



Senate

General Assembly

File No. 422

February Session, 2018

Substitute Senate Bill No. 400

Senate, April 11, 2018

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist. and SEN. SOMERS of the 18th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING GRADUATE FUNDING AND THE PROVISION OF SUPPORT AND SERVICES FOR PERSONS WITH INTELLECTUAL DISABILITY.

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

1 Section 1. (NEW) (*Effective October 1, 2018*) (a) The Department of
2 Developmental Services shall annually (1) evaluate the needs of
3 persons with intellectual disability who are eligible for services from
4 the department and have turned or are turning twenty-one years of
5 age during the school year, and (2) determine the projected cost of
6 providing day, employment and other support services to such
7 persons following the end of the school year after such person turns
8 twenty-one years of age. On or before January 1, 2019, and annually
9 thereafter, the Commissioner of Developmental Services shall report,
10 in accordance with the provisions of section 11-4a of the general
11 statutes, to the joint standing committees of the General Assembly
12 having cognizance of matters relating to public health and
13 appropriations, and to the Office of Policy and Management regarding

14 the needs of such persons and the funding needed to cover such
15 projected cost for all such persons who turn twenty-one years of age in
16 each of the following three fiscal years.

17 (b) On and after January 1, 2019, the Department of Developmental
18 Services shall provide services, including day, employment and other
19 support services, to each person with intellectual disability who is
20 eligible for services, immediately following the end of the school year
21 in which each such person turns twenty-one years of age.

22 (c) Notwithstanding the provisions of chapter 50 of the general
23 statutes, the appropriations recommended for the Department of
24 Developmental Services for graduate funding under subsection (a) of
25 this section shall be the estimates of expenditure requirements
26 transmitted to the Secretary of the Office of Policy and Management by
27 the Commissioner of Developmental Services pursuant to subsection
28 (a) of this section and the recommended adjustments and revisions of
29 such estimates shall be the recommended adjustments and revisions, if
30 any, transmitted by said commissioner to the Office of Policy and
31 Management.

32 (d) Notwithstanding the provisions of section 4-85 of the general
33 statutes, the Governor shall not reduce allotment requisitions or
34 allotments in force concerning the graduate funding described in
35 subsection (c) of this section.

36 Sec. 2. (NEW) (*Effective July 1, 2018*) (a) The Commissioner of
37 Developmental Services, in consultation with the Commissioner of
38 Social Services, shall adjust, within available appropriations and in
39 accordance with the application of standard accounting principles, as
40 prescribed by said commissioners, the amount of payments for
41 programs, services and supports made to nonprofit private provider
42 organizations that contract with the state to provide residential, day,
43 employment and other support services to persons with intellectual
44 disability. Such adjustment shall provide an annual pro-rata increase
45 based on direct care employee salaries for services provided in the
46 state and included in the annual report of residential and day services

47 for cost year 2016 of the Departments of Developmental Services and
48 Social Services, which shall be adjusted to reflect salary increases
49 occurring after the release of such report. Such pro-rata increase shall
50 reflect reasonable costs mandated by collective bargaining agreements
51 with certified collective bargaining agents or otherwise provided by an
52 organization to its employees, including an increase in direct
53 compensation and the provision of pension benefits to all employees.
54 For purposes of this subsection, "employee" does not include a person
55 employed as a manager, chief administrator or any individual who
56 receives compensation for services pursuant to a contractual
57 arrangement and who is not directly employed by a nonprofit private
58 provider organization that provides residential, day or employment
59 services.

60 (b) The Commissioner of Developmental Services may establish an
61 upper limit for reasonable costs associated with salary adjustments
62 beyond which the adjustment made pursuant to subsection (a) of this
63 section shall not apply. Nothing in this section shall require the
64 commissioner to distribute such adjustments in a way that jeopardizes
65 anticipated federal reimbursement. Such adjustment may not provide
66 disproportional increases to any nonprofit private provider
67 organization. If a nonprofit private provider organization receives an
68 adjustment under subsection (a) of this section, but does not provide
69 any increase in employee salaries on or before October 1, 2018, such
70 private provider may be subject to a rate decrease in the same amount
71 as the adjustment made for such provider under subsection (a) of this
72 section.

73 Sec. 3. (NEW) (*Effective July 1, 2018*) (a) The Department of
74 Developmental Services shall establish a training and development
75 advisory committee to develop training guidelines and improve the
76 level of training received by direct care workers who provide services
77 to persons with intellectual disability. The committee shall determine
78 (1) the extent to which such direct care workers who serve persons
79 with high levels of need may require additional training to adequately
80 serve such persons, (2) the curricula that needs to be developed to

81 provide such additional training, and (3) the manner in which to
82 provide such training to ensure consistent care across the direct care
83 workforce and the appropriate state agencies.

84 (b) The training and development advisory committee shall be
85 comprised of the following members:

86 (1) Two impartial representatives of the disability rights
87 community, who shall be appointed by the Governor;

88 (2) The Commissioner of Developmental Services, or the
89 commissioner's designee;

90 (3) The Commissioner of Social Services, or the commissioner's
91 designee;

92 (4) The Secretary of the Office of Policy and Management, or the
93 secretary's designee;

94 (5) Two representatives of private care providers, who shall be
95 designated by the Connecticut Community Nonprofit Alliance; and

96 (6) Two representatives of organizations that represent direct care
97 workers, who provide services to persons with intellectual disability.

98 (c) The chairperson of the training and development advisory
99 committee shall be selected by the Governor from among its members.

100 (d) On or before October 1, 2018, the training and development
101 advisory committee shall report to the Commissioner of
102 Developmental Services regarding an estimate of the funds required to
103 pay for the appropriate level of additional training it determines to be
104 necessary under subsection (a) of this section. Such training funds shall
105 be available to pay any private provider that wishes to participate in
106 the additional training program.

107 (e) On or before December 1, 2018, the training and development
108 advisory committee shall report to the Commissioner of
109 Developmental Services regarding the guidelines it developed

110 pursuant to subsection (a) of this section and its recommendations
111 regarding additional training required for direct care workers.

112 (f) The Commissioner of Developmental Services shall adopt
113 regulations, in accordance with the provisions of chapter 54 of the
114 general statutes, to implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	New section
Sec. 2	<i>July 1, 2018</i>	New section
Sec. 3	<i>July 1, 2018</i>	New section

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 19 \$	FY 20 \$
Department of Developmental Services	GF - Cost	None	5,830,000
Resources of the General Fund	GF - Revenue Gain	None	2,915,000
Department of Developmental Services	GF - Potential Cost	up to 5,100,000	up to 5,100,000
Social Services, Dept.	GF - Potential Cost	up to 12,100,000	up to 12,100,000
Resources of the General Fund	GF - Potential Revenue Gain	up to 8,600,000	up to 8,600,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires the Department of Developmental Services (DDS) to: (Section 1) provide Employment and Day Services to DDS consumers turning 21 years of age during the school year, on or after 1/1/19, (Section 2) grant increases to certain DDS contracted nonprofit providers, and (Section 3) establish a training and development advisory committee to determine necessary training and funding, and provide such funding. The fiscal impact of each provision is summarized below.

Section 1

High School Graduate Funding

The bill requires DDS to provide Employment and Day Services and other services to DDS consumers turning age 21 during the school

year. Each year there are between 300 and 360 such DDS eligible individuals graduating from special education programs. The projected number of DDS High School Graduates in FY 20 is 315 with an estimated cost for Employment and Day Services of \$5.8 million. This is based on initial year utilization of an average of 10 months, resulting in a fully annualized cost of \$6.9 million. The per person annual cost of providing Employment and Day Services ranges from \$11,300 to \$28,200, depending on the consumer’s level of need. While the bill does not define “other services”, for the purpose of this cost estimate transportation costs of \$2,800 per person have been included.

Federal Revenue

The state receives 50% reimbursement for the cost of eligible services provided under the Medicaid Home and Community-Based waiver programs. The Employment and Day Services required by the bill are covered under the waiver and the anticipated revenue to the General Fund is shown below.

Waiver Component	FY 20 \$
Employment and Day Services for High School Graduates	5,830,000
Medicaid Waiver Revenue	2,915,000

The bill also specifies that the Office of Policy and Management may not adjust the funding estimates recommended by DDS, or reduce allotment requirements for graduate funding, which is in agency’s Employment and Day Services account. This may impact individuals receiving services not considered as graduate funding.

Section 2

Private Provider Increases

The bill requires DDS, within available appropriations, to implement a private provider grant increase for Employment and Day Services (funded in DDS) and Community Residential Services (funded in Department of Social Services) based upon direct care employees’ salaries as reported in the providers’ 2016 annual reports.

Since the bill specifies that the increase is to be provided with available appropriations, the estimated cost is reflected as a potential one.

The estimated maximum cost of a 4.28% increase¹ in the direct care salaries of employees of private providers is shown below. The bill references a pro-rata increase that could lower what DDS distributes to providers.

Potential Cost of Provider Increase

Account	FY 19 \$	FY 20 \$
DDS Employment and Day Services	5,100,000	5,100,000
DSS Community Residential Services	12,100,000	12,100,000
TOTAL	17,200,000	17,200,000

Federal Revenue

The state receives 50% reimbursement for the cost of eligible services provided under the Medicaid Home and Community-Based waiver programs. Assuming the private provider increases required by the bill are reimbursable under the waiver, potential revenue to the General Fund is shown below.

Waiver Components	FY 18 \$	FY 19 \$
Cost of Private Provider Increases	17,200,000	17,200,000
Medicaid Waiver Revenue	8,600,000	8,600,000

Section 3

Training and Development

The bill requires DDS to establish a training and development advisory committee which is to report to DDS regarding the funds

¹An increase of 4.28% was used in the calculation to reflect Bureau of Labor Statistics Employment Cost Index for wages and salaries, by occupational group and industry, for the period 2016 to 2018.

required to pay for the appropriate level of training determined by the committee. The bill also requires that such training funds be available to pay any private providers wanting to participate in the additional training program established by the committee. Since the committee has yet to determine the level of training required and the cost of providing the training, the cost associated with this provision cannot be determined at this time. Depending on the advisory committee determination, there is a potential cost to DDS if an additional position to undertake curriculum development and coordination of private provider training is required.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future.

*Sources: Core-CT Financial Accounting System
DDS Management Information Report
Department of Developmental Services*

OLR Bill Analysis**sSB 400*****AN ACT CONCERNING GRADUATE FUNDING AND THE PROVISION OF SUPPORT AND SERVICES FOR PERSONS WITH INTELLECTUAL DISABILITY.*****SUMMARY**

This bill makes various changes affecting the Department of Developmental Services (DDS), individuals with intellectual disability, and providers of services for such individuals. Principally, the bill:

1. requires DDS to annually provide day, employment, and other support services to all eligible individuals with intellectual disability immediately following the end of the school year in which they turn age 21 (this is sometimes referred to as graduate funding);
2. requires DDS to annually evaluate the need for such services, determine the projected cost, and report on such matters;
3. prohibits the governor from reducing DDS's budget allotments for such graduate funding and requires the Office of Policy and Management (OPM) to recommend appropriations for DDS graduate funding that reflect the agency's estimates of spending needs;
4. requires DDS, in consultation with the Department of Social Services (DSS) and within available appropriations, to adjust payments to private nonprofit providers of services to individuals with intellectual disability, to provide an annual increase in employee salaries; and
5. requires DDS to establish an advisory committee to develop training guidelines and improve the training received by direct

care workers who provide services to individuals with intellectual disability.

EFFECTIVE DATE: July 1, 2018, except the provisions on graduate funding and the DDS budget are effective October 1, 2018.

§ 1 — GRADUATE FUNDING AND DDS BUDGET

The bill requires DDS to annually:

1. evaluate the needs of individuals with intellectual disability who are eligible for DDS services and have turned or are turning 21-years-old during the school year;
2. determine the projected cost of providing such individuals with day, employment, and other support services following the end of such a school year;
3. starting by January 1, 2019, report to the Public Health and Appropriations committees and OPM on such individuals' needs and the funding required to cover the projected cost for all such individuals turning age 21 in each of the following three fiscal years; and
4. starting January 1, 2019, provide such services to all such eligible individuals with intellectual disability, immediately following the end of the school year in which they turn age 21.

The bill requires the proposed DDS budget for graduate funding that OPM submits to the legislature to be the estimates of expenditure requirements, together with any recommended adjustments and revisions, that OPM receives from the DDS commissioner. It bars the governor from reducing an allotment of such appropriated funds currently in force for, or an allotment of funds requisitioned by, DDS.

§ 2 — PAYMENTS TO NONPROFIT PRIVATE PROVIDERS

The bill requires the DDS commissioner, in consultation with the DSS commissioner and within available appropriations, to adjust payments made to certain nonprofit private providers that contract

with the state. The adjustment must provide an annual pro rata increase in salaries for direct care employees (not including managers and certain other individuals; see below).

Under the bill, this adjustment applies to state payments for programs, services, and supports to such providers that contract with the state to provide residential, day, employment, and other support services to individuals with intellectual disability. The commissioner must make the adjustment in compliance with standard accounting principles, as prescribed by himself and the DSS commissioner.

The bill requires the adjustment to provide an annual proportional increase based on direct care employee salaries for such services, as included in the departments' 2016 annual report of residential and day services. The increase must:

1. be adjusted to reflect salary increases that occurred after the report was released and
2. reflect reasonable costs mandated by collective bargaining agreements with certified collective bargaining agents or otherwise provided by such nonprofit organizations to their employees, including an increase in direct compensation and pension benefits.

The bill allows the DDS commissioner to establish a cap on the reasonable costs associated with salary adjustments beyond which the adjustment described above does not apply.

The bill also:

1. provides that these provisions do not require the commissioner to distribute these payment adjustments in a way that jeopardizes anticipated federal reimbursement;
2. prohibits the commissioner from providing disproportional increases to any nonprofit provider; and

3. allows DDS to decrease payment rates of providers who receive a payment adjustment but do not provide salary increases by October 1, 2018 (the decrease is the same amount as the adjustment).

Under the bill, “employee” does not include someone employed as a manager or chief administrator or someone who receives compensation under a contractual arrangement and who is not directly employed by such a nonprofit provider.

§ 3 — TRAINING AND DEVELOPMENT ADVISORY COMMITTEE

The bill requires DDS to establish a training and development advisory committee to develop training guidelines and improve the training received by direct care workers who provide services to individuals with intellectual disability. The committee must determine:

1. the extent to which such workers who serve individuals with high levels of need may require additional training,
2. the curricula that needs to be developed for such additional training, and
3. how to provide this training to ensure consistent care across the direct care workforce and the appropriate state agencies.

Under the bill, the advisory committee consists of the following members:

1. two impartial representatives of the disability rights community, appointed by the governor;
2. the DDS commissioner, or his designee;
3. the DSS commissioner, or his designee;
4. the OPM secretary, or his designee;
5. two representatives of private care providers, designated by the

Connecticut Community Nonprofit Alliance; and

6. two representatives of organizations that represent direct care workers who provide services to individuals with intellectual disability (the bill does not specify who appoints these members).

The governor must appoint the advisory committee's chairperson from among its members.

The bill requires the advisory committee to report twice to the DDS commissioner, as follows:

1. by October 1, 2018, the committee must report an estimate of the funds required to pay for the appropriate level of additional training it determines necessary for direct care workers who serve individuals with high levels of need and
2. by December 1, 2018, the committee must report on (a) the training guidelines it developed and (b) its recommendations on additional training for workers as set forth above.

The bill requires the training funds to be available to pay any private provider that wishes to participate in the additional training program.

Under the bill, the DDS commissioner must adopt regulations to implements these provisions.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 0 (03/23/2018)