discharge because of his actions in reporting pursuant to
1349 sections 46a-11a to 46a-11g, inclusive, as amended by this act.

1350 (f) For purposes of said sections, the treatment of any person with
1351 [mental retardation] intellectual disability by a Christian Science
1352 practitioner, in lieu of treatment by a licensed practitioner of the
1353 healing arts, shall not of itself constitute grounds for the
1354 implementation of protective services.

1355 (g) When the director of the Office of Protection and Advocacy for
1356 Persons with Disabilities or persons designated by such director are
1357 required to investigate or monitor abuse or neglect reports that are
1358 referred to the Office of Protection and Advocacy for Persons with
1359 Disabilities from another agency, all provisions of this section shall
1360 apply to any investigation or monitoring of such case or report.

1361 Sec. 38. Section 53a-59a of the general statutes is repealed and the
1362 following is substituted in lieu thereof (*Effective October 1, 2011*):

1363 (a) A person is guilty of assault of an elderly, blind, disabled [,] or
1364 pregnant [or mentally retarded] person or a person with intellectual
1365 disability in the first degree, when such person commits assault in the
1366 first degree under section 53a-59(a)(2), 53a-59(a)(3) or 53a-59(a)(5) and

1367 (1) the victim of such assault has attained at least sixty years of age, is
1368 blind or physically disabled, as defined in section 1-1f, or is pregnant,
1369 or (2) the victim of such assault is a person with [mental retardation]
1370 intellectual disability, as defined in section 1-1g, as amended by this
1371 act, and the actor is not a person with [mental retardation] intellectual
1372 disability.

1373 (b) No person shall be found guilty of assault in the first degree and
1374 assault of an elderly, blind, disabled [,] or pregnant [or mentally
1375 retarded] person or a person with intellectual disability in the first
1376 degree upon the same incident of assault but such person may be
1377 charged and prosecuted for both such offenses upon the same
1378 information.

1379 (c) In any prosecution for an offense under this section based on the
1380 victim being pregnant it shall be an affirmative defense that the actor,
1381 at the time such actor engaged in the conduct constituting the offense,
1382 did not know the victim was pregnant. In any prosecution for an
1383 offense under this section based on the victim being a person with
1384 [mental retardation] intellectual disability, it shall be an affirmative
1385 defense that the actor, at the time such actor engaged in the conduct
1386 constituting the offense, did not know the victim was a person with
1387 [mental retardation] intellectual disability.

1388 (d) Assault of an elderly, blind, disabled [,] or pregnant [or mentally
1389 retarded] person or a person with intellectual disability in the first
1390 degree is a class B felony and any person found guilty under this
1391 section shall be sentenced to a term of imprisonment of which five
1392 years of the sentence imposed may not be suspended or reduced by
1393 the court.

1394 Sec. 39. Section 53a-60b of the general statutes is repealed and the
1395 following is substituted in lieu thereof (*Effective October 1, 2011*):

1396 (a) A person is guilty of assault of an elderly, blind, disabled [,] or
1397 pregnant [or mentally retarded] person or a person with intellectual
1398 disability in the second degree when such person commits assault in

1399 the second degree under section 53a-60 or larceny in the second degree
1400 under section 53a-123(a)(3) and (1) the victim of such assault or larceny
1401 has attained at least sixty years of age, is blind or physically disabled,
1402 as defined in section 1-1f, or is pregnant, or (2) the victim of such
1403 assault or larceny is a person with [mental retardation] intellectual
1404 disability, as defined in section 1-1g, as amended by this act, and the
1405 actor is not a person with [mental retardation] intellectual disability.

1406 (b) No person shall be found guilty of assault in the second degree
1407 or larceny in the second degree under section 53a-123(a)(3) and assault
1408 of an elderly, blind, disabled [.] or pregnant [or mentally retarded]
1409 person or a person with intellectual disability in the second degree
1410 upon the same incident of assault or larceny, as the case may be, but
1411 such person may be charged and prosecuted for all such offenses upon
1412 the same information.

1413 (c) In any prosecution for an offense under this section based on the
1414 victim being pregnant it shall be an affirmative defense that the actor,
1415 at the time such actor engaged in the conduct constituting the offense,
1416 did not know the victim was pregnant. In any prosecution for an
1417 offense under this section based on the victim being a person with
1418 [mental retardation] intellectual disability, it shall be an affirmative
1419 defense that the actor, at the time such actor engaged in the conduct
1420 constituting the offense, did not know the victim was a person with
1421 [mental retardation] intellectual disability.

1422 (d) Assault of an elderly, blind, disabled [.] or pregnant [or mentally
1423 retarded] person or a person with intellectual disability in the second
1424 degree is a class D felony and any person found guilty under this
1425 section shall be sentenced to a term of imprisonment of which two
1426 years of the sentence imposed may not be suspended or reduced by
1427 the court.

1428 Sec. 40. Section 53a-60c of the general statutes is repealed and the
1429 following is substituted in lieu thereof (*Effective October 1, 2011*):

1430 (a) A person is guilty of assault of an elderly, blind, disabled [.] or

1431 pregnant [or mentally retarded] person or a person with intellectual
1432 disability in the second degree with a firearm when such person
1433 commits assault in the second degree with a firearm under section
1434 53a-60a and (1) the victim of such assault has attained at least sixty
1435 years of age, is blind or physically disabled, as defined in section 1-1f,
1436 or is pregnant, or (2) the victim of such assault is a person with [mental
1437 retardation] intellectual disability, as defined in section 1-1g, as
1438 amended by this act, and the actor is not a person with [mental
1439 retardation] intellectual disability.

1440 (b) No person shall be found guilty of assault in the second degree
1441 or assault in the second degree with a firearm and assault of an elderly,
1442 blind, disabled [,] or pregnant [or mentally retarded] person or a
1443 person with intellectual disability in the second degree with a firearm
1444 upon the same incident of assault but such person may be charged and
1445 prosecuted for all of such offenses upon the same information.

1446 (c) In any prosecution for an offense under this section based on the
1447 victim being pregnant it shall be an affirmative defense that the actor,
1448 at the time such actor engaged in the conduct constituting the offense,
1449 did not know the victim was pregnant. In any prosecution for an
1450 offense under this section based on the victim being a person with
1451 [mental retardation] intellectual disability, it shall be an affirmative
1452 defense that the actor, at the time such actor engaged in the conduct
1453 constituting the offense, did not know the victim was a person with
1454 [mental retardation] intellectual disability.

1455 (d) Assault of an elderly, blind, disabled [,] or pregnant [or mentally
1456 retarded] person or a person with intellectual disability in the second
1457 degree with a firearm is a class D felony and any person found guilty
1458 under this section shall be sentenced to a term of imprisonment of
1459 which three years of the sentence imposed may not be suspended or
1460 reduced by the court.

1461 Sec. 41. Section 53a-61a of the general statutes is repealed and the
1462 following is substituted in lieu thereof (*Effective October 1, 2011*):

1463 (a) A person is guilty of assault of an elderly, blind, disabled [,] or
1464 pregnant [or mentally retarded] person or a person with intellectual
1465 disability in the third degree when such person commits assault in the
1466 third degree under section 53a-61 and (1) the victim of such assault has
1467 attained at least sixty years of age, is blind or physically disabled, as
1468 defined in section 1-1f, or is pregnant, or (2) the victim of such assault
1469 is a person with [mental retardation] intellectual disability, as defined
1470 in section 1-1g, as amended by this act, and the actor is not a person
1471 with [mental retardation] intellectual disability.

1472 (b) No person shall be found guilty of assault in the third degree
1473 and assault of an elderly, blind, disabled [,] or pregnant [or mentally
1474 retarded] person or a person with intellectual disability in the third
1475 degree upon the same incident of assault but such person may be
1476 charged and prosecuted for both such offenses upon the same
1477 information.

1478 (c) In any prosecution for an offense under this section based on the
1479 victim being pregnant it shall be an affirmative defense that the actor,
1480 at the time such actor engaged in the conduct constituting the offense,
1481 did not know the victim was pregnant. In any prosecution for an
1482 offense under this section based on the victim being a person with
1483 [mental retardation] intellectual disability, it shall be an affirmative
1484 defense that the actor, at the time such actor engaged in the conduct
1485 constituting the offense, did not know the victim was a person with
1486 [mental retardation] intellectual disability.

1487 (d) Assault of an elderly, blind, disabled [,] or pregnant [or mentally
1488 retarded] person or a person with intellectual disability in the third
1489 degree is a class A misdemeanor and any person found guilty under
1490 this section shall be sentenced to a term of imprisonment of one year
1491 which shall not be suspended or reduced.

1492 Sec. 42. Section 53a-320 of the general statutes is repealed and the
1493 following is substituted in lieu thereof (*Effective October 1, 2011*):

1494 For the purposes of sections 53a-320 to 53a-323, inclusive, as

1495 amended by this act:

1496 (1) "Person" means any natural person, corporation, partnership,
1497 limited liability company, unincorporated business or other business
1498 entity;

1499 (2) "Elderly person" means any person who is sixty years of age or
1500 older;

1501 (3) "Blind person" means any person who is blind, as defined in
1502 section 1-1f;

1503 (4) "Disabled person" means any person who is physically disabled,
1504 as defined in section 1-1f;

1505 (5) ["Mentally retarded person"] "Person with intellectual disability"
1506 means any person with [mental retardation] intellectual disability, as
1507 defined in section 1-1g, as amended by this act;

1508 (6) "Abuse" means any repeated act or omission that causes physical
1509 injury or serious physical injury to an elderly, blind [,] or disabled
1510 person or [mentally retarded] a person with intellectual disability,
1511 except when (A) the act or omission is a part of the treatment and care,
1512 and in furtherance of the health and safety, of the elderly, blind [,] or
1513 disabled person or [mentally retarded] person with intellectual
1514 disability, or (B) the act or omission is based upon the instructions,
1515 wishes, consent, refusal to consent or revocation of consent of an
1516 elderly, blind [,] or disabled person or [mentally retarded] a person
1517 with intellectual disability, or the legal representative of an incapable
1518 elderly, blind [,] or disabled person or [mentally retarded] a person
1519 with intellectual disability. For purposes of this subdivision, "repeated"
1520 means an act or omission that occurs on two or more occasions;

1521 (7) "Intentionally" means "intentionally" as defined in subdivision
1522 (11) of section 53a-3;

1523 (8) "Knowingly" means "knowingly" as defined in subdivision (12)
1524 of section 53a-3;

1525 (9) "Recklessly" means "recklessly" as defined in subdivision (13) of
1526 section 53a-3;

1527 (10) "Physical injury" means "physical injury" as defined in
1528 subdivision (3) of section 53a-3; and

1529 (11) "Serious physical injury" means "serious physical injury" as
1530 defined in subdivision (4) of section 53a-3.

1531 Sec. 43. Section 53a-321 of the general statutes is repealed and the
1532 following is substituted in lieu thereof (*Effective October 1, 2011*):

1533 (a) A person is guilty of abuse in the first degree when such person
1534 intentionally commits abuse of an elderly, blind [,] or disabled person
1535 or [mentally retarded] a person with intellectual disability and causes
1536 serious physical injury to such elderly, blind [,] or disabled person or
1537 [mentally retarded] person with intellectual disability.

1538 (b) Abuse in the first degree is a class C felony.

1539 Sec. 44. Section 53a-322 of the general statutes is repealed and the
1540 following is substituted in lieu thereof (*Effective October 1, 2011*):

1541 (a) A person is guilty of abuse in the second degree when such
1542 person: (1) Intentionally commits abuse of an elderly, blind [,] or
1543 disabled person or [mentally retarded] a person with intellectual
1544 disability and causes physical injury to such elderly, blind [,] or
1545 disabled person or [mentally retarded] person with intellectual
1546 disability, or (2) knowingly commits abuse of an elderly, blind [,] or
1547 disabled person or [mentally retarded] a person with intellectual
1548 disability and causes serious physical injury to such elderly, blind [,] or
1549 disabled person or [mentally retarded] person with intellectual
1550 disability.

1551 (b) Abuse in the second degree is a class D felony.

1552 Sec. 45. Section 53a-323 of the general statutes is repealed and the
1553 following is substituted in lieu thereof (*Effective October 1, 2011*):

1554 (a) A person is guilty of abuse in the third degree when such person
1555 (1) knowingly commits abuse of an elderly, blind [] or disabled person
1556 or [mentally retarded] a person with intellectual disability and causes
1557 physical injury to such elderly, blind [] or disabled person or
1558 [mentally retarded] person with intellectual disability, or (2) recklessly
1559 commits abuse of an elderly, blind [] or disabled person or [mentally
1560 retarded] a person with intellectual disability and causes physical
1561 injury to such elderly, blind [] or disabled person or [mentally
1562 retarded] person or person with intellectual disability.

1563 (b) Abuse in the third degree is a class A misdemeanor.

1564 Sec. 46. Subsection (i) of section 54-56d of the general statutes is
1565 repealed and the following is substituted in lieu thereof (*Effective*
1566 *October 1, 2011*):

1567 (i) The placement of the defendant for treatment for the purpose of
1568 rendering the defendant competent shall comply with the following
1569 conditions: (1) The period of placement under the order or
1570 combination of orders shall not exceed the period of the maximum
1571 sentence which the defendant could receive on conviction of the
1572 charges against the defendant or eighteen months, whichever is less;
1573 (2) the placement shall be either in the custody of the Commissioner of
1574 Mental Health and Addiction Services, the Commissioner of Children
1575 and Families or the Commissioner of Developmental Services or, if the
1576 defendant or the appropriate commissioner agrees to provide
1577 payment, in the custody of any appropriate mental health facility or
1578 treatment program which agrees to provide treatment to the defendant
1579 and to adhere to the requirements of this section; and (3) the court
1580 shall order the placement, on either an inpatient or an outpatient basis,
1581 which the court finds is the least restrictive placement appropriate and
1582 available to restore competency. If outpatient treatment is the least
1583 restrictive placement for a defendant who has not yet been released
1584 from a correctional facility, the court shall consider whether the
1585 availability of such treatment is a sufficient basis on which to release
1586 the defendant on a promise to appear, conditions of release, cash bail

1587 or bond. If the court determines that the defendant may not be so
1588 released, the court shall order treatment of the defendant on an
1589 inpatient basis at a mental health facility or [mental retardation]
1590 facility for persons with intellectual disability. Not later than twenty-
1591 four hours after the court orders placement of the defendant for
1592 treatment for the purpose of rendering the defendant competent, the
1593 examiners shall transmit information obtained about the defendant
1594 during the course of an examination pursuant to subsection (d) of this
1595 section to the health care provider named in the court's order.

1596 Sec. 47. (*Effective October 1, 2011*) (a) (1) Except as used in the terms
1597 "intermediate care facility for the mentally retarded", "intermediate
1598 care facilities for the mentally retarded" and "intermediate care
1599 facilities for persons with mental retardation", (A) wherever the words
1600 "the mentally retarded" are used in the following general statutes,
1601 "persons with intellectual disability" or "individuals with intellectual
1602 disability" shall be substituted in lieu thereof; (B) whenever the words
1603 "mentally retarded", "mentally retarded person" or "mentally retarded
1604 persons" are used in the following general statutes, the words
1605 "intellectual disability", "person with intellectual disability" or "persons
1606 with intellectual disability" shall be substituted in lieu thereof; and (C)
1607 whenever the words "mental retardation" are used in the following
1608 general statutes, the words "intellectual disability" shall be substituted
1609 in lieu thereof: 2c-2b, 4a-60, 4b-31, 8-2g, 8-3e, 9-159s, 10-91f, 17a-75,
1610 17a-215b, 17a-247a, 17a-280, 17a-451d, 17a-593, 17a-594, 17a-596, 17b-
1611 28a, 17b-106, 17b-112c, 17b-244, 17b-244a, 17b-260b, 17b-260d, 17b-
1612 263b, 17b-278, 17b-280, 17b-340, 17b-342, 17b-352, 17b-356, 17b-363b,
1613 17b-616, 19a-6h, 19a-490, 19a-581, 26-29a, 26-30, 27-103, 31-57e, 32-204,
1614 38a-488a, 38a-514, 38a-816, 45a-598, 45a-669, 45a-672, 45a-674, as
1615 amended by this act, 45a-676, 45a-677, 45a-678, 45a-679, 45a-680, 45a-
1616 681, 45a-682, 45a-683, 46a-11a, 46a-11c, 46a-11d, 46a-11e, 46a-11f, 46a-
1617 11g, 46a-51, 46a-60, 46a-64, 46a-64b, 46a-66, 46a-70, 46a-71, 46a-72, 46a-
1618 73, 46a-75, 46b-76, 46b-84, 52-146o, 53a-46a, 53a-181i and 54-250.

1619 (2) Wherever such words are used in any public act of the 2011
1620 session, the words provided in subdivision (1) of this subsection shall

1621 be substituted in lieu thereof.

1622 (b) The Legislative Commissioners' Office shall, in codifying said
 1623 sections of the general statutes pursuant to subdivision (1) of
 1624 subsection (a) of this section or any public act of the 2011 session
 1625 pursuant to subdivision (2) of subsection (a) of this section, make such
 1626 technical, grammatical and punctuation changes as are necessary to
 1627 carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	45a-670
Sec. 2	<i>October 1, 2011</i>	1-1g
Sec. 3	<i>October 1, 2011</i>	4b-28(b)
Sec. 4	<i>October 1, 2011</i>	8-119t
Sec. 5	<i>October 1, 2011</i>	12-81(7)(B)
Sec. 6	<i>October 1, 2011</i>	14-96p(a)(4)
Sec. 7	<i>October 1, 2011</i>	17a-210
Sec. 8	<i>October 1, 2011</i>	17a-210b
Sec. 9	<i>October 1, 2011</i>	17a-215c(f) to (i)
Sec. 10	<i>October 1, 2011</i>	17a-217
Sec. 11	<i>October 1, 2011</i>	17a-218
Sec. 12	<i>October 1, 2011</i>	17a-218a
Sec. 13	<i>October 1, 2011</i>	17a-220(5)
Sec. 14	<i>October 1, 2011</i>	17a-224
Sec. 15	<i>October 1, 2011</i>	17a-226
Sec. 16	<i>October 1, 2011</i>	17a-227(a)
Sec. 17	<i>October 1, 2011</i>	17a-227(e)
Sec. 18	<i>October 1, 2011</i>	17a-227a(a) and (b)
Sec. 19	<i>October 1, 2011</i>	17a-228
Sec. 20	<i>October 1, 2011</i>	17a-231
Sec. 21	<i>October 1, 2011</i>	17a-232(a)
Sec. 22	<i>October 1, 2011</i>	17a-233
Sec. 23	<i>October 1, 2011</i>	17a-247(b)
Sec. 24	<i>October 1, 2011</i>	17a-270
Sec. 25	<i>October 1, 2011</i>	17a-272(a)
Sec. 26	<i>October 1, 2011</i>	17a-273(a) and (b)
Sec. 27	<i>October 1, 2011</i>	17a-274
Sec. 28	<i>October 1, 2011</i>	17a-275

Sec. 29	October 1, 2011	17a-276
Sec. 30	October 1, 2011	17a-277
Sec. 31	October 1, 2011	17a-281
Sec. 32	October 1, 2011	17a-282
Sec. 33	October 1, 2011	17a-580
Sec. 34	October 1, 2011	17b-226
Sec. 35	October 1, 2011	19a-638(a)(17)
Sec. 36	October 1, 2011	45a-674
Sec. 37	October 1, 2011	46a-11b
Sec. 38	October 1, 2011	53a-59a
Sec. 39	October 1, 2011	53a-60b
Sec. 40	October 1, 2011	53a-60c
Sec. 41	October 1, 2011	53a-61a
Sec. 42	October 1, 2011	53a-320
Sec. 43	October 1, 2011	53a-321
Sec. 44	October 1, 2011	53a-322
Sec. 45	October 1, 2011	53a-323
Sec. 46	October 1, 2011	54-56d(i)
Sec. 47	October 1, 2011	New section

Statement of Legislative Commissioners:

In section 47, references to "intermediate care facilities for the mentally retarded" and similar references were excluded from the proposed list of statutory changes in order to maintain consistency with federal law.

JUD *Joint Favorable Subst.*

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

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill allows a parent or guardian of a person under age 18 to apply for guardianship of that child 180 days prior to that child turning 18. This revision to the probate court guardianship application timeline is procedural, and is not expected to result in a fiscal impact. The bill also makes technical changes, including updating terminology to mirror recent changes in federal law, that have no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6440*****AN ACT CONCERNING APPLICATIONS FOR GUARDIANSHIP OF AN ADULT WITH INTELLECTUAL DISABILITY AND STATUTORY CHANGES RELATED TO INTELLECTUAL DISABILITY.*****SUMMARY:**

This bill makes technical changes by substituting the term “intellectual disability” for “mental retardation” in numerous sections of the general statutes, except for references to intermediate care facilities. This reflects changes in federal law and within the developmental disabilities community.

The bill specifies that for purposes of the general statutes, “intellectual disability” and “mental retardation” have the same meaning: a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Current law already applies this definition of mental retardation to many sections of the law. The bill also specifies that to the extent required by federal law, “intellectual disability” has the same meaning as “mental retardation.”

The bill makes other changes to the Department of Developmental Services (DDS) statutes, including:

1. specifying that the right to request a hearing for a final determination by DDS denying someone eligibility for department programs and services only extends to people with intellectual disabilities (rather than anyone denied eligibility) or their parents, guardians, conservators, or other legal representatives (§ 7);
2. specifying that for purposes of the department’s community

residential facility revolving loan program, such facilities are open to people with “autism spectrum disorder” instead of just “autism,” to encompass all autism diagnoses on the autism spectrum (§ 13); and

3. replacing references to “community training homes” with “community companion homes and community living arrangements” to reflect updated terminology.

The bill also makes a change regarding applications for guardianship. It allows a minor’s parent or guardian who anticipates that the minor will need a guardian after turning 18 to file an application for guardianship up to 180 days before the minor’s eighteenth birthday. Under the bill, a probate court may grant such an application according to existing law for guardianship applications, provided that the order takes effect no earlier than the minor’s eighteenth birthday (§ 1).

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2011

SUBSTITUTION OF “INTELLECTUAL DISABILITY” FOR “MENTAL RETARDATION”

The bill specifies that the substitution of the term “intellectual disability” for “mental retardation,” as well as the substitution of related phrases, applies to specified sections of the general statutes as well as to public acts passed in the 2011 session.

The bill requires the Legislative Commissioners’ Office to make technical, grammatical, and punctuation changes needed to carry out these purposes when codifying the bill.

BACKGROUND

Updated Terminology

A recently enacted federal law, known as “Rosa’s Law” (P. L. 111-256), changes references in federal law from “mental retardation” to

“intellectual disability” and from a “mentally retarded individual” to an “individual with an intellectual disability.”

The new edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) by the American Psychiatric Association, scheduled to take effect in May 2013, will change the term “mental retardation” to “intellectual disability” and the term “autistic disorder” to “autism spectrum disorder.”

Related Bills

HB 6278 (File 93), reported favorably by the Public Health Committee, substitutes the term “intellectual disability” for “mental retardation” and “autism spectrum disorder” for “autism” in the DDS statutes pertaining to its provision of autism services.

sHB 6279 (File 466), reported favorably by the Public Health Committee, updates terminology used by DDS and the Office of Protection and Advocacy for Persons With Disabilities in their provision of services. It substitutes the term “intellectual disability” for “mental retardation.” It also uses the term “autism spectrum disorder” instead of just “autism” to encompass all autism diagnoses on the autism spectrum.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 44 Nay 0 (04/12/2011)