



# Senate

General Assembly

**File No. 509**

February Session, 2016

Substitute Senate Bill No. 294

*Senate, April 6, 2016*

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING SERVICES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITY.***

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

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this  
2 section:

3 (1) "Department" means the Department of Developmental Services.

4 (2) "Commissioner" means the Commissioner of Developmental  
5 Services.

6 (3) "Waiting list" means a list or lists maintained by the  
7 commissioner that include the names of individuals with intellectual  
8 disability who (A) have requested respite supports or residential, day,  
9 in-home, behavioral or other services from the department, and (B) the  
10 commissioner has determined to be in need of the supports or services  
11 requested.

12 (4) "Level of need assessment" means the department's method,

13 using any standardized assessment or screening tool, to (A) determine  
14 the level of services from the department that an individual with  
15 intellectual disability requires for the management of the individual's  
16 behavioral or health conditions and to complete activities of daily  
17 living, as defined in section 19a-693 of the general statutes, (B)  
18 determine an individual's priority status, and (C) assign an individual  
19 an estimated funding amount for services.

20 (5) "Priority status" means the code assigned to an individual with  
21 intellectual disability for whom services from the department have  
22 been requested that identifies the timing of the individual's need for  
23 services.

24 (b) Immediately after the department completes a level of need  
25 assessment for an individual with intellectual disability, or not later  
26 than September 30, 2016, for an individual who had a level of need  
27 assessment prior to that date, the department shall provide to the  
28 individual and the individual's parent, conservator, guardian or other  
29 legal representative a complete copy of the level of need assessment,  
30 including, but not limited to, scoring results, comments, a summary  
31 report and any other related information or documents.

32 (c) (1) Not later than September 30, 2016, the commissioner shall  
33 notify, in writing, each individual with intellectual disability, who is  
34 receiving services from the department, and the individual's parent,  
35 conservator, guardian or other legal representative of the individual's  
36 priority status on any applicable waiting list and the amount of  
37 funding budgeted for each service provided by the department.

38 (2) Not later than fifteen days after the commissioner makes a  
39 change to the priority status of an individual with intellectual  
40 disability, the commissioner shall notify the individual and the  
41 individual's parent, conservator, guardian or other legal  
42 representative, in writing, of such change.

43 (3) On or before July 1, 2017, the commissioner shall, in consultation  
44 with each individual with intellectual disability who is receiving

45 supports or services from the department, and the individual's parent,  
46 conservator, guardian or other legal representative, develop a long-  
47 term five-year and ten-year care plan to meet the individual's needs for  
48 supports or services. Such plan shall include an indication of the time  
49 period each support or service is likely to be needed based on the  
50 individual's annual level of need assessment. Such plan shall be  
51 updated annually based on the individual's level of need assessment.

52 (d) (1) The commissioner shall develop and maintain one state-wide  
53 comprehensive residential waiting list. Such waiting list shall (A) be  
54 organized by geographic region and individuals' priority status, and  
55 (B) include the type of support or service each individual needs and  
56 the estimated time period each support or service is likely to be  
57 needed. The commissioner shall update such list not less than  
58 quarterly.

59 (2) On or before January 1, 2017, the commissioner shall conduct a  
60 state-wide census and needs assessment for individuals receiving  
61 services from the department. The census shall be based on the level of  
62 need assessment for each such individual. At the conclusion of the  
63 census, the commissioner shall update the residential waiting list  
64 based on the results of such census. On or before January 1, 2017, the  
65 commissioner shall report, in accordance with the provisions of section  
66 11-4a of the general statutes, to the joint standing committee of the  
67 General Assembly having cognizance of matters relating to public  
68 health on the results of the state-wide census and needs assessment  
69 and the status of the residential waiting list. Such report shall also  
70 include, but need not be limited to, a description of the trends in  
71 supports and services requested from the department and projections  
72 for state-wide needs over the next two-year, five-year and ten-year  
73 periods.

74 (e) Information collected, maintained and disclosed pursuant to this  
75 section shall be in accordance with the requirements of the federal  
76 Health Insurance Portability and Accountability Act of 1996 (P.L. 104-  
77 191) (HIPAA), as amended from time to time, or regulations adopted

78 thereunder.

79 Sec. 2. Section 17a-273 of the general statutes is repealed and the  
80 following is substituted in lieu thereof (*Effective from passage*):

81 (a) The Commissioner of Developmental Services shall appoint at  
82 least one advisory and planning council for each state developmental  
83 services region operated by the Department of Developmental  
84 Services, which council shall have the responsibility of consulting with  
85 and advising the director of the region on the needs of persons with  
86 intellectual disability in the region, the annual plan and budget of the  
87 region and other matters deemed appropriate by the council. The  
88 mission of, and meeting dates and times for, each council shall be  
89 posted on the Department of Developmental Services' Internet web  
90 site.

91 (b) Each such council shall consist of at least ten members appointed  
92 from the state developmental services region. No employee of any  
93 state agency engaged in the care or training of [persons] individuals  
94 with intellectual disability shall be eligible for appointment. At least  
95 one member shall be designated by a local chapter of the Arc of  
96 Connecticut in the region. At least one member shall be an individual  
97 who is eligible for and receives services from the Department of  
98 Developmental Services. At least two members shall be parents of  
99 [persons] individuals with intellectual disability. Members shall be  
100 appointed for terms of three years. No member may serve more than  
101 two consecutive terms, except a member may continue to serve until a  
102 successor is appointed. Each council shall appoint annually, from  
103 among its members, a chairperson, vice-chairperson and secretary. The  
104 council may make rules for the conduct of its affairs. The director of  
105 the region shall be an ex-officio member of the council without vote  
106 and shall attend its meetings.

107 (c) The council shall meet at least six times a year and at other times  
108 upon the call of the chair or the director of the state developmental  
109 services region or on the written request of any two members. A  
110 majority of the council members in office shall constitute a quorum.

111 Any member who fails to attend three consecutive meetings or who  
112 fails to attend fifty per cent of all meetings held during any calendar  
113 year shall be deemed to have resigned from office.

114 (d) (1) Each council shall ensure that each individual with  
115 intellectual disability who resides within the region, and is applying  
116 for or receiving services from the Department of Developmental  
117 Services and the individual's parent, conservator, guardian or other  
118 legal representative, is informed, in writing and in plain language, of  
119 the supports and services available to the individual from the  
120 department.

121 (2) Each council shall establish and implement a planning and  
122 resource allocation team. The team shall establish the priority of each  
123 request by individuals with intellectual disability for residential, day  
124 supports or other services from the department and the allocation of  
125 resources within the region. All records, meeting minutes, reports and  
126 other materials used by the team to determine an individual's priority  
127 status shall be made available to the individual and the individual's  
128 parent, conservator, guardian or other legal representative.

129 (e) Information collected, maintained and disclosed pursuant to this  
130 section shall be in accordance with the requirements of the federal  
131 Health Insurance Portability and Accountability Act of 1996 (P.L. 104-  
132 191) (HIPAA), as amended from time to time, or regulations adopted  
133 thereunder.

134 Sec. 3. (NEW) (*Effective from passage*) (a) On and after October 1,  
135 2016, the Commissioners of Social Services and Developmental  
136 Services shall notify, in writing, any individual with intellectual  
137 disability, who is receiving state-assisted care and who is soon to  
138 become ineligible for state-assisted care, and the individual's parent,  
139 conservator, guardian or other legal representative, of the date the  
140 individual will be ineligible to receive state-assisted care. Such notice  
141 shall be sent by certified mail, return receipt requested, not later than  
142 ninety days prior to the date the individual will become ineligible for  
143 state-assisted care or will stop receiving such care, whichever is earlier.

144 (b) Said commissioners shall assist any such individual and the  
 145 individual's parent, conservator, guardian or other legal representative  
 146 to identify and secure private funding for care or services required by  
 147 the individual relating to his or her intellectual disability.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	17a-273
Sec. 3	<i>from passage</i>	New section

**Statement of Legislative Commissioners:**

In Section 1(a)(1)(3), "respite supports" was moved for clarity; in Section 1(a)(3)(B), "services requested" was changed to "supports or services requested" for internal consistency; in Section 1(b)(3) "receiving services" was changed to "receiving supports or services" for internal consistency; in Section 1(d)(2), "level of needs assessment" was changed to "level of need assessment", "residential waiting lists" was changed to "residential waiting list" and "the waiting lists" was changed to "the residential waiting list" for internal consistency, "each individual" was changed to "each such individual" for clarity, and "five-year and ten-year period" was changed to "five-year and ten-year periods" for accuracy.

**PH**      *Joint Favorable Subst.*

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

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Social Services, Dept.	GF - Cost	Minimal	Minimal
Department of Developmental Services	GF - Cost	626,145	313

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The following subsections of Section One of the bill result in a fiscal impact to the Department of Developmental Services (DDS):

**Section 1(c)(1)** requires DDS to provide a one-time mailing for each individual receiving services from DDS. There are approximately 16,403 DDS consumers<sup>1</sup> that would receive the mailing resulting in postage costs (49 cents) of \$8,037 in FY 17.

**Section 1(c)(2)** expands the number of DDS consumers who would receive notification of a priority status change by an estimated 590 individuals, resulting in postage costs (49 cents) of \$289 in FY 17 and FY 18. The 590 individuals includes approximately: (1) 300 high school graduates, (2) 100 day program age outs, (3) 100 residential age outs, (4) 20 individuals moving to the community from Southbury Training School, (5) 30 individuals aging out of the Behavioral Services Program and (6) 40 individuals moving due to administrative closures.

**Section 1(d)(2)** requires all DDS consumers to have a Level of Need (LON) assessment by January 1, 2017. This results in estimated one-

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<sup>1</sup> Based on the most recently published DDS Management Information Report, 12/31/15.

time case management consulting costs of up to \$617,795 in FY 17. There are 16,403 active DDS consumers: 13,550 with LON assessments and 2,853 without LON assessments. Case Management consulting services would be required to complete the LON assessment for those individuals without assessments. It is estimated to take between 4-7 hours per individual to complete an assessment. The estimate assumes 15,700 hours of case manager time (5.5 hours x 2,853 individuals without LONs) x case management cost of \$39.35 per hour.

**Section 2** adds two requirements for the regional advisory and planning councils that are not anticipated to result in a fiscal impact to the state or municipalities. The councils are required to: (1) ensure applicants or clients are informed in writing of available DDS services and supports and (2) implement a planning and resource allocation team. There are three regional councils that are each comprised of at least 10 volunteer members.

**Section 3** requires the DDS and Department of Social Services (DSS) commissioners to notify, by certified mail, clients with Intellectual Disability who will become ineligible for state-assisted care at least 90 days before the date they will become ineligible or stop receiving care and help them identify and secure private funding. The notification provision is anticipated to result in a minimal fiscal impact to DDS and DSS associated with postage including certified mailing costs (\$3.94 each). It is anticipated that DDS will incur postage costs of approximately \$24 in FY 17 and FY 18 as the department sends approximately six such notifications annually.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to postage costs and the number of mailings.

Sources: *DDS Management Information Report*  
<http://www.ct.gov/dds/cwp/view.asp?a=3&Q=455410>  
<https://www.usps.com/ship/insurance-extra-services.htm>  
*Public Testimony*

**OLR Bill Analysis****sSB 294*****AN ACT CONCERNING SERVICES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITY.*****SUMMARY:**

This bill establishes certain procedures the Department of Developmental Services (DDS) must follow regarding waiting lists it currently maintains for individuals with intellectual disability (ID) who requested, and the department found to be in need of, services. Among other things, the bill requires DDS to:

1. provide individuals with ID and their legal representatives (e.g., parent, conservator, or guardian) with (a) a copy of the individual's level of need assessment and (b) written notice of the individual's priority status on any waiting list and the funding budgeted for each DDS service;
2. develop a five- and 10-year plan for each DDS client, in consultation with the client and his or her legal representatives;
3. develop and maintain one state-wide residential waiting list and update it at least quarterly; and
4. conduct a statewide census and needs assessment of DDS clients and report to the Public Health Committee on the assessment and status of the waiting lists.

It also requires regional counsels to ensure applicants or clients are informed in writing of available DDS services and supports and implement a planning and resource allocation team.

Finally, the bill (1) requires the DDS and Department of Social Services commissioners to notify clients with ID who will become

ineligible for state care at least 90 days before the date they will become ineligible or stop receiving care and help them identify and secure private funding and (2) specifies that all information collection, maintenance, and disclosure under its provisions must comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and related regulations (see BACKGROUND).

EFFECTIVE DATE: Upon passage

### **DEFINITIONS**

Under the bill, a “waiting list” is one or more lists the commissioner maintains that include the names of individuals with ID who (1) have requested respite supports or residential, day, in-home, behavioral, or other services from DDS and (2) the commissioner determined to be in need of the requested supports or services.

A “level of needs assessment” is the department’s method, using any standardized assessment or screening tool, to (1) determine the level of DDS services that an individual with ID requires to manage his or her behavioral or health conditions and complete daily living activities (e.g., bathing, grooming, meal preparation); (2) determine an individual’s priority status; and (3) assign an individual an estimated funding amount for services.

“Priority status” is the code assigned to an individual with ID for whom DDS services have been requested that identifies the timing of his or her services needs.

### **NEEDS ASSESSMENT**

The bill requires DDS, either immediately after it completes a level of need assessment for an individual with ID, or by September 30, 2016 for an individual who had such an assessment prior to that date, to provide to the individual and his or her legal representative a complete copy of the assessment. The copy must include scoring results, comments, a summary report, and any other related information or documents.

**NOTICE REQUIREMENTS*****DDS***

The bill requires the DDS commissioner, by September 30, 2016, to provide written notice to an individual with ID receiving DDS services and his or her legal representative of the individual's priority status on any applicable waiting list and the amount of funding for each DDS service.

Within 15 days of changing the priority status of an individual with ID, the bill requires the DDS commissioner to provide written notice of the change to the individual and his or her legal guardian.

The bill requires the DDS commissioner, by July 1, 2017 and in consultation with each DDS client and the client's legal representative, to develop a long term five- and 10-year plan to meet the client's services and supports needs. The plan must (1) include the time period the supports or services will likely be needed based on the client's annual level of need assessment and (2) be updated annually based on that assessment.

***DDS and DSS***

Starting October 1, 2016, the bill requires the DDS and DSS commissioners to provide written notice to individuals with ID who are receiving, and will soon become ineligible for, state-assisted care and their legal representatives of the date they will become ineligible. The notice must be sent by certified mail, return receipt requested, no more than 90 days before the date the individual will become ineligible for state-assisted care or stop receiving the care, whichever is earlier.

The commissioners must also assist the individual and his or her representative secure private funding for service related to the individual's disability.

**COMPEHENSIVE RESIDENTIAL WAITING LIST**

Under the bill, the DDS commissioner must develop and maintain one state-wide comprehensive residential waiting list. (The bill does

not specify a deadline for the list's development.) The list must (1) be organized by geographic region and individuals' priority status and (2) include the type of support or service each individual needs and the estimated amount of time the support or service will be needed. The commissioner must update the list at least quarterly.

The bill requires the commissioner, by January 1, 2017, to conduct a state-wide client census and needs assessment. The census must be based on each client's level of need assessment. At the end of the census, the commissioner must update the residential waiting list based on its results.

It also requires the commissioner, by January 1, 2017, to report to the Public Health Committee on the census and needs assessment results and the status of the residential waiting list. The report must include a description of the trends in supports and services requested from DDS and projections for state-wide needs over the next two-, five-, and 10-year periods.

### **ADVISORY AND PLANNING COUNCILS**

By law, the DDS commissioner must appoint at least one advisory and planning council for each DDS service region, which is responsible for, among other things, informing the DDS region director of the needs of individuals with ID in the region. The bill requires DDS to post the mission and meeting dates and times for each council on its website.

It also requires each council to ensure that each DDS applicant and client and their legal representatives receive written information, in plain language, about the DDS supports and services available to the applicant or client.

Each council must also establish and implement a planning and resource allocation team. The team must establish the priority of each request from an individual with ID for DDS services and the resources allocation within the region. All records, meeting minutes, reports, and other materials the team uses to determine priority status must be

made available to the individual and his or her legal representative.

**BACKGROUND**

**HIPAA**

The HIPAA “privacy rule” sets national standards to protect the privacy of health information. Among other things, it limits the circumstances when health care providers, insurers, and other covered entities may release protected health information (PHI). PHI includes information that could identify a person, including name, social security number, telephone number, medical record number, and ZIP code.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 28 Nay 0 (03/21/2016)