



General Assembly

**Substitute Bill No. 5456**

February Session, 2014



**AN ACT CONCERNING MANDATORY REPORTING OF ABUSE AND  
NEGLECT OF INDIVIDUALS WITH AUTISM SPECTRUM DISORDER,  
THE DEFINITION OF ABUSE, AND THE DEPARTMENT OF  
DEVELOPMENTAL SERVICES ABUSE AND NEGLECT REGISTRY.**

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

1 Section 1. Section 17a-247a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2014*):

3 As used in this section, section 2 of this act and sections 17a-247b to  
4 17a-247e, inclusive, as amended by this act:

5 (1) "Abuse" means (A) the wilful infliction by an employee of  
6 physical pain or injury, [or] financial exploitation, psychological abuse  
7 or verbal abuse; (B) the wilful deprivation of services necessary to the  
8 physical and mental health and safety of [a department client] an  
9 individual who receives services or funding from the department; or  
10 (C) sexual abuse.

11 (2) "Authorized agency" means any agency authorized in  
12 accordance with the general statutes to conduct abuse and neglect  
13 investigations and responsible for issuing or carrying out protective  
14 services for persons with intellectual disability or individuals receiving  
15 services or funding from the department's Division of Autism  
16 Spectrum Disorder Services.

17 (3) "Commissioner" means the Commissioner of Developmental  
18 Services.

19 (4) "Department" means the Department of Developmental Services.

20 [(5) "Department client" means a person who is eligible for, and  
21 receives services or funding from, the department.]

22 [(6)] (5) "Employee" means any [individual] person employed (A) by  
23 the department, or (B) by an agency, organization or [individual]  
24 person that is licensed or funded by the department.

25 [(7)] (6) "Employer" means (A) the department, or (B) an agency,  
26 organization or [individual] person that is licensed or funded by the  
27 department.

28 (7) "Financial exploitation" means the theft, misappropriation or  
29 unauthorized or improper use of property, money or other resource  
30 that is intended to be used by or for an individual who receives  
31 services or funding from the department.

32 (8) "Neglect" means the failure by an employee, through action or  
33 inaction, to provide [a department client] an individual who receives  
34 services or funding from the department with the services necessary to  
35 maintain such [client's] individual's physical and mental health and  
36 safety.

37 (9) "Protective services" has the same meaning as provided in  
38 section 46a-11a, as amended by this act.

39 (10) "Psychological abuse" means an act intended to (A) humiliate,  
40 intimidate, degrade or demean an individual who receives services or  
41 funding from the department, (B) inflict emotional harm or invoke fear  
42 in such individual, or (C) otherwise negatively impact the mental  
43 health of such individual.

44 [(10)] (11) "Registry" means a centralized data base containing

45 information regarding substantiated abuse or neglect.

46 (12) "Sexual abuse" means (A) any sexual contact between an  
47 individual who receives services or funding from the department,  
48 regardless of such individual's ability to consent, and an employee, or  
49 (B) the encouragement by an employee of an individual who receives  
50 services or funding from the department to engage in sexual activity.

51 ~~[(11)]~~ (13) "Substantiated abuse or neglect" means a determination  
52 by an authorized agency, following an investigation conducted or  
53 monitored by such agency, that (A) abuse or neglect of [a department  
54 client] an individual who receives services or funding from the  
55 department has occurred, or (B) there has been a criminal conviction of  
56 a felony or misdemeanor involving abuse or neglect.

57 (14) "Verbal abuse" means the use of offensive or intimidating  
58 language that is intended to provoke or cause the distress of an  
59 individual who receives services or funding from the department.

60 Sec. 2. (NEW) (*Effective October 1, 2014*) (a) For purposes of this  
61 section "individual who receives services from the department's  
62 Division of Autism Spectrum Disorder Services" means an individual  
63 eighteen years of age to sixty years of age, inclusive, who receives  
64 funding or services from the Department of Developmental Services'  
65 Division of Autism Spectrum Disorder Services.

66 (b) (1) The commissioner may investigate any reports alleging abuse  
67 or neglect of an individual who receives services from the  
68 department's Division of Autism Spectrum Disorder Services. Such  
69 investigation shall include a visit to the residence of the individual  
70 reported to have been abused or neglected and consultation with  
71 persons having knowledge of the facts surrounding such allegation.  
72 All state, local and private agencies shall have a duty to cooperate with  
73 any such investigation, including the release of complete records of  
74 such individual for review, inspection and copying, except where such  
75 individual refuses to permit his or her record to be released. All such

76 records shall be kept confidential by the department.

77 (2) Upon completion of the investigation of each case, the  
78 commissioner shall prepare written findings that shall include a  
79 determination as to whether abuse or neglect has occurred and  
80 recommendations as to whether protective services are needed. The  
81 commissioner, except in cases where the parent or guardian of the  
82 individual reported to be abused or neglected is the alleged  
83 perpetrator of abuse or neglect or is residing with the alleged  
84 perpetrator, shall notify the parents or guardian, if any, of such  
85 individual if a report of abuse or neglect is made that the department  
86 determines warrants investigation. The commissioner shall provide the  
87 parents or guardians who the commissioner determines are entitled to  
88 such information with further information upon request. The person  
89 making the allegation of abuse or neglect and the Director of the Office  
90 of Protection and Advocacy for Persons with Disabilities shall be  
91 notified of the findings resulting from the investigation, upon such  
92 person's request.

93 (3) Neither the original allegation of abuse or neglect nor the  
94 investigation report of the investigator that includes findings and  
95 recommendations shall be deemed a public record for purposes of  
96 section 1-210 of the general statutes. The name of the person making  
97 the original allegation shall not be disclosed to any person unless the  
98 person making the original allegation consents to such disclosure or  
99 unless a judicial proceeding results therefrom.

100 Sec. 3. Section 17a-247b of the general statutes is repealed and the  
101 following is substituted in lieu thereof (*Effective October 1, 2014*):

102 (a) The Department of Developmental Services shall establish and  
103 maintain a registry of [individuals] former employees who have been  
104 terminated or separated from employment as a result of substantiated  
105 abuse or neglect. The department shall, for the purposes of  
106 maintaining the registry, be capable of responding to inquiries in  
107 accordance with subsection (c) of this section as to whether [an

108 individual] a former employee has been terminated or separated from  
109 employment as a result of substantiated abuse or neglect. Such  
110 capability may include response by telephone voice mail or other  
111 automated response for initial inquiries.

112 (b) The registry shall include, but not be limited to, the following: (1)  
113 The names, addresses and Social Security numbers of those  
114 [individuals] former employees terminated or separated from  
115 employment as a result of substantiated abuse or neglect; (2) the date  
116 of termination or separation; (3) the type of abuse or neglect; and (4)  
117 the name of any employer or authorized agency requesting  
118 information from the registry, the reason for the request and the date  
119 of the request.

120 (c) The department shall make information in the registry available  
121 only to: (1) Authorized agencies, for the purpose of protective service  
122 determinations; (2) employers who employ [individuals] employees to  
123 provide services to [a department client] an individual who receives  
124 services or funding from the department; (3) the Departments of  
125 Children and Families and Mental Health and Addiction Services, for  
126 the purpose of determining whether an applicant for employment  
127 appears on the registry; or (4) charitable organizations [which] that  
128 recruit volunteers to support programs for persons with intellectual  
129 disability or autism spectrum disorder, upon application to and  
130 approval by the commissioner, for purposes of conducting background  
131 checks on such volunteers.

132 (d) The department shall limit responses to requests for identifying  
133 information from the registry established under this section to (1)  
134 identification of the [individual] former employee terminated or  
135 separated from employment for substantiated abuse or neglect, and (2)  
136 the type of abuse or neglect so substantiated.

137 (e) Not later than five business days following receipt of written  
138 notification by an authorized agency of the substantiation of abuse or  
139 neglect by [an] a former employee who has been terminated or

140 separated from employment for such abuse or neglect, an employer  
141 shall submit to the department the name of such former employee and  
142 such other information as the department may request. Upon receipt  
143 of notification of such termination or separation, the department shall  
144 conduct a hearing in accordance with sections 4-177 to 4-181a,  
145 inclusive, governing contested cases. The department shall not place  
146 [an individual's] a former employee's name on the registry until the  
147 department has completed the hearing and the hearing has resulted in  
148 a decision to place the [individual's] former employee's name on the  
149 registry.

150 (f) The department shall remove [an] a former employee's name  
151 from the registry if an arbitration or a legal proceeding results in a  
152 finding that the former employee was unfairly terminated from  
153 employment.

154 (g) No employer shall be liable in any civil action for damages  
155 brought by an employee, former employee or an applicant for  
156 employment whose name appears on the registry established by this  
157 section arising out of the conduct of the employer in (1) making any  
158 report in good faith pursuant to subsection (e) of this section, (2)  
159 testifying under oath in any administrative or judicial proceeding  
160 arising from such report, (3) refusing to hire or to retain any  
161 [individual] person whose name appears on the registry established  
162 under this section, or (4) taking any other action to conform to the  
163 requirements of this section. The immunity provided in this subsection  
164 shall not apply to gross negligence or to wilful or wanton misconduct.

165 Sec. 4. Section 17a-247c of the general statutes is repealed and the  
166 following is substituted in lieu thereof (*Effective October 1, 2014*):

167 (a) No employer shall hire [an individual] a person whose name  
168 appears on the registry and no employer shall retain an [individual]  
169 employee after receiving notice that [an individual's] his or her name  
170 so appears.

171 (b) The department shall, on at least a semiannual basis, issue a  
172 notice to employers containing the name of each [individual] former  
173 employee placed on the registry and the identifying information  
174 pertaining to such [individual] former employee as provided in  
175 subsection (d) of section 17a-247b, as amended by this act.

176 Sec. 5. Section 46a-11a of the 2014 supplement to the general statutes  
177 is repealed and the following is substituted in lieu thereof (*Effective*  
178 *October 1, 2014*):

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

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

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

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

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

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

199 (6) "Facility" means any public or private hospital, nursing home

200 facility, residential care home, training school, regional facility, group  
201 home, community companion home, school or other program serving  
202 persons with intellectual disability;

203 (7) "Guardian" means the guardian or limited guardian of a person  
204 with intellectual disability appointed pursuant to sections 45a-669 to  
205 45a-684, inclusive;

206 (8) "Person with intellectual disability" means a person who: (A)  
207 Has intellectual disability, as provided in section 1-1g, (B) is at least the  
208 age of eighteen and under the age of sixty, except, for purposes of  
209 subsection (b) of section 46a-11c, is eighteen years of age or older, and  
210 (C) is substantially unable to protect himself or herself from abuse and  
211 includes all such persons living in residential facilities under the  
212 jurisdiction of the Department of Developmental Services;

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

228 (10) "Commissioner" means the Commissioner of Developmental  
229 Services; and

230 (11) "Individual who receives services from the Department of

231 Developmental Services' Division of Autism Spectrum Disorder  
232 Services" means an individual eighteen years of age to sixty years of  
233 age, inclusive, who receives funding or services from the Department  
234 of Developmental Services' Division of Autism Spectrum Disorder  
235 Services.

236 Sec. 6. Section 46a-11b of the 2014 supplement to the general statutes  
237 is repealed and the following is substituted in lieu thereof (*Effective*  
238 *October 1, 2014*):

239 (a) Any physician or surgeon licensed under the provisions of  
240 chapter 370, any resident physician or intern in any hospital in this  
241 state, whether or not so licensed, any registered nurse, any person paid  
242 for caring for persons in any facility and any licensed practical nurse,  
243 medical examiner, dental hygienist, dentist, occupational therapist,  
244 optometrist, chiropractor, psychologist, podiatrist, social worker,  
245 school teacher, school principal, school guidance counselor, school  
246 paraprofessional, mental health professional, physician assistant,  
247 licensed or certified substance abuse counselor, licensed marital and  
248 family therapist, speech and language pathologist, clergyman, police  
249 officer, pharmacist, physical therapist, licensed professional counselor  
250 or sexual assault counselor or domestic violence counselor, as defined  
251 in section 52-146k, who has reasonable cause to suspect or believe that  
252 any person with intellectual disability or any individual who receives  
253 services from the Department of Developmental Services' Division of  
254 Autism Spectrum Disorder Services has been abused or neglected  
255 shall, as soon as practicable but not later than seventy-two hours after  
256 such person has reasonable cause to suspect or believe that a person  
257 with intellectual disability or any individual who receives services  
258 from the Department of Developmental Services' Division of Autism  
259 Spectrum Disorder Services has been abused or neglected, report such  
260 information or cause a report to be made in any reasonable manner to  
261 the director or persons the director designates to receive such reports.  
262 Such initial report shall be followed up by a written report not later  
263 than five calendar days after the initial report was made. Any person

264 required to report under this subsection who fails to make such report  
265 shall be fined not more than five hundred dollars.

266 (b) Such report shall contain the name and address of the allegedly  
267 abused or neglected person, a statement from the person making the  
268 report indicating his or her belief that such person has intellectual  
269 disability or receives funding or services from the Department of  
270 Developmental Services' Division of Autism Spectrum Disorder  
271 Services, information supporting the supposition that such person is  
272 substantially unable to protect himself or herself from abuse or neglect,  
273 information regarding the nature and extent of the abuse or neglect  
274 and any other information [which] that the person making such report  
275 believes might be helpful in an investigation of the case and the  
276 protection of such person with intellectual disability or who receives  
277 funding or services from the Department of Developmental Services'  
278 Division of Autism Spectrum Disorder Services.

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

283 (d) Any other person having reasonable cause to believe that a  
284 person with intellectual disability or an individual who receives  
285 services from the Department of Developmental Services' Division of  
286 Autism Spectrum Disorder Services is being or has been abused or  
287 neglected may report such information, in any reasonable manner, to  
288 the director or to [his] the director's designee.

289 (e) Any person who makes any report pursuant to sections 46a-11a  
290 to 46a-11g, inclusive, as amended by this act, or who testifies in any  
291 administrative or judicial proceeding arising from such report shall be  
292 immune from any civil or criminal liability on account of such report  
293 or testimony, except for liability for perjury, unless such person acted  
294 in bad faith or with malicious purpose. Any person who obstructs,  
295 hinders or endangers any person reporting or investigating abuse or

296 neglect or providing protective services or who makes a report in bad  
297 faith or with malicious purpose and who is not subject to any other  
298 penalty shall be fined not more than five hundred dollars. No resident  
299 or employee of a facility, as defined in section 46a-11a, as amended by  
300 this act, shall be subject to reprisal or discharge because of his actions  
301 in reporting pursuant to sections 46a-11a to 46a-11g, inclusive, as  
302 amended by this act.

303 (f) For purposes of said sections, the treatment of any person with  
304 intellectual disability or any individual who receives services from the  
305 Department of Developmental Services' Division of Autism Spectrum  
306 Disorder Services by a Christian Science practitioner, in lieu of  
307 treatment by a licensed practitioner of the healing arts, shall not of  
308 itself constitute grounds for the implementation of protective services.

309 (g) When the director of the Office of Protection and Advocacy for  
310 Persons with Disabilities or persons designated by said director are  
311 required to investigate or monitor abuse or neglect reports that are  
312 referred to the Office of Protection and Advocacy for Persons with  
313 Disabilities from another agency, all provisions of this section shall  
314 apply to any investigation or monitoring of such case or report.

315 Sec. 7. Section 46a-11c of the general statutes is repealed and the  
316 following is substituted in lieu thereof (*Effective October 1, 2014*):

317 (a) The director, upon receiving a report that a person with  
318 intellectual disability allegedly is being or has been abused or  
319 neglected, shall make an initial determination whether such person has  
320 intellectual disability, shall determine if the report warrants  
321 investigation and shall cause, in cases that so warrant, a prompt,  
322 thorough evaluation to be made to determine whether the person has  
323 intellectual disability and has been abused or neglected. For the  
324 purposes of sections 46a-11a to 46a-11g, inclusive, as amended by this  
325 act, the determination of intellectual disability may be made by means  
326 of a review of records and shall not require the director to conduct a  
327 full psychological examination of the person. Any delay in making

328 such determination of intellectual disability shall not delay the  
329 investigation of abuse or neglect or recommendation of provision of  
330 protective services. The evaluation shall include a visit to the named  
331 person with intellectual disability and consultation with those  
332 individuals having knowledge of the facts of the particular case. All  
333 state, local and private agencies shall have a duty to cooperate with  
334 any investigation conducted by the Office of Protection and Advocacy  
335 for Persons with Disabilities under this section, including the release of  
336 complete client records for review, inspection and copying, except  
337 where the person with intellectual disability refuses to permit his or  
338 her record to be released. The director shall have subpoena powers to  
339 compel any information related to such investigation. All client records  
340 shall be kept confidential by said office. Upon completion of the  
341 evaluation of each case, written findings shall be prepared which shall  
342 include a determination of whether abuse or neglect has occurred and  
343 recommendations as to whether protective services are needed. The  
344 director, except in cases where the parent or guardian is the alleged  
345 perpetrator of abuse or is residing with the alleged perpetrator, shall  
346 notify the parents or guardian, if any, of the person with intellectual  
347 disability if a report of abuse or neglect is made which the director  
348 determines warrants investigation. The director shall provide the  
349 parents or guardians who the director determines are entitled to such  
350 information with further information upon request. The person filing  
351 the report of abuse or neglect shall be notified of the findings upon  
352 request.

353 (b) The director, upon receiving a report that an individual who  
354 receives services from the Department of Developmental Services'  
355 Division of Autism Spectrum Disorder Services, allegedly is being or  
356 has been abused or neglected, shall make an initial determination  
357 whether such individual receives funding or services from said  
358 division, shall determine if the report warrants investigation and shall  
359 cause, in cases that so warrant, a prompt, thorough evaluation, as  
360 described in subsection (b) of section 2 of this act, to be made by the  
361 Department of Developmental Services to determine whether the

362 individual has been abused or neglected.

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

376 [(c)] (d) The director shall maintain a state-wide registry of the  
 377 reports received, the evaluation and findings and actions  
 378 recommended.

379 [(d)] (e) Neither the original report nor the evaluation report of the  
 380 investigator which includes findings and recommendations shall be  
 381 deemed a public record for purposes of section 1-210. The name of the  
 382 person making the original report shall not be disclosed to any person  
 383 unless the person making the original report consents to such  
 384 disclosure or unless a judicial proceeding results therefrom.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	17a-247a
Sec. 2	October 1, 2014	New section
Sec. 3	October 1, 2014	17a-247b
Sec. 4	October 1, 2014	17a-247c
Sec. 5	October 1, 2014	46a-11a
Sec. 6	October 1, 2014	46a-11b
Sec. 7	October 1, 2014	46a-11c

**Statement of Legislative Commissioners:**

Throughout section 2, the phrase "the individual who is the subject of the allegation" was changed to "such individual", "evaluation" was changed to "investigation", and "report" was changed to "allegation", for clarity and internal consistency; in section 2(a), subdivisions (1) and (2) were deleted to avoid repetition; in section 2(b)(2), the phrase "of whether" was changed to "as to whether", for internal consistency, the phrase "written findings shall be prepared" was changed to "the commissioner shall prepare written findings", for clarity and the phrase "of the individual reported to be abused or neglected" was inserted after "parent or guardian", for clarity; in section 6(b), the phrase "receives services from" was changed to "receives funding or services from", for internal consistency; and in section 7(b), the phrase "as described in subsection (b) of section 2 of this act" was inserted after "thorough investigation", for clarity.

**PH**        *Joint Favorable Subst.*