



General Assembly

January Session, 2011

**Raised Bill No. 6440**

LCO No. 3837

\*03837\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

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

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 Section 45a-670 of the general statutes is repealed and the  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 "intellectual disabilities" means a significantly subaverage general  
45 intellectual functioning existing concurrently with deficits in adaptive  
46 behavior and manifested during the developmental period. For the  
47 purposes of the general statutes and the regulations of Connecticut

48 State Agencies, and to the extent required by federal law, "intellectual  
49 disability" and "intellectual disabilities" shall have the same meaning  
50 as "mental retardation".

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

63 Sec. 3. Section 8-119t of the general statutes is repealed and the  
64 following is substituted in lieu thereof (*Effective October 1, 2011*):

65 (a) The Commissioner of Economic and Community Development  
66 shall encourage the development of independent living opportunities  
67 for low and moderate income handicapped and developmentally  
68 disabled persons by making grants-in-aid, within available  
69 appropriations, to state-wide, private, nonprofit housing development  
70 corporations which are organized and operating for the purpose of  
71 expanding independent living opportunities for such persons. Such  
72 grants-in-aid shall be used to facilitate the development of small,  
73 noninstitutionalized living units for such persons, through programs  
74 including, but not limited to, preproject development, receipt of  
75 federal funds, site acquisition and architectural review. For the  
76 purposes of this part, "handicapped and developmentally disabled  
77 persons" means any persons who are physically or mentally  
78 handicapped, including, but not limited to, [mentally retarded,]  
79 autistic persons, persons who have an intellectual disability or persons

80 who are physically disabled [,] or sensory impaired, [and autistic  
81 persons.]

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

85 Sec. 4. Subparagraph (B) of subdivision (7) of section 12-81 of the  
86 general statutes is repealed and the following is substituted in lieu  
87 thereof (*Effective October 1, 2011*):

88 (B) On and after July 1, 1967, housing subsidized, in whole or in  
89 part, by federal, state or local government and housing for persons or  
90 families of low and moderate income shall not constitute a charitable  
91 purpose under this section. As used in this subdivision, "housing" shall  
92 not include real property used for temporary housing belonging to, or  
93 held in trust for, any corporation organized exclusively for charitable  
94 purposes and exempt from taxation for federal income tax purposes,  
95 the primary use of which property is one or more of the following: (i)  
96 An orphanage; (ii) a drug or alcohol treatment or rehabilitation facility;  
97 (iii) housing for homeless, [retarded or] mentally or physically  
98 handicapped individuals or persons with intellectual disabilities, or for  
99 battered or abused women and children; (iv) housing for ex-offenders  
100 or for individuals participating in a program sponsored by the state  
101 Department of Correction or Judicial Branch; and (v) short-term  
102 housing operated by a charitable organization where the average  
103 length of stay is less than six months. The operation of such housing,  
104 including the receipt of any rental payments, by such charitable  
105 organization shall be deemed to be an exclusively charitable purpose;

106 Sec. 5. Subdivision (4) of subsection (a) of section 14-96p of the  
107 general statutes is repealed and the following is substituted in lieu  
108 thereof (*Effective October 1, 2011*):

109 (4) Flashing or revolving white lights may not be displayed upon a  
110 motor vehicle except (A) on fire emergency apparatus, (B) on motor

111 vehicles of paid fire chiefs and their deputies and assistants, up to a  
112 total of five individuals per department, and may be displayed in  
113 combination with flashing or revolving red lights, (C) on motor  
114 vehicles of volunteer fire chiefs and their deputies and assistants, up to  
115 a total of five individuals per department, and may be displayed in  
116 combination with flashing or revolving red lights, (D) as a means of  
117 indicating a right or left turn, (E) in conjunction with flashing red  
118 lights on an ambulance responding to an emergency call, or (F) on the  
119 top rear of any school bus. For the purpose of this subsection, the term  
120 "handicapped students" means [mentally retarded,] students who have  
121 intellectual disabilities or students who are hard of hearing, deaf,  
122 speech-impaired, visually handicapped, emotionally disturbed,  
123 orthopedically impaired or [other health-impaired students] have  
124 other health impairments, or students with specific learning  
125 disabilities, who by reason thereof, require special education and  
126 related services; and the term "flashing white lights" shall not include  
127 the simultaneous flashing of head lamps.

128 Sec. 6. Section 17a-210 of the general statutes is repealed and the  
129 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

144 retardation] intellectual disabilities. The commissioner shall be  
145 responsible, with the advice of the council, for: (1) Planning and  
146 developing complete, comprehensive and integrated state-wide  
147 services for persons with [mental retardation] intellectual disabilities;  
148 (2) the implementation and where appropriate the funding of such  
149 services; and (3) the coordination of the efforts of the Department of  
150 Developmental Services with those of other state departments and  
151 agencies, municipal governments and private agencies concerned with  
152 and providing services for persons with [mental retardation]  
153 intellectual disabilities. The commissioner shall be responsible for the  
154 administration and operation of the state training school, state  
155 developmental services regions and all state-operated community-  
156 based residential facilities established for the diagnosis, care and  
157 training of persons with [mental retardation] intellectual disabilities.  
158 The commissioner shall be responsible for establishing standards,  
159 providing technical assistance and exercising the requisite supervision  
160 of all state-supported residential, day and program support services  
161 for persons with [mental retardation] intellectual disabilities and work  
162 activity programs operated pursuant to section 17a-226, as amended  
163 by this act. The commissioner shall stimulate research by public and  
164 private agencies, institutions of higher education and hospitals, in the  
165 interest of the elimination and amelioration of [mental retardation]  
166 intellectual disabilities and care and training of persons with [mental  
167 retardation] intellectual disabilities. The commissioner shall conduct or  
168 monitor investigations into allegations of abuse and neglect and file  
169 reports as requested by state agencies having statutory responsibility  
170 for the conduct and oversight of such investigations. In the event of the  
171 death of a person with [mental retardation] intellectual disabilities for  
172 whom the department has direct or oversight responsibility for  
173 medical care, the commissioner shall ensure that a comprehensive and  
174 timely review of the events, overall care, quality of life issues and  
175 medical care preceding such death is conducted by the department  
176 and shall, as requested, provide information and assistance to the  
177 Independent Mortality Review Board established by Executive Order

178 No. 25 of Governor John G. Rowland. The commissioner shall report to  
179 the board and the board shall review any death: (A) Involving an  
180 allegation of abuse or neglect; (B) for which the Office of the Chief  
181 Medical Examiner or local medical examiner has accepted jurisdiction;  
182 (C) in which an autopsy was performed; (D) which was sudden and  
183 unexpected; or (E) in which the commissioner's review raises questions  
184 about the appropriateness of care. The department's mortality review  
185 process and the Independent Mortality Review Board shall operate in  
186 accordance with the peer review provisions established under section  
187 19a-17b for medical review teams and confidentiality of records  
188 provisions established under section 19a-25 for the Department of  
189 Public Health.

190 (b) The commissioner shall be responsible for the development of  
191 criteria as to the eligibility of any person with [mental retardation]  
192 intellectual disabilities for residential care in any public or state-  
193 supported private institution and, after considering the  
194 recommendation of a properly designated diagnostic agency, may  
195 assign such person to a public or state-supported private institution.  
196 The commissioner may transfer such persons from one such institution  
197 to another when necessary and desirable for their welfare, provided  
198 such person and such person's parent, conservator, guardian or other  
199 legal representative receive written notice of their right to object to  
200 such transfer at least ten days prior to the proposed transfer of such  
201 person from any such institution or facility. Such prior notice shall not  
202 be required when transfers are made between residential units within  
203 the training school or a state developmental services region or when  
204 necessary to avoid a serious and immediate threat to the life or  
205 physical or mental health of such person or others residing in such  
206 institution or facility. The notice required by this subsection shall  
207 notify the recipient of his or her right to object to such transfer, except  
208 in the case of an emergency transfer as provided in this subsection, and  
209 shall include the name, address and telephone number of the Office of  
210 Protection and Advocacy for Persons with Disabilities. In the event of  
211 an emergency transfer, the notice required by this subsection shall

212 notify the recipient of his or her right to request a hearing in  
213 accordance with subsection (c) of this section and shall be given within  
214 ten days following the emergency transfer. In the event of an objection  
215 to the proposed transfer, the commissioner shall conduct a hearing in  
216 accordance with subsection (c) of this section and the transfer shall be  
217 stayed pending final disposition of the hearing, provided no such  
218 hearing shall be required if the commissioner withdraws such  
219 proposed transfer.

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

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

245 provisions of chapter 54.

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

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

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

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

277 Sec. 8. Subsections (f) to (i), inclusive, of section 17a-215c of the  
278 general statutes are repealed and the following is substituted in lieu  
279 thereof (*Effective October 1, 2011*):

280 (f) The Division of Autism Spectrum Services shall research and  
281 locate possible funding streams for the continued development and  
282 implementation of services for persons with autism spectrum  
283 disorders without mental retardation. The division shall take all  
284 necessary action, in coordination with the Department of Social  
285 Services, to secure Medicaid reimbursement for home and community-  
286 based individualized support services for adults with autism spectrum  
287 disorders, but who [are not mentally retarded] do not have an  
288 intellectual disability. Such action may include applying for a  
289 Medicaid waiver pursuant to Section 1915(c) of the Social Security Act,  
290 in order to secure the funding for such services.

291 (g) The Division of Autism Spectrum Services, within available  
292 appropriations, shall: (1) Design and implement a training initiative  
293 that shall include training to develop a workforce; (2) develop an  
294 autism-specific curriculum in coordination with the Department of  
295 Higher Education; and (3) to the extent federal reimbursement permits,  
296 develop an education and training initiative eligible for the receipt of  
297 funding pursuant to the federal Combating Autism Act, P.L. 109-416.

298 (h) The case records of the Division of Autism Spectrum Services  
299 maintained by the division for any purpose authorized pursuant to  
300 subsections (b) to (g), inclusive, of this section shall be subject to the  
301 same confidentiality requirements, under state and federal law, that  
302 govern all client records maintained by the Department of  
303 Developmental Services.

304 (i) The Commissioner of Social Services, in consultation with the  
305 Commissioner of Developmental Services, may seek approval of an  
306 amendment to the state Medicaid plan or a waiver from federal law,  
307 whichever is sufficient and most expeditious, to establish and  
308 implement a Medicaid-financed home and community-based program

309 to provide community-based services and, if necessary, housing  
310 assistance, to adults with autism spectrum disorders who [are not  
311 mentally retarded] do not have an intellectual disability.

312 Sec. 9. Section 17a-217 of the general statutes is repealed and the  
313 following is substituted in lieu thereof (*Effective October 1, 2011*):

314 (a) The Department of Developmental Services shall develop day  
315 care programs, day camp programs and recreational programs for  
316 children and adults with [mental retardation] intellectual disabilities.  
317 Any nonprofit organization which establishes or maintains day care  
318 programs, day camp programs or recreational programs for children  
319 or adults with [mental retardation] intellectual disabilities may apply  
320 to the Department of Developmental Services for funds to be used to  
321 assist in establishing, maintaining or expanding such programs. For  
322 the purposes of this section: (1) A day care program (A) may provide  
323 for the care and training of preschool age children to enable them to  
324 achieve their maximum social, physical and emotional potential; (B)  
325 may provide adolescents and adults with [mental retardation]  
326 intellectual disabilities with an activity program which includes  
327 training in one or more of the following areas: (i) Self-care, (ii)  
328 activities of daily living, (iii) personal and social adjustment, (iv) work  
329 habits, and (v) skills, speech and language development; (2) a day  
330 camp program may provide children or adults with [mental  
331 retardation] intellectual disabilities with a supervised program of [out-  
332 of-doors] outdoor activities which may be conducted during all or part  
333 of the months of June, July, August and September; and (3) a  
334 recreational program may provide planned and supervised  
335 recreational activities for children or adults with [mental retardation]  
336 intellectual disabilities, which activities may be of a social, athletic or  
337 purely diversionary nature and which programs shall be considered  
338 separate and apart from the day camp program described in  
339 subdivision (2) of this subsection.

340 (b) No grant made under this section to assist in establishing,

341 maintaining or expanding any program set forth in subsection (a) of  
342 this section shall exceed the ordinary and recurring annual operating  
343 expenses of such program, nor shall any grant be made to pay for all or  
344 any part of capital expenditures. The Department of Developmental  
345 Services shall: (1) Define minimum requirements to be met by each  
346 program in order to be eligible to receive funds as provided for by this  
347 section in regard to qualification and number of staff members and  
348 program operation, including, but not limited to, physical plant and  
349 record keeping; (2) establish procedures to be used in making  
350 application for such funds; and (3) adopt regulations, in accordance  
351 with chapter 54, governing the granting of funds to assist in the  
352 establishment of day care programs, day camp programs and  
353 recreational programs for persons with [mental retardation]  
354 intellectual disabilities. Upon receipt of proper application, the  
355 Department of Developmental Services, within available  
356 appropriations, may grant such funds, provided the plans for  
357 financing and the standards of operation of such programs shall be  
358 approved by the department in accordance with the provisions of this  
359 section. For the purpose of developing such programs, the department  
360 may accept grants from the federal government, a municipality or any  
361 other source.

362 Sec. 10. Section 17a-218 of the general statutes is repealed and the  
363 following is substituted in lieu thereof (*Effective October 1, 2011*):

364 (a) For purposes of this section, the following terms have the  
365 following meanings: "Commissioner" means the Commissioner of  
366 Developmental Services; "department" means the Department of  
367 Developmental Services; and "emergency placement" means cases in  
368 which there has been a request for a residential accommodation for an  
369 individual for whom there is an unforeseen emergency in his current  
370 living arrangement, or cases in which the department has had no  
371 previous knowledge of a need for placement, or cases in which such a  
372 placement is needed because of actions of another state agency or  
373 department, including, but not limited to, the Department of Mental

374 Health and Addiction Services, the Department of Children and  
375 Families, and any court, or cases prior to any other planned  
376 placements, because the health or safety of the individual needing such  
377 placement would be adversely affected without such placement.

378 (b) The commissioner shall plan, develop and administer a  
379 comprehensive program of community-based residential facilities  
380 including, but not limited to, transitional facilities, group homes,  
381 community [training homes] companion homes, community living  
382 arrangements and supervised apartments. On and after January 1,  
383 1997, every contract by the commissioner for the construction,  
384 renovation or rehabilitation of a community-based residential facility  
385 shall be awarded to the lowest responsible and qualified bidder on the  
386 basis of competitive bids in accordance with procedures which the  
387 commissioner shall establish in regulations adopted by the  
388 commissioner in accordance with the provisions of chapter 54.

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

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

400 (e) The commissioner may, within available appropriations and in  
401 accordance with individualized plans of care, provide a full range of  
402 services to support persons with [mental retardation] intellectual  
403 disabilities living with their families, caretakers, independently or in  
404 community-based residential facilities licensed pursuant to section  
405 17a-227, as amended by this act. Such services may include, but are not

406 limited to, education and training programs, social services, counseling  
407 services, medical services, physical or occupational therapy, parent  
408 training, recreation and transportation. Such services may be provided  
409 by the department or be purchased from persons or private agencies  
410 through contracts pursuant to subsection (d) of section 4-70b or  
411 purchased directly by the service recipient or his family. The  
412 department may provide a direct subsidy to persons with [mental  
413 retardation] intellectual disabilities or their families to be used for such  
414 purchases of such support services. The recipient of such subsidy shall  
415 provide a documented accounting of such subsidy to the department.

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

426 (g) Any person who is in or is seeking a placement through the  
427 Department of Developmental Services or is receiving any support or  
428 service that is included within or covered by any federal program  
429 being administered and operated by the Department of Social Services  
430 and the Department of Developmental Services, and who meets the  
431 eligibility criteria for the federal program, shall enroll in such program  
432 in order to continue in the existing placement or to remain eligible for  
433 a placement or continue to receive such support or service. Any person  
434 who is ineligible for such federal program due to excess income or  
435 assets may continue in existing placement, or continue to receive  
436 existing supports and services through the Department of  
437 Developmental Services while spending down available excess income  
438 and assets until such person qualifies for enrollment in the applicable

439 federal program. The Commissioner of Developmental Services may  
440 make exceptions to the requirements of this provision and provide or  
441 continue to provide, within available appropriations, placement,  
442 support or services to individuals who are not eligible for enrollment  
443 in such federal programs and for whom it is determined there is a legal  
444 requirement to serve pursuant to state or federal law or court order.

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

447 (a) The Commissioner of Developmental Services shall continue the  
448 operation of the Southbury Training School and shall establish criteria  
449 to evaluate the current population of the training school in regard to  
450 community placement and training school placement. The criteria shall  
451 include, at a minimum, consideration of the client's age, physical  
452 disabilities, medical fragility, level of [mental retardation] intellectual  
453 disability, length of residence at the school and availability of an  
454 appropriate placement.

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

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

461 Sec. 12. Subdivision (5) of section 17a-220 of the general statutes is  
462 repealed and the following is substituted in lieu thereof (*Effective*  
463 *October 1, 2011*):

464 (5) "Community residential facility" means a community-based  
465 residential facility which houses up to six persons with [mental  
466 retardation] intellectual disability or autism spectrum disorder and  
467 which provides food, shelter, personal guidance and, to the extent  
468 necessary, continuing health-related services and care for persons

469 requiring assistance to live in the community, provided any such  
470 facilities in operation on July 1, 1985, which house more than six  
471 persons with [mental retardation] intellectual disability or autism  
472 spectrum disorder shall be eligible for loans for rehabilitation under  
473 this section and sections 17a-221 to 17a-225, inclusive, as amended by  
474 this act. Such facility shall be licensed and may be certified;

475 Sec. 13. Section 17a-224 of the general statutes is repealed and the  
476 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

482 Sec. 14. Section 17a-226 of the general statutes is repealed and the  
483 following is substituted in lieu thereof (*Effective October 1, 2011*):

484 The Commissioner of Developmental Services shall develop, [to the  
485 extent funding is available] within available appropriations, a program  
486 of employment opportunities and day services for adults with [mental  
487 retardation] intellectual disability. Any nonprofit organization which  
488 provides such services may apply to the Department of Developmental  
489 Services for funds to be used to assist in establishing, maintaining or  
490 expanding its program. No funding to assist in establishing,  
491 maintaining or expanding programs of employment opportunities and  
492 day services under the provisions of this section shall exceed the  
493 ordinary and recurring operating expenses of such employment  
494 opportunities and day services. The Commissioner of Developmental  
495 Services shall establish the requirements to be met by such  
496 organizations in order to be eligible to receive funds as provided by  
497 this section and establish procedures to be used in making application  
498 for such funds. Upon receipt of proper application, the Department of  
499 Developmental Services [, if funding is available,] shall, within  
500 available appropriations, provide such funds, provided the

501 organization meets the requirements established by the commissioner  
502 in accordance with the provisions of this section. The Department of  
503 Developmental Services may receive federal, municipal or private  
504 funds available or tendered on a matching or supporting basis for the  
505 development, maintenance and promotion of employment  
506 opportunities and day services. [For purposes of this section,  
507 "employment opportunities and day services" means the following  
508 programs operated or funded by the Department of Developmental  
509 Services for adults: Supported employment, sheltered employment,  
510 community experience, adult day treatment and opportunities for  
511 older adults.]

512 Sec. 15. Subsection (a) of section 17a-227 of the general statutes is  
513 repealed and the following is substituted in lieu thereof (*Effective*  
514 *October 1, 2011*):

515 (a) No person, firm or corporation shall conduct or maintain within  
516 this state a residential facility which it owns, leases or rents for the  
517 lodging, care or treatment of persons with [mental retardation]  
518 intellectual disabilities or autistic persons unless such person, firm or  
519 corporation, upon written application, verified by oath, has obtained a  
520 license issued by the Department of Developmental Services.

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

524 (e) The department may contract with any person, firm or  
525 corporation to provide residential support services for persons with  
526 [mental retardation] intellectual disabilities who reside in settings  
527 which are not licensed by the department. The commissioner shall  
528 adopt regulations, in accordance with the provisions of chapter 54, to  
529 ensure the safety, adequate supervision and support of persons  
530 receiving residential support services.

531 Sec. 17. Subsections (a) and (b) of section 17a-227a of the general

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

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

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

549 Sec. 18. Section 17a-228 of the general statutes is repealed and the  
550 following is substituted in lieu thereof (*Effective October 1, 2011*):

551 (a) If a person with [mental retardation] intellectual disabilities  
552 residing in a residential facility for [the mentally retarded] persons  
553 with intellectual disabilities licensed pursuant to section 17a-227, as  
554 amended by this act, but not certified to participate in the Title XIX  
555 Medicaid program as an intermediate care facility for the mentally  
556 retarded, qualifies for the program of state supplementation to the  
557 Supplemental Security Income Program, the Commissioner of Social  
558 Services shall pay, under such qualifying program, on behalf of such  
559 person the rate established pursuant to subsection (b) of section 17b-  
560 244 for room and board, after a reasonable deduction, as determined  
561 by the commissioner, to reflect such person's income. The Department  
562 of Developmental Services shall pay the rate established pursuant to  
563 subsection (b) of section 17b-244 for services other than room and

564 board provided on behalf of any person whose admission to the  
565 facility has been authorized by the Department of Developmental  
566 Services.

567 (b) Notwithstanding the provisions of subsection (a) of this section,  
568 persons residing in residential facilities for [the mentally retarded]  
569 persons with intellectual disabilities licensed pursuant to section 17a-  
570 227, as amended by this act, and receiving state payment for the cost of  
571 such services on October 1, 1983, shall be deemed to have been  
572 authorized for admission by the Department of Developmental  
573 Services. In addition, any person who is admitted to a residential  
574 facility for [the mentally retarded] persons with intellectual disabilities  
575 after October 1, 1983, and not later than December 31, 1983, which  
576 facility is licensed pursuant to said section after October 1, 1983, and  
577 who is receiving state payment for the cost of such services, shall be  
578 deemed to have been authorized for admission by the Department of  
579 Developmental Services if (1) not later than July 15, 1983, the applicant  
580 for licensure owns or has an interest in the facility or land upon which  
581 the facility shall be located, or concludes a closing transaction on any  
582 mortgage loan secured by mortgage on such facility or land, (2) such  
583 facility is licensed not later than December 31, 1983, and (3) the  
584 applicant for licensure presents evidence to the Commissioner of  
585 Developmental Services that commitments had been made by such  
586 applicant not later than July 15, 1983, for the placement of individuals  
587 in such facility.

588 (c) The Department of Social Services shall continue to make  
589 payments on behalf of persons residing, on or before October 1, 1983,  
590 in residential facilities licensed pursuant to section 17a-227, as  
591 amended by this act, on or before October 1, 1983, but not certified as  
592 intermediate care facilities for the mentally retarded, and on behalf of  
593 persons authorized for admission into such facilities by the  
594 Department of Developmental Services after October 1, 1983, who are  
595 otherwise eligible for assistance under sections 17b-600 to 17b-604,  
596 inclusive. Such payment shall be on the same basis and at the same

597 rate which is in effect on October 1, 1983, and shall continue to pay  
598 such rate until the next succeeding annual rate is determined as  
599 provided in section 17b-244 and in this section.

600 (d) Each individual authorized for admission pursuant to  
601 subsections (a) or (b) of this section into a residential facility for [the  
602 mentally retarded] persons with intellectual disabilities licensed  
603 pursuant to section 17a-227, as amended by this act, shall be reviewed  
604 annually by the Department of Developmental Services. Upon  
605 completion of the annual review, the Department of Developmental  
606 Services may (1) renew the authorization of the individual for  
607 continued state-assisted care in the residential facility, (2) refuse to  
608 renew the authorization of the individual for continued state-assisted  
609 care in the residential facility but authorize admission into alternate  
610 facilities or (3) refuse to renew the authorization of the individual for  
611 continued state-assisted care in the facility and refuse to authorize  
612 continued state-assisted care in alternate facilities. If the Department of  
613 Developmental Services refuses to renew the authorization of the  
614 individual for continued state-assisted care in the residential facility  
615 and either authorizes admission into alternative facilities or refuses to  
616 authorize the individual for state-assisted care in any such alternative  
617 facility, the Department of Developmental Services shall continue to  
618 pay the rate established pursuant to section 17b-244 for such time as  
619 may be administratively necessary for the Department of  
620 Developmental Services to arrange for an appropriate transfer.

621 (e) Whenever the Department of Developmental Services refuses to  
622 renew the authorization of a person for continued state-assisted care in  
623 a licensed residential facility for [the mentally retarded] persons with  
624 intellectual disabilities pursuant to subsection (d) of this section and  
625 either authorizes the individual for admission into alternate facilities  
626 or refuses to authorize the individual for continued state-assisted care  
627 in any alternative facility, the Department of Developmental Services  
628 shall give thirty days' notice of its determination to the previously  
629 authorized individual and to such individual's parent, conservator,

630 guardian or other legal representative. Such notice shall also notify  
631 each such individual or his legal representative of the individual's  
632 right to contest the determination by submitting a request for a hearing  
633 in writing to the Commissioner of Developmental Services [within] not  
634 later than fifteen days after the date of receiving the notice required by  
635 this subsection. Such hearing, if requested, shall be conducted in  
636 accordance with the provisions of sections 4-176e to 4-184, inclusive.  
637 State-assisted care shall continue in the present facility pending final  
638 disposition of any such hearing.

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

652 Sec. 19. Section 17a-231 of the general statutes is repealed and the  
653 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

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

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

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

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

675 (5) "Habitual violation" means a violation of regulations adopted  
676 pursuant to section 17a-227, as amended by this act, which, due to its  
677 repetition, presents a reasonable likelihood of serious physical or  
678 mental harm to residents of a residential facility for [mentally  
679 retarded] persons with intellectual disabilities.

680 Sec. 20. Subsection (a) of section 17a-232 of the general statutes is  
681 repealed and the following is substituted in lieu thereof (*Effective*  
682 *October 1, 2011*):

683 (a) An application to appoint a receiver for a residential facility for  
684 [mentally retarded] persons with intellectual disabilities may be filed  
685 in the Superior Court by the Commissioner of Developmental Services  
686 or the director of the Office of Protection and Advocacy for Persons  
687 with Disabilities. A resident of the facility or the resident's legally  
688 liable relative, conservator, or guardian may file a written complaint  
689 with the Commissioner of Developmental Services specifying  
690 conditions at the facility which warrant an application to appoint a  
691 receiver. If the Commissioner of Developmental Services fails to  
692 resolve the complaint within forty-five days of its receipt or, in the case

693 of a facility which intends to close, within seven days of its receipt, the  
694 person who filed the complaint may file an application in the Superior  
695 Court for the appointment of a receiver for the facility. The court shall  
696 immediately notify the Attorney General of the application. The court  
697 shall hold a hearing not later than ten days after the date the  
698 application is filed. Notice of the hearing shall be given to the owner of  
699 the facility or the owner's agent for service of process not less than five  
700 days prior to the hearing. The notice shall be posted by the court in a  
701 conspicuous place inside the facility for not less than three days prior  
702 to the hearing.

703 Sec. 21. Section 17a-233 of the general statutes is repealed and the  
704 following is substituted in lieu thereof (*Effective October 1, 2011*):

705 (a) The court may grant an application for the appointment of a  
706 receiver for a residential facility for [mentally retarded] persons with  
707 intellectual disabilities upon a finding of any of the following: (1) The  
708 facility is operating without a license issued pursuant to section 17a-  
709 227, as amended by this act; (2) the facility intends to close and  
710 adequate arrangements for relocation of its residents have not been  
711 made [at least] not less than thirty days prior to the date of the  
712 intended closing; (3) there exists in the facility a condition in  
713 substantial violation of regulations established pursuant to section 17a-  
714 227, as amended by this act; (4) there exists in the facility a practice of  
715 habitual violation of regulations established pursuant to section 17a-  
716 227, as amended by this act.

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

725 in subdivision (2) of subsection (a) of this section, the facility does not  
726 intend to close.

727 Sec. 22. Subsection (b) of section 17a-247 of the general statutes is  
728 repealed and the following is substituted in lieu thereof (*Effective*  
729 *October 1, 2011*):

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

734 Sec. 23. Section 17a-270 of the general statutes is repealed and the  
735 following is substituted in lieu thereof (*Effective October 1, 2011*):

736 (a) There is established a Council on Developmental Services which  
737 shall consist of thirteen members appointed as follows: Eight shall be  
738 appointed by the Governor, one of whom shall be a doctor of  
739 medicine, one of whom shall be a person with [mental retardation] an  
740 intellectual disability who is receiving services from the Department of  
741 Developmental Services and at least two of whom shall be parents or  
742 guardians of persons with [mental retardation] intellectual disabilities,  
743 to serve for terms of two years each; four shall be appointed by  
744 members of the General Assembly for two-year terms, one of whom  
745 shall be a parent or guardian of a person with [mental retardation] an  
746 intellectual disability, appointed by the speaker of the House, one  
747 appointed by the minority leader of the House, one appointed by the  
748 president pro tempore of the Senate and one of whom shall be a parent  
749 or guardian of a person with [mental retardation] an intellectual  
750 disability, appointed by the minority leader of the Senate; and one of  
751 whom shall be a member of the board of trustees of the Southbury  
752 Training School, appointed by said board for a term of one year. No  
753 member of the council may serve more than three consecutive terms,  
754 except that a member may continue to serve until a successor is  
755 appointed. The members of the council shall serve without  
756 compensation except for necessary expenses incurred in performing

757 their duties. The Commissioner of Developmental Services or the  
758 commissioner's designee shall be an ex-officio member of the Council  
759 on Developmental Services without vote and shall attend its meetings.  
760 No employee of any state agency engaged in the care or training of  
761 persons with [mental retardation] intellectual disabilities shall be  
762 eligible for appointment to the council. The council shall appoint  
763 annually, from among its members, a chairperson, vice chairperson  
764 and secretary. The council may make rules for the conduct of its  
765 affairs. The council shall meet at least bimonthly and at other times  
766 upon the call of the chair or the written request of any two members.

767 (b) The council shall consider and advise on such matters as its  
768 members, the board of trustees of the training school and the  
769 Commissioner of Developmental Services may request. The council  
770 shall consult with the Commissioner of Developmental Services on the  
771 administration of the state program for persons with [mental  
772 retardation] intellectual disabilities. The council shall recommend to  
773 the Governor and to the General Assembly such legislation as will in  
774 its judgment improve the care and training of persons with [mental  
775 retardation] intellectual disabilities.

776 Sec. 24. Subsection (a) of section 17a-272 of the general statutes is  
777 repealed and the following is substituted in lieu thereof (*Effective*  
778 *October 1, 2011*):

779 (a) The director of each training school or state developmental  
780 services region shall be appointed by the Commissioner of  
781 Developmental Services, and shall be removable in the same manner.  
782 The director shall be a trained administrator of services and facilities  
783 engaged in the care, custody, treatment and training of [mentally  
784 retarded] persons with intellectual disabilities. Each director shall be  
785 subject to the direction of the Commissioner of Developmental  
786 Services and shall be responsible for the operation and the  
787 administration of the training school or state developmental services  
788 region.

789 Sec. 25. Subsections (a) and (b) of section 17a-273 of the general  
790 statutes are repealed and the following is substituted in lieu thereof  
791 (*Effective October 1, 2011*):

792 (a) The Commissioner of Developmental Services shall appoint at  
793 least one advisory and planning council for each state developmental  
794 services region operated by the Department of Developmental  
795 Services, which council shall have the responsibility of consulting with  
796 and advising the director of the region on the needs of persons with  
797 [mental retardation] intellectual disabilities in the region, the annual  
798 plan and budget of the region and other matters deemed appropriate  
799 by the council.

800 (b) Each such council shall consist of at least ten members appointed  
801 from the state developmental services region. No employee of any  
802 state agency engaged in the care or training of persons with [mental  
803 retardation] intellectual disabilities shall be eligible for appointment.  
804 At least one member shall be designated by a local chapter of the Arc  
805 of Connecticut in the region. At least one member shall be an  
806 individual who is eligible for and receives services from the  
807 Department of Developmental Services. At least two members shall be  
808 parents of persons with [mental retardation] intellectual disabilities.  
809 Members shall be appointed for terms of three years. No member may  
810 serve more than two consecutive terms. Each council shall appoint  
811 annually, from among its members, a chairperson, vice-chairperson  
812 and secretary. The council may make rules for the conduct of its  
813 affairs. The director of the region shall be an ex-officio member of the  
814 council without vote and shall attend its meetings.

815 Sec. 26. Section 17a-274 of the general statutes is repealed and the  
816 following is substituted in lieu thereof (*Effective October 1, 2011*):

817 (a) Any court of probate shall have the power to place any person  
818 residing in its district whom it finds to be a [mentally retarded] person  
819 with an intellectual disability with the Department of Developmental  
820 Services for placement in any appropriate setting which meets [his

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

840 (b) Application to the Probate Court for placement under this  
841 section may be made by any interested party. The application and all  
842 records of Probate Court proceedings held as a result of the filing of  
843 such application, except for the name of any guardian of the  
844 respondent, shall be sealed and shall be made available only to the  
845 respondent or the respondent's counsel or guardian, and to the  
846 Commissioner of Developmental Services or the commissioner's  
847 designee, unless the Probate Court, after hearing held with notice to  
848 the respondent or the respondent's counsel or guardian, and to the  
849 commissioner or the commissioner's designee, determines that such  
850 application and records should be disclosed for cause shown. The  
851 application shall allege that the respondent is a person with [mental  
852 retardation] an intellectual disability and (1) is unable to provide for  
853 himself or herself at least one of the following: Education, habilitation,  
854 care for personal health and mental health needs, meals, clothing, safe

855 shelter or protection from harm; (2) has no family or guardian to care  
856 for the respondent or the respondent's family or guardian can no  
857 longer provide adequate care for the respondent; (3) is unable to obtain  
858 adequate, appropriate services which would enable the respondent to  
859 receive care, treatment and education or habilitation without  
860 placement by a court of probate; and (4) is not willing to be placed  
861 under the custody and control of the Department of Developmental  
862 Services or its agents or voluntary admission has been sought by the  
863 guardian or limited guardian of the respondent appointed pursuant to  
864 chapter 779a or the provisions of sections 45a-711 to 45a-725, inclusive,  
865 and such voluntary admission has been opposed by the ward or the  
866 ward's next of kin.

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

877 (d) Notice to the respondent and Commissioner of Developmental  
878 Services shall include: The names of all persons filing the application,  
879 the allegations made in the application, the time, date and place of the  
880 hearing, and the name, address and telephone number of the attorney  
881 who will represent the respondent. The notice shall state the right of  
882 the respondent to be present at the hearing, to present evidence, to  
883 cross-examine witnesses who testify at the hearing, and to an  
884 independent diagnostic and evaluative examination by a licensed  
885 psychologist of his own choice, who may testify on his behalf. If the  
886 court finds the respondent is indigent, the notice shall further state the  
887 respondent may be represented by counsel of his own choosing, and, if

888 the court finds the respondent is indigent, that counsel shall be  
889 provided without cost. The reasonable compensation for counsel  
890 provided to indigent respondents shall be established by, and paid  
891 from funds appropriated to, the Judicial Department, however, if  
892 funds have not been included in the budget of the Judicial Department  
893 for such purposes, such compensation shall be established by the  
894 Probate Court Administrator and paid from the Probate Court  
895 Administration Fund.

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

904 (f) The court shall appoint a licensed psychologist from a panel of  
905 psychologists provided by the Office of the Probate Court  
906 Administrator to examine the respondent. The psychologist shall  
907 prepare a report on a form provided by the Probate Court. Such report  
908 shall include a statement as to whether the respondent [is mentally  
909 retarded] has an intellectual disability and an explanation of how the  
910 determination was reached. The explanation shall include the results  
911 of a psychological assessment within the past year, an interview or  
912 observation of the respondent, and an evaluation of adaptive behavior.  
913 Such report shall include a statement of the respondent's needs.  
914 Duplicate copies of the report shall be filed with the Commissioner of  
915 Developmental Services and all attorneys of record [at least] not less  
916 than five days prior to the date of the hearing. The court shall order the  
917 psychologist to appear for cross-examination at the request of the  
918 respondent if the respondent makes such request [at least] not less  
919 than three days before the date of the hearing.

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

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

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

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

949 (k) Any person or agency having reasonable cause to believe that a  
950 person [is mentally retarded] has an intellectual disability and in need  
951 of immediate care and treatment for his or her safety and welfare,

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

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

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

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

999 Sec. 27. Section 17a-275 of the general statutes is repealed and the  
1000 following is substituted in lieu thereof (*Effective October 1, 2011*):

1001 When any person is [found to be mentally retarded upon  
1002 proceedings had under sections 17a-210 to 17a-247, inclusive, and 17a-  
1003 274] involuntarily placed with the Department of Developmental  
1004 Services pursuant to the provisions of section 17a-274, as amended by  
1005 this act, all fees and expenses incurred upon such proceedings shall be  
1006 paid by the state; and, if such person is [found not to be mentally  
1007 retarded] not involuntarily placed with the department, such fees and  
1008 expenses shall be paid by the petitioner.

1009 Sec. 28. Section 17a-276 of the general statutes is repealed and the  
1010 following is substituted in lieu thereof (*Effective October 1, 2011*):

1011 (a) All persons admitted to a state training school, regional facility  
1012 or other facility provided for the care and training of [the mentally  
1013 retarded] persons with intellectual disabilities shall, until discharged  
1014 therefrom either by the commissioner or by operation of law, be under  
1015 the custody and control of the director of such facility. All costs of care  
1016 and training shall be provided pursuant to section 17b-223. Notice of

1017 discharge shall be sent by the Department of Developmental Services  
1018 to such person, his parent or guardian and the Probate Court.

1019 (b) Any person with an intellectual disability placed with the  
1020 Department of Developmental Services pursuant to section 17a-274, as  
1021 amended by this act, may request a review of his or her placement by  
1022 the Probate Court at any time after issuance of the original order of  
1023 placement and once a year thereafter. Such request shall be in writing,  
1024 shall state the reasons for review and shall be made by the [patient]  
1025 person with an intellectual disability or any other person acting on his  
1026 or her behalf. Such request shall be filed with the Probate Court, one  
1027 copy shall be served on the Commissioner of Developmental Services  
1028 and one copy shall be served on the person in charge of the facility in  
1029 which the [patient] person with an intellectual disability is placed. The  
1030 hearing on such request shall be held [within] not later than ten days,  
1031 excluding Saturdays, Sundays and holidays, after the date of the filing  
1032 of such request.

1033 (c) At such hearing the [patient] person with an intellectual  
1034 disability shall have the same rights as provided under subsections (c),  
1035 (d), (e) and (f) of section 17a-274, as amended by this act. The  
1036 Department of Developmental Services shall notify each person placed  
1037 pursuant to section 17a-274, as amended by this act, at least annually  
1038 that such person has the right to a hearing to review the  
1039 appropriateness and adequacy of his or her placement. At such  
1040 hearing, if the court finds that the person is no longer in need of  
1041 placement, [it] the court shall order the placement terminated. If the  
1042 court finds that the person's placement does not adequately meet his or  
1043 her needs in the least restrictive environment available or which can be  
1044 created within existing resources of the department, [it] the court shall  
1045 order the department to place such person in such least restrictive  
1046 environment as the court deems available.

1047 (d) If, within five years from the date of placement, any person  
1048 placed on or after October 1, 1982, has not requested a hearing to

1049 review his placement, the Department of Developmental Services shall  
1050 notify the court of probate which placed such person. The court of  
1051 probate, upon such notice, shall proceed in accordance with  
1052 subsections (b) and (c) of this section to schedule a hearing to  
1053 determine if the placement should be continued and whether such  
1054 placement adequately meets his or her habilitative needs in the least  
1055 restrictive environment available or which can be created within  
1056 existing resources of the department.

1057 Sec. 29. Section 17a-277 of the general statutes is repealed and the  
1058 following is substituted in lieu thereof (*Effective October 1, 2011*):

1059 The director of any state training school, regional facility or other  
1060 facility for the care and training of persons with [mental retardation]  
1061 intellectual disabilities may place any resident with [mental  
1062 retardation] an intellectual disability committed or admitted to such  
1063 training school, regional facility or other facility provided for the care  
1064 and training of persons with [mental retardation] intellectual  
1065 disabilities, under the provisions of sections 17a-210 to 17a-247,  
1066 inclusive, as amended by this act, and 17a-273, as amended by this act,  
1067 in a community companion home, community living arrangement,  
1068 private boarding home, group home, [or] other residential facility or  
1069 residential program to be cared for in accordance with the following  
1070 conditions:

1071 (1) Such resident shall, despite such transfer, remain subject to the  
1072 control of the director of such training school, regional facility or other  
1073 facility provided for the care and training of persons with [mental  
1074 retardation] intellectual disabilities and the director may, at any time,  
1075 order and provide for the return of any such resident to such training  
1076 school, regional facility or other facility provided for the care and  
1077 training of persons with [mental retardation] intellectual disabilities,  
1078 subject to any limitations of the term of commitment contained in the  
1079 order of commitment under which such resident was committed;

1080 (2) When the transfer of any such resident has been authorized or

1081 when, having been transferred to a community companion home,  
1082 community living arrangement, private boarding home, group home,  
1083 [or] other residential facility or residential program for persons with  
1084 [mental retardation] intellectual disabilities, such resident has been  
1085 returned to the training school, regional facility or other facility, the  
1086 director of such training school, regional facility or other facility shall  
1087 forthwith so notify the Commissioner of Developmental Services;

1088 (3) Such community companion home, community living  
1089 arrangement, private boarding home, group home, [or] other  
1090 residential facility or residential program shall be licensed by the  
1091 Department of Developmental Services, the Department of Children  
1092 and Families or the Department of Public Health under such  
1093 regulations as the departments adopt, in accordance with chapter 54;  
1094 and

1095 (4) The Commissioner of Developmental Services shall, upon  
1096 request, be given access to the complete record of any resident placed  
1097 in a community companion home, community living arrangement,  
1098 private boarding home, group home, [or] other residential facility or  
1099 residential program pursuant to this section.

1100 Sec. 30. Section 17a-281 of the general statutes is repealed and the  
1101 following is substituted in lieu thereof (*Effective October 1, 2011*):

1102 Any person who is a resident of Connecticut at the time an  
1103 application is made by [him or on his behalf] such resident or on behalf  
1104 of such resident under the provisions of this section, and who is, or  
1105 appears to be, or believes himself or herself to be a person with [mental  
1106 retardation] an intellectual disability, may apply, in writing, to the  
1107 Commissioner of Developmental Services, on a form prescribed by  
1108 [said] the commissioner, for admission to any facility for persons with  
1109 [mental retardation] intellectual disabilities. Such application shall be  
1110 accompanied by a medical history of the applicant, including any  
1111 medical or physical condition requiring special attention, treatment or  
1112 precautions, a written psychological report provided by a psychologist

1113 either licensed under the provisions of chapter 383 or employed by the  
1114 Department of Developmental Services, who has personally examined  
1115 the applicant prior to the filing of application for residential placement  
1116 or a copy of the determination of eligibility made in accordance with  
1117 section 17a-212 and the regulations adopted thereunder. The written  
1118 psychological report shall include (1) a statement that the psychologist  
1119 has personally examined the applicant not more than ninety days prior  
1120 to the date of filing of the application, (2) the results of a psychometric  
1121 assessment conducted not more than one year prior to the date of  
1122 filing of the application, and (3) an evaluation of the applicant's current  
1123 level of adaptive functioning, including self-care, mental health, social,  
1124 academic and vocational needs. In the event of an emergency,  
1125 admission to a residential facility may be made and the required  
1126 medical history and psychologist's report may be submitted [within]  
1127 not later than thirty days after the date of such admission. The  
1128 application for such person, if such person is a minor, may be made by  
1129 a parent, guardian of the person of, or person having custody of, such  
1130 minor. If such person is an adult who has had a guardian appointed  
1131 pursuant to sections 45a-669 to 45a-684, inclusive, as amended by this  
1132 act, [his] such person's guardian may apply for admission and the  
1133 commissioner may admit such person, provided [said] the  
1134 commissioner is satisfied that there is no conflict concerning the  
1135 admission between the guardian and his or her ward or the ward's  
1136 next of kin. If such conflict exists, the applicant may only be admitted  
1137 under the provisions of section 17a-274, as amended by this act. The  
1138 commissioner may approve any such application for admission if the  
1139 person on whose behalf application is made is suitable for admission  
1140 and if space is available and may terminate such admission at any time  
1141 when [he] the commissioner feels such person will not profit from  
1142 continued placement. The provisions of this section shall not apply to  
1143 persons who apply to the commissioner for respite care services for a  
1144 period not to exceed thirty days.

1145 Sec. 31. Section 17a-282 of the general statutes is repealed and the  
1146 following is substituted in lieu thereof (*Effective October 1, 2011*):

1147 No person admitted to a facility for persons with [mental  
1148 retardation] intellectual disabilities under the provisions of section 17a-  
1149 281, as amended by this act, shall be detained in such facility for more  
1150 than seven days after [he] such person has given notice in writing, or,  
1151 if such person is a minor or adult incompetent, after such notice has  
1152 been given on his or her behalf by his or her parent, guardian,  
1153 conservator or person having custody, to the Commissioner of  
1154 Developmental Services, of his or her intention or desire to leave such  
1155 facility. If [said] the commissioner is of the opinion that such person is  
1156 in need of further treatment or observation, [he] the commissioner may  
1157 make and file, in the probate court for the district within which such  
1158 person resides, application for the involuntary placement of such  
1159 person to such facility and the probate court shall proceed thereon in  
1160 the same manner as is provided in section 17a-274, as amended by this  
1161 act.

1162 Sec. 32. Section 17a-580 of the general statutes is repealed and the  
1163 following is substituted in lieu thereof (*Effective October 1, 2011*):

1164 As used in sections 17a-581 to 17a-602, inclusive, and this section:

1165 (1) "Acquittee" means any person found not guilty by reason of  
1166 mental disease or defect pursuant to section 53a-13;

1167 (2) "Board" means the Psychiatric Security Review Board established  
1168 pursuant to section 17a-581;

1169 (3) "Conditional release" means release subject to the jurisdiction of  
1170 the board for supervision and treatment on an outpatient basis and  
1171 includes, but is not limited to, the monitoring of mental and physical  
1172 health treatment;

1173 (4) "Court" means the Superior Court;

1174 (5) "Danger to himself or others" includes danger to the property of  
1175 others;

1176 (6) "Hospital for mental illness" means any public or private  
1177 hospital, retreat, institution, house or place in which a person with  
1178 psychiatric disabilities or drug-dependent person is received or  
1179 detained as a patient, but does not include any correctional institution  
1180 of the state;

1181 (7) "Mental illness" includes any mental illness in a state of  
1182 remission when the illness may, with reasonable medical probability,  
1183 become active;

1184 (8) ["Mental retardation" means mental retardation as defined in  
1185 section 1-1g] "Intellectual disability" has the meaning provided in  
1186 section 1-1g, as amended by this act;

1187 (9) "Person who should be conditionally released" means an  
1188 acquittee who has psychiatric disabilities or [is mentally retarded] has  
1189 a mental disability to the extent that his final discharge would  
1190 constitute a danger to himself or others but who can be adequately  
1191 controlled with available supervision and treatment on conditional  
1192 release;

1193 (10) "Person who should be confined" means an acquittee who has  
1194 psychiatric disabilities or [is mentally retarded] has an intellectual  
1195 disability to the extent that [his] such acquittee's discharge or  
1196 conditional release would constitute a danger to [himself] the acquittee  
1197 or others and who cannot be adequately controlled with available  
1198 supervision and treatment on conditional release;

1199 (11) "Person who should be discharged" means an acquittee who  
1200 does not have psychiatric disabilities or [is not mentally retarded] does  
1201 not have an intellectual disability to the extent that [his] such  
1202 acquittee's discharge would constitute a danger to [himself] the  
1203 acquittee or others;

1204 (12) "Psychiatrist" means a physician specializing in psychiatry and  
1205 licensed under the provisions of sections 20-9 to 20-12, inclusive;

1206 (13) "Psychologist" means a clinical psychologist licensed under the  
1207 provisions of sections 20-186 to 20-195, inclusive;

1208 (14) "State's attorney" means the state's attorney for the judicial  
1209 district wherein the acquittee was found not guilty by reason of mental  
1210 disease or defect pursuant to section 53a-13;

1211 (15) "Superintendent" means any person, body of persons or  
1212 corporation, or the designee of any such person, body of persons or  
1213 corporation, which has the immediate supervision, management and  
1214 control of a hospital for mental illness and the patients therein.

1215 Sec. 33. (*Effective October 1, 2011*) (a) (1) Wherever the words "the  
1216 mentally retarded" are used in the general statutes, "persons with  
1217 intellectual disabilities" shall be substituted in lieu thereof; whenever  
1218 the words "mentally retarded", "mentally retarded person" or  
1219 "mentally retarded persons" are used in the general statutes, the words  
1220 "intellectual disability", "intellectual disabilities", "person with an  
1221 intellectual disability" or "persons with intellectual disabilities" shall be  
1222 substituted in lieu thereof; whenever the words "mental retardation"  
1223 are used in the general statutes, the words "intellectual disability" or  
1224 "intellectual disabilities" shall be substituted in lieu thereof: 2c-2b, 4a-  
1225 60, 4b-28, 4b-31, 8-2g, 8-3e, 8-3f, 9-159s, 10-91f, 17a-75, 17a-215b, 17a-  
1226 219, 17a-247a, 17a-280, 17a-451d, 17a-593, 17a-594, 17a-596, 17b-28a,  
1227 17b-106, 17b-112c, 17b-226, 17b-244, 17b-244a, 17b-260b, 17b-260d, 17b-  
1228 263b, 17b-278, 17b-280, 17b-340, 17b-342, 17b-352, 17b-356, 17b-360,  
1229 17b-363b, 17b-616, 19a-6h, 19a-490, 19a-581, 19a-638, 26-29a, 26-30, 27-  
1230 103, 31-57e, 32-204, 38a-488a, 38a-514, 38a-515, 38a-816, 45a-598, 45a-  
1231 669, 45a-672, 45a-674, 45a-676, 45a-677, 45a-678, 45a-679, 45a-680, 45a-  
1232 681, 45a-682, 45a-683, 45a-684, 46a-11a, 46a-11b, 46a-11c, 46a-11d, 46a-  
1233 11e, 46a-11f, 46a-11g, 46a-51, 46a-60, 46a-64, 46a-64b, 46a-66, 46a-70,  
1234 46a-71, 46a-72, 46a-73, 46a-75, 46b-76, 46b-84, 51-286n, 52-146o, 53a-46a,  
1235 53a-59a, 53a-60b, 53a-60c, 53a-61a, 53a-181i, 53a-320, 53a-321, 53a-322,  
1236 53a-323, 54-56d and 54-250.

1237 (2) Wherever such words are used in any public act of the 2011

1238 session, the words provided in subdivision (1) of this subsection shall  
 1239 be substituted in lieu thereof.

1240 (b) The Legislative Commissioners' Office shall, in codifying said  
 1241 sections of the general statutes pursuant to subdivision (1) of  
 1242 subsection (a) of this section or any public act of the 2011 session  
 1243 pursuant to subdivision (2) of subsection (a) of this section, make such  
 1244 technical, grammatical and punctuation changes as are necessary to  
 1245 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>	8-119t
Sec. 4	<i>October 1, 2011</i>	12-81(7)(B)
Sec. 5	<i>October 1, 2011</i>	14-96p(a)(4)
Sec. 6	<i>October 1, 2011</i>	17a-210
Sec. 7	<i>October 1, 2011</i>	17a-210b
Sec. 8	<i>October 1, 2011</i>	17a-215c(f) to (i)
Sec. 9	<i>October 1, 2011</i>	17a-217
Sec. 10	<i>October 1, 2011</i>	17a-218
Sec. 11	<i>October 1, 2011</i>	17a-218a
Sec. 12	<i>October 1, 2011</i>	17a-220(5)
Sec. 13	<i>October 1, 2011</i>	17a-224
Sec. 14	<i>October 1, 2011</i>	17a-226
Sec. 15	<i>October 1, 2011</i>	17a-227(a)
Sec. 16	<i>October 1, 2011</i>	17a-227(e)
Sec. 17	<i>October 1, 2011</i>	17a-227a(a) and (b)
Sec. 18	<i>October 1, 2011</i>	17a-228
Sec. 19	<i>October 1, 2011</i>	17a-231
Sec. 20	<i>October 1, 2011</i>	17a-232(a)
Sec. 21	<i>October 1, 2011</i>	17a-233
Sec. 22	<i>October 1, 2011</i>	17a-247(b)
Sec. 23	<i>October 1, 2011</i>	17a-270
Sec. 24	<i>October 1, 2011</i>	17a-272(a)
Sec. 25	<i>October 1, 2011</i>	17a-273(a) and (b)
Sec. 26	<i>October 1, 2011</i>	17a-274

Sec. 27	<i>October 1, 2011</i>	17a-275
Sec. 28	<i>October 1, 2011</i>	17a-276
Sec. 29	<i>October 1, 2011</i>	17a-277
Sec. 30	<i>October 1, 2011</i>	17a-281
Sec. 31	<i>October 1, 2011</i>	17a-282
Sec. 32	<i>October 1, 2011</i>	17a-580
Sec. 33	<i>October 1, 2011</i>	New section

***Statement of Purpose:***

To: (1) Provide that an application for guardianship of an adult person with mental retardation be permitted one hundred eighty days prior to the date such person attains the age of eighteen, and that such application be effective no earlier than the date such person attains the age of eighteen; and (2) change statutory references from "mental retardation" to "intellectual disability".

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*