

**Proposed Substitute
Bill No. 165**

February Session, 2018

LCO No. 2285

**AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL
SERVICES' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO
ITS STATUTES.**

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

1 Section 1. Subsection (b) of section 17a-210 of the 2018 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective July 1, 2018*):

4 (b) The commissioner shall be responsible for the development of
5 criteria as to the eligibility of any person with intellectual disability for
6 residential care in any public or state-supported private facility and,
7 after considering the recommendation of a properly designated
8 diagnostic agency, may assign such person to a public or state-
9 supported private facility. The commissioner may transfer such
10 [persons] person from one such facility to another when necessary and
11 desirable for their welfare, provided such person and such person's
12 legal representative receive written notice of their right to object to
13 such transfer at least ten days prior to the proposed transfer of such
14 person from any such facility. Such prior notice shall not be required
15 when transfers are made between residential units within the training
16 school or a state developmental services region or when necessary to
17 avoid a serious and immediate threat to the life or physical or mental
18 health of such person or others residing in such facility. The notice

19 required by this subsection shall notify [the recipient of his or her]
20 such person and such person's legal representative of the person's right
21 to object to such transfer, except in the case of an emergency transfer as
22 provided in this subsection, and shall include the name, address and
23 telephone number of the nonprofit entity designated by the Governor
24 in accordance with section 46a-10b to serve as the Connecticut
25 protection and advocacy system. In the event of an emergency transfer,
26 the notice required by this subsection shall notify [the recipient of his
27 or her] such person and such person's legal representative of the
28 person's right to request a hearing in accordance with subsection (c) of
29 this section and shall be given within ten days following the
30 emergency transfer. In the event of an objection to the proposed
31 transfer, the commissioner shall conduct a hearing in accordance with
32 subsection (c) of this section and the transfer shall be stayed pending
33 final disposition of the hearing, provided no such hearing shall be
34 required if the commissioner withdraws such proposed transfer.

35 Sec. 2. Subsections (a) and (b) of section 17a-210a of the general
36 statutes are repealed and the following is substituted in lieu thereof
37 (*Effective July 1, 2018*):

38 (a) There is established an independent ombudsman office within
39 the Department of Developmental Services that is responsible for
40 receiving and making recommendations to the commissioner for
41 resolving complaints affecting [consumers] individuals under the care
42 or supervision of the department or of any public or private agency
43 with which the department has contracted for the provision of
44 services.

45 (b) The director of the ombudsman office shall be appointed by the
46 Governor, with the approval of the General Assembly. Said director
47 shall be an elector of the state with expertise and experience in the
48 fields of developmental services and advocacy for the rights of the
49 [consumers] individuals specified in subsection (a) of this section and
50 shall be exempt from the classified service.

51 Sec. 3. Subsection (a) of section 17a-211 of the general statutes is

52 repealed and the following is substituted in lieu thereof (*Effective July*
53 *1, 2018*):

54 (a) In 1991, and every five years thereafter, the Department of
55 Developmental Services shall develop and review a five-year plan in
56 accordance with this section. The plan shall: (1) Set priorities; (2)
57 identify goals and objectives and the strategies to be employed to
58 achieve them; (3) define the criteria to be used in evaluating whether
59 the department is making progress toward the achievement of such
60 goals and objectives; (4) identify changes in priorities, goals, objectives
61 and strategies from the prior plan; (5) describe and document progress
62 made in achieving the goals and objectives outlined in the prior plan;
63 and (6) estimate the type and quantity of staff and [client] services that
64 will be needed over the life of the plan.

65 Sec. 4. Section 17a-212 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective July 1, 2018*):

67 (a) On or before September 30, 1991, the Commissioner of
68 Developmental Services shall adopt regulations, in accordance with
69 the provisions of chapter 54, establishing (1) criteria for (A)
70 determining eligibility for services provided by the department, (B)
71 determining which [clients] individuals shall receive a specific service,
72 and (C) selecting private sector service providers, and (2) uniform
73 procedures to be used by the regional offices in determining which
74 [clients] individuals shall receive services and in selecting private
75 sector service providers. Such procedures shall specify the decision-
76 making authority of the department's central office and the regional
77 offices and set parameters within which each shall operate.

78 (b) Each regional office, following a format developed by the
79 department's central office and taking into account the regulations
80 developed by the commissioner, shall prepare a written protocol to be
81 used in determining which [clients] individuals shall receive services
82 and in selecting service providers. The protocol shall be approved by
83 the commissioner.

84 Sec. 5. Section 17a-212a of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective July 1, 2018*):

86 The Commissioner of Developmental Services shall adopt
87 regulations, in accordance with chapter 54, to establish and implement
88 the policy of the Department of Developmental Services with respect
89 to the placement and care of [department clients] individuals who are
90 evaluated by the department as posing a serious threat to others
91 without specific measures for their supervision and security. Such
92 regulations shall include, but not be limited to, provisions concerning
93 the criteria or factors to be considered in: (1) Evaluating and placing
94 such [clients] individuals; (2) siting of residential facilities for such
95 [clients] individuals; (3) giving notice, if any, to the [community]
96 communities in which such [client is] individuals are to be placed; (4)
97 determining appropriate levels of security and supervision; and (5)
98 providing appropriate programs and quality of life for such [clients]
99 individuals in the least restrictive environment. Such regulations shall
100 not permit the siting of more than one such facility in any one
101 municipality.

102 Sec. 6. Subsection (a) of section 17a-217a of the general statutes is
103 repealed and the following is substituted in lieu thereof (*Effective July*
104 *1, 2018*):

105 (a) There shall be a Camp Harkness Advisory Committee to advise
106 the Commissioner of Developmental Services with respect to issues
107 concerning the health and safety of persons who attend and utilize the
108 facilities at Camp Harkness. The advisory committee shall be
109 composed of twelve members as follows: (1) [The] Six members
110 appointed by the Governor, one of whom shall be the director of Camp
111 Harkness, who shall serve ex officio, one [member representing] of
112 whom shall represent the Southeastern Connecticut Association for
113 Developmental Disabilities, one [member representing] of whom shall
114 represent the Southbury Training School, one [member representing]
115 of whom shall represent the Arc of New London County, one
116 [consumer representing persons who use] of whom who is a person

117 who uses the camp on a residential basis and one [member
118 representing parents or guardians of persons who use] of whom is a
119 relative or guardian of a person who uses the camp; [, all of whom
120 shall be appointed by the Governor;] and (2) six members appointed
121 by the General Assembly, one [member representing parents or
122 guardians of persons who use] of whom shall be a relative or guardian
123 of a person who uses the camp, who shall be appointed by the
124 president pro tempore of the Senate; [(3)] one [member] of whom shall
125 be a member of the Family Support Council established pursuant to
126 section 17a-219c [representing] and represent persons who use the
127 camp on a day basis, who shall be appointed by the speaker of the
128 House of Representatives; [(4)] one [member representing] of whom
129 shall represent the board of selectmen of the town of Waterford, who
130 shall be appointed by the majority leader of the House of
131 Representatives; [(5)] one [member representing] of whom shall
132 represent a private nonprofit corporation that is: (A) Tax exempt under
133 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
134 subsequent internal revenue code of the United States, as amended
135 from time to time, and (B) established to promote and support Camp
136 Harkness and its camping programs, who shall be appointed by the
137 majority leader of the Senate; [(6)] one [member representing] of whom
138 shall represent the Connecticut Institute for the Blind and the Oak Hill
139 School, who shall be appointed by the minority leader of the House of
140 Representatives; and [(7)] one [member representing] of whom shall
141 represent the United Cerebral Palsy Association, who shall be
142 appointed by the minority leader of the Senate.

143 Sec. 7. Subsections (a) to (e), inclusive, of section 17a-218 of the
144 general statutes are repealed and the following is substituted in lieu
145 thereof (*Effective July 1, 2018*):

146 (a) For purposes of this section, the following terms have the
147 following meanings: "Commissioner" means the Commissioner of
148 Developmental Services; "department" means the Department of
149 Developmental Services; and "emergency placement" means cases in
150 which there has been a request for a residential accommodation for an

151 individual for whom there is an unforeseen emergency in [his] the
152 individual's current living arrangement, or cases in which the
153 department has had no previous knowledge of a need for placement,
154 or cases in which such a placement is needed because of actions of
155 another state agency or department, including, but not limited to, the
156 Department of Mental Health and Addiction Services, the Department
157 of Children and Families, and any court, or cases prior to any other
158 planned placements, because the health or safety of the individual
159 needing such placement would be adversely affected without such
160 placement.

161 (b) The commissioner shall plan, develop and administer a
162 comprehensive program of community-based residential facilities
163 including, but not limited to, transitional facilities, group homes,
164 community companion homes, community living arrangements and
165 supervised apartments.

166 (c) The commissioner may provide, within available appropriations,
167 subsidies to persons with intellectual disability who are placed in
168 supervised apartments, condominiums or homes which do not receive
169 housing payments under section 17b-244, in order to assist such
170 persons to meet housing costs.

171 (d) The commissioner may provide, within available appropriations,
172 respite care services which may be administered directly by the
173 department, or through contracts for services with providers of such
174 services, or by means of direct subsidy to [parents of persons] the
175 family or legal representative of a person with intellectual disability to
176 enable the [parents] family or legal representative to purchase such
177 services.

178 (e) The commissioner may, within available appropriations and in
179 accordance with individualized plans of care, provide a full range of
180 services to support persons with intellectual disability living with their
181 families, [caretakers] caregivers, independently or in community-based
182 residential facilities licensed pursuant to section 17a-227. Such services
183 may include, but are not limited to, education and training programs,

184 social services, counseling services, medical services, physical or
185 occupational therapy, parent training, recreation and transportation.
186 Such services may be provided by the department or be purchased
187 from persons or private agencies through contracts pursuant to
188 subsection (d) of section 4-70b or purchased directly by the [service
189 recipient or his family] person receiving services or the person's family
190 or legal representative. The department may provide a direct subsidy
191 to persons with intellectual disability or their families or legal
192 representatives to be used for such purchases of such support services.
193 The [recipient of] person receiving such subsidy or the person's family
194 or legal representative shall provide a documented accounting of such
195 subsidy to the department.

196 Sec. 8. Subsection (a) of section 17a-218a of the general statutes is
197 repealed and the following is substituted in lieu thereof (*Effective July*
198 *1, 2018*):

199 (a) The Commissioner of Developmental Services shall continue the
200 operation of the Southbury Training School and shall establish criteria
201 to evaluate the current population of the training school in regard to
202 community placement and training school placement. The criteria shall
203 include, at a minimum, consideration of the [client's] resident's age,
204 physical disabilities, medical fragility, level of intellectual disability,
205 length of residence at the school and availability of an appropriate
206 placement.

207 Sec. 9. Subsection (e) of section 17a-228 of the general statutes is
208 repealed and the following is substituted in lieu thereof (*Effective July*
209 *1, 2018*):

210 (e) Whenever the Department of Developmental Services refuses to
211 renew the authorization of a person for continued state-assisted care in
212 a licensed residential facility for persons with intellectual disability
213 pursuant to subsection (d) of this section and either authorizes the
214 individual for admission into alternate facilities or refuses to authorize
215 the individual for continued state-assisted care in any alternative
216 facility, the Department of Developmental Services shall give thirty

217 days' notice of its determination to the previously authorized
218 individual and to such individual's [parent, conservator, guardian or
219 other] legal representative. Such notice shall [also notify each such
220 individual or his legal representative of the] inform the individual and
221 the individual's representative of such individual's right to contest the
222 determination by submitting a request for a hearing in writing to the
223 Commissioner of Developmental Services not later than fifteen days
224 after the date of receiving the notice required by this subsection. Such
225 hearing, if requested, shall be conducted in accordance with the
226 provisions of sections 4-176e to 4-184, inclusive. State-assisted care
227 shall continue in the present facility pending final disposition of any
228 such hearing.

229 Sec. 10. Section 17a-229 of the general statutes is repealed and the
230 following is substituted in lieu thereof (*Effective July 1, 2018*):

231 The Commissioner of Developmental Services may, upon
232 application by a residential facility licensed under section 17a-227, at
233 his or her discretion and prior to the opening of such facility, make
234 payments for operating costs to be incurred up to forty-five days in
235 advance of the initial admission of residents by such facility. [He] The
236 commissioner shall ensure that all payments made pursuant to this
237 section and section 17a-228, as amended by this act, have been
238 properly expended and shall recoup payments improperly expended.

239 Sec. 11. Subsections (a) to (d), inclusive, of section 17a-230 of the
240 general statutes are repealed and the following is substituted in lieu
241 thereof (*Effective July 1, 2018*):

242 (a) The Commissioner of Developmental Services shall adopt
243 regulations in accordance with the provisions of chapter 54 to
244 implement the provisions of section 17a-229, as amended by this act,
245 and subsection (a) of section 17a-228 pertaining to the Commissioner
246 of Developmental Services. Such regulations shall include, but not be
247 limited to, standards for [client] eligibility for programmatic services
248 provided under subsection (a) of section 17a-228 which standards may
249 address [client] a person with intellectual disability's need for such

250 services and departmental priorities for [clients] such person to receive
251 services under subsection (a) of section 17a-228, criteria for
252 determining [resident] such person's ability to pay for all or part of the
253 cost of such services, standards for advance payments to private
254 entities for the provision of such services, standards for the recovery of
255 payments improperly expended and standards for fair hearing or case
256 review for persons denied eligibility or admission.

257 (b) The commissioner shall adopt regulations in accordance with the
258 provisions of chapter 54 to govern the annual reviews mandated by
259 subsection (d) of section 17a-228. Such regulations shall address
260 individual need for continued authorization to receive residential care
261 and the continued appropriateness of the facility. Such regulations
262 shall recognize the characteristics of persons deemed authorized for
263 admission pursuant to subsection (b) of section 17a-228.

264 (c) The commissioner may grant exemptions from regulations
265 adopted pursuant to subsections (a) and (b) of this section for group
266 homes in operation prior to October 1, 1983, and shall adopt
267 regulations concerning the criteria and procedures for such
268 exemptions.

269 (d) The commissioner shall allow any authorized [client] resident of
270 a private residential facility licensed in accordance with section 17a-227
271 to be absent from such facility for not more than thirty-six days per
272 year without affecting reimbursement to such facility. In order to be
273 reimbursed for absences in excess of thirty-six days, the facility shall
274 obtain prior approval for the absence from the commissioner. The
275 commissioner shall adopt regulations in accordance with the
276 provisions of chapter 54 to implement the provisions of this
277 subsection.

278 Sec. 12. Section 17a-232 of the 2018 supplement to the general
279 statutes is repealed and the following is substituted in lieu thereof
280 (*Effective July 1, 2018*):

281 (a) An application to appoint a receiver for a residential facility for

282 persons with intellectual disability may be filed in the Superior Court
283 by the Commissioner of Developmental Services. A resident of the
284 facility or the resident's [legally liable relative, conservator, or
285 guardian] legal representative may file a written complaint with the
286 Commissioner of Developmental Services specifying conditions at the
287 facility which warrant an application to appoint a receiver. If the
288 Commissioner of Developmental Services fails to resolve the complaint
289 within forty-five days of its receipt or, in the case of a facility which
290 intends to close, within seven days of its receipt, the person who filed
291 the complaint may file an application in the Superior Court for the
292 appointment of a receiver for the facility. The court shall immediately
293 notify the Attorney General of the application. The court shall hold a
294 hearing not later than ten days after the date the application is filed.
295 Notice of the hearing shall be given to the owner of the facility or the
296 owner's agent for service of process not less than five days prior to the
297 hearing. The notice shall be posted by the court in a conspicuous place
298 inside the facility for not less than three days prior to the hearing.

299 (b) Notwithstanding the provisions of subsection (a) of this section
300 the court may appoint a receiver upon an ex parte motion when
301 affidavits, testimony or any other evidence presented indicates that
302 there is a reasonable likelihood an emergency exists in the facility
303 which must be remedied immediately to insure the health, safety and
304 welfare of the residents of the facility. Notice of the application and
305 order shall be served on the owner or [his] the owner's agent for
306 service of process and shall be posted in a conspicuous place inside the
307 facility not later than twenty-four hours after issuance of the order. A
308 hearing on the application shall be held not later than five days after
309 the issuance of the order unless the owner consents to a later date.

310 Sec. 13. Subsection (b) of section 17a-233 of the general statutes is
311 repealed and the following is substituted in lieu thereof (*Effective July*
312 *1, 2018*):

313 (b) It shall be a sufficient defense to a receivership application if any
314 owner of a residential facility for persons with intellectual disability

315 establishes that: (1) [He] Such owner did not have knowledge or could
316 not reasonably have known that any conditions in violation of section
317 17a-227 existed, or (2) [he] such owner did not have a reasonable time
318 in which to correct such violations, or (3) the violations listed in the
319 application do not, in fact, exist, or (4) in the event the grounds upon
320 which the petition is based are those set forth in subdivision (2) of
321 subsection (a) of this section, the facility does not intend to close.

322 Sec. 14. Section 17a-234 of the general statutes is repealed and the
323 following is substituted in lieu thereof (*Effective July 1, 2018*):

324 A receiver appointed pursuant to the provisions of sections 17a-231
325 to 17a-237, inclusive, as amended by this act, in operating such facility,
326 shall have the same powers as a receiver of a corporation under section
327 52-507 and shall exercise such powers to remedy the conditions which
328 constituted grounds for the imposition of receivership, assure
329 adequate care for the residents and preserve the assets and property of
330 the owner. If a facility is placed in receivership it shall be the duty of
331 the receiver to notify residents and [family] the residents' legal
332 representatives, except where medically contraindicated. The receiver
333 may correct or eliminate any deficiency in the structure or furnishings
334 of the facility which endangers the safety or health of the residents
335 while they remain in the facility, provided the total cost of correction
336 does not exceed three thousand dollars. The court may order
337 expenditures for this purpose in excess of three thousand dollars upon
338 the application of the receiver. If any resident is transferred or
339 discharged the receiver shall provide for: (1) Transportation of the
340 resident and the resident's belongings and records to the place where
341 the resident is being transferred or discharged; (2) aid in locating an
342 alternative placement and discharge planning; (3) preparation for
343 transfer to mitigate transfer trauma, including, but not limited to,
344 participation by the resident or the resident's [guardian] legal
345 representative in the selection of the resident's alternative placement,
346 explanation of alternative placements and orientation concerning the
347 placement chosen; and (4) custodial care of all property or assets of
348 residents which are in the possession of the owner of the facility. The

349 receiver shall preserve all property, assets and records of residents
350 which the receiver has custody of and shall provide for the prompt
351 transfer of the property, assets and records to the alternative placement
352 of any transferred resident. In no event may the receiver transfer all
353 residents and close a facility without a court order and without
354 preparing a discharge plan for each resident.

355 Sec. 15. Section 17a-236 of the general statutes is repealed and the
356 following is substituted in lieu thereof (*Effective July 1, 2018*):

357 (a) The court may name any responsible [individual] person to act
358 as a receiver, including an employee of the Department of
359 Developmental Services. The court may remove such receiver in
360 accordance with section 52-513. A receiver, other than an employee of
361 the Department of Developmental Services, appointed pursuant to this
362 section shall be entitled to a reasonable receiver's fee as determined by
363 the court. The receiver shall be liable only in his or her official capacity
364 for injury to person and property by reason of the conditions of the
365 residential facility. [He] Such receiver shall not be personally liable,
366 except for acts or omissions constituting gross, wilful or wanton
367 negligence.

368 (b) The court, in its discretion, may require a bond of such receiver
369 in accordance with section 52-506.

370 (c) Each receiver shall, during the first week of January, April, July
371 and October in each year, sign, swear to and file with the clerk of the
372 court by which [he] such receiver was appointed a full and detailed
373 account of [his] the receiver's doings [as such receiver] for the previous
374 three months [next preceding,] together with a statement of all court
375 orders [passed] issued during such three months and the present
376 condition and prospects of the facility in [his] the receiver's charge, and
377 cause a motion for a hearing and approval of the same to be [placed on
378 the short calendar] filed with the court.

379 Sec. 16. Section 17a-237 of the general statutes is repealed and the
380 following is substituted in lieu thereof (*Effective July 1, 2018*):

381 The Superior Court, upon a motion by the receiver or the owner of
382 such facility, may terminate the receivership if it finds that the facility
383 has been rehabilitated so that the violations complained of no longer
384 exist or, if the receivership was instituted pursuant to subdivision (2)
385 of subsection (a) of section 17a-233, the orderly transfer of the
386 [patients] residents has been completed and the facility is ready to be
387 closed. Upon such finding, the court may terminate the receivership
388 and return the facility to its owner. In its termination order the court
389 may include such terms as it deems necessary to prevent the
390 conditions complained of from recurring.

391 Sec. 17. Subsection (b) of section 17a-238a of the 2018 supplement to
392 the general statutes, as amended by section 2 of public act 17-61, is
393 repealed and the following is substituted in lieu thereof (*Effective July*
394 *1, 2018*):

395 (b) An individual determined by the department to be eligible for
396 funding or services from the department, or such individual's legal
397 [guardian or] representative, may request and, if requested, shall
398 obtain from the department a copy of (1) such individual's category for
399 residential funding or services, if the individual has an unmet need for
400 residential services, (2) such individual's request for funding or
401 services submitted to the regional planning and resource allocation
402 team, and (3) any decision on the individual's request for funding or
403 services made by the regional planning and resource allocation team.
404 Additionally, any such individual who receives annual funding or
405 services from the department, or such individual's legal [guardian or]
406 representative, may request and, if requested, shall obtain from the
407 department a copy of such individual's (A) individual plan, and (B)
408 level of need assessment.

409 Sec. 18. Subsection (f) of section 17a-238 of the 2018 supplement to
410 the general statutes is repealed and the following is substituted in lieu
411 thereof (*Effective July 1, 2018*):

412 (f) The Commissioner of Developmental Services shall require the
413 attending physician of any person placed or treated in a residential

414 facility under the direction of the commissioner to obtain informed
415 written consent from the following persons prior to authorizing any
416 surgical procedure or any medical treatment, excluding routine
417 medical treatment which is necessary to maintain the general health of
418 [a resident] the person or to prevent the spread of any communicable
419 disease: (1) The [resident] person if such [resident] person is eighteen
420 years of age or over or is legally emancipated and competent to give
421 such consent; (2) the parent of a [resident] person under eighteen years
422 of age who is not legally emancipated; or (3) the legal [guardian or
423 conservator] representative of a [resident] person of any age who is
424 adjudicated unable to make informed decisions about matters relating
425 to such [resident's] person's medical care. The person whose consent is
426 required shall be informed of the nature and consequences of the
427 particular treatment or surgical procedure, the reasonable risks,
428 benefits and purpose of such treatment or surgical procedure and any
429 alternative treatment or surgical procedures which are available. The
430 consent of any [resident] person or of any parent [, guardian or
431 conservator] or legal representative of any [resident] person may be
432 withdrawn at any time prior to the commencement of the treatment or
433 surgical procedure. The regional or training school director having
434 custody and control of a [resident of any] person living in a residential
435 facility may authorize necessary surgery for such [resident] person
436 where, in the opinion of the [resident's] person's attending physician,
437 the surgery is of an emergency nature and there is insufficient time to
438 obtain the required written consent provided for in this section. The
439 attending physician shall prepare a report describing the nature of the
440 emergency which necessitated such surgery and shall file a copy of
441 such report in the patient's record.

442 Sec. 19. Subsection (h) of section 17a-238 of the 2018 supplement to
443 the general statutes is repealed and the following is substituted in lieu
444 thereof (*Effective July 1, 2018*):

445 (h) Any person applying for services from the Commissioner of
446 Developmental Services or any person placed by a [probate court]
447 Probate Court under the direction of the Commissioner of

448 Developmental Services, and such person's [parents or guardian] legal
449 representative, shall be informed orally and in writing at the time of
450 application or placement of the rights guaranteed by this section. A
451 summary of such rights shall be posted conspicuously in the public
452 areas of every public or private facility providing services to persons
453 under the care of the Commissioner of Developmental Services.

454 Sec. 20. Section 17a-247 of the general statutes is repealed and the
455 following is substituted in lieu thereof (*Effective July 1, 2018*):

456 (a) Any employee of the Department of Developmental Services
457 appointed as a guardian or limited guardian pursuant to subsection (f)
458 of section 45a-676 shall exercise judgment, independent of the
459 department, for the benefit and best interests of the [ward] protected
460 person.

461 (b) The Department of Developmental Services shall not take or
462 threaten to take any action against any employee of the department in
463 retaliation for such employee's conduct as a plenary guardian or
464 limited guardian of a person with intellectual disability.

465 Sec. 21. Subsection (a) of section 17a-247c of the general statutes is
466 repealed and the following is substituted in lieu thereof (*Effective July*
467 *1, 2018*):

468 (a) No employer shall hire a person whose name appears on the
469 registry and no employer shall retain an employee after receiving
470 notice that [his or her] such employee's name so appears.

471 Sec. 22. Subsection (b) of section 17a-272 of the general statutes is
472 repealed and the following is substituted in lieu thereof (*Effective July*
473 *1, 2018*):

474 (b) Each director may with the approval of the Commissioner of
475 Developmental Services appoint four assistant directors for the
476 efficient conduct of the business of each training school or state
477 developmental services region. Each director shall designate an
478 assistant director who shall in the event of the director's absence, [or]

479 disqualification [of the director or on his] or death, exercise the powers
480 and duties of the director until [he] the director resumes his or her
481 duties or the vacancy is filled. [Assistant directors shall be removable
482 by the] The director may remove an assistant director.

483 Sec. 23. Subsections (a) and (b) of section 17a-273 of the general
484 statutes are repealed and the following is substituted in lieu thereof
485 (*Effective July 1, 2018*):

486 (a) The Commissioner of Developmental Services shall appoint at
487 least one advisory and planning council for each state developmental
488 services region operated by the Department of Developmental
489 Services, which council shall have the responsibility of consulting with
490 and advising the director of the region on the needs of persons with
491 intellectual disability in the region, the annual plan and budget of the
492 region and other matters deemed appropriate by the council. The
493 Commissioner of Developmental Services shall, at least annually,
494 provide to any individual who receives annual funding or receives
495 services from the department, or such individual's legal [guardian or]
496 representative, information about the regional advisory and planning
497 council's statutory responsibilities and the process to access
498 information concerning such council's meetings.

499 (b) Each such council shall consist of at least ten members appointed
500 from the state developmental services region. No employee of any
501 state agency engaged in the care or training of individuals with
502 intellectual disability shall be eligible for appointment. At least one
503 member shall be designated by a local chapter of the Arc of
504 Connecticut in the region. At least one member shall be an individual
505 who is eligible for and receives services from the Department of
506 Developmental Services. At least two members shall be [parents of
507 individuals] a relative of an individual with intellectual disability.
508 Members shall be appointed for terms of three years. No member may
509 serve more than two consecutive terms, except a member may
510 continue to serve until a successor is appointed. Each council shall
511 appoint annually, from among its members, a chairperson, vice-

512 chairperson and secretary. The council may make rules for the conduct
513 of its affairs. The director of the region shall be an ex-officio member of
514 the council without vote and shall attend its meetings.

515 Sec. 24. Subsection (a) of section 17a-274 of the 2018 supplement to
516 the general statutes is repealed and the following is substituted in lieu
517 thereof (*Effective July 1, 2018*):

518 (a) Any Probate Court shall have the power to place any person
519 residing in its district whom it finds to be a person with intellectual
520 disability with the Department of Developmental Services for
521 placement in any appropriate setting which meets the person's
522 habilitative needs in the least restrictive environment available or
523 which can be created within existing resources of the department, in
524 accordance with the provisions of this section and section 17a-276. No
525 person shall be so placed unless the court has found the person has
526 intellectual disability and (1) is unable to provide for himself or herself
527 at least one of the following: Education, habilitation, care for personal
528 health and mental health needs, meals, clothing, safe shelter or
529 protection from harm; (2) has no family or legal representative or other
530 person to care for him or her, or [his or her] such person's family or
531 legal representative or other person can no longer provide adequate
532 care for him or her; (3) is unable to obtain adequate, appropriate
533 services which would enable [him or her] such person to receive care,
534 treatment and education or habilitation without placement by a
535 Probate Court; and (4) is not willing to be placed under the custody
536 and control of the Department of Developmental Services or its agents
537 or voluntary admission has been sought by the legal representative of
538 such person and such voluntary admission has been opposed by the
539 protected person or [his or her] the protected person's next of kin.

540 Sec. 25. Subsection (d) of section 17a-274 of the 2018 supplement to
541 the general statutes is repealed and the following is substituted in lieu
542 thereof (*Effective July 1, 2018*):

543 (d) Notice to the respondent and Commissioner of Developmental
544 Services shall include: The names of all persons filing the petition, the

545 allegations made in the petition, the time, date and place of the
546 hearing, and the name, address and telephone number of the attorney
547 who will represent the respondent. The notice shall state the right of
548 the respondent to be present at the hearing, to present evidence, to
549 cross-examine witnesses who testify at the hearing, and to an
550 independent diagnostic and evaluative examination by a licensed
551 psychologist of [his or her] the respondent's own choice, who may
552 testify on [his or her] the respondent's behalf. If the court finds the
553 respondent is indigent, the notice shall further state the respondent
554 may be represented by counsel of [his or her] the respondent's own
555 choosing, and, if the court finds the respondent is indigent, that
556 counsel shall be provided without cost. The reasonable compensation
557 for counsel provided to indigent respondents shall be established by,
558 and paid from funds appropriated to, the Judicial Department,
559 however, if funds have not been included in the budget of the Judicial
560 Department for such purposes, such compensation shall be established
561 by the Probate Court Administrator and paid from the Probate Court
562 Administration Fund.

563 Sec. 26. Subsection (k) of section 17a-274 of the 2018 supplement to
564 the general statutes is repealed and the following is substituted in lieu
565 thereof (*Effective July 1, 2018*):

566 (k) Any person or agency having reasonable cause to believe that a
567 person has intellectual disability and is in need of immediate care and
568 treatment for [his or her] such person's safety and welfare, which care
569 and treatment is not being provided by [his or her] such person's
570 family, legal representative or other person responsible for [his or her]
571 such person's care, shall make a written report to the Commissioner of
572 Developmental Services. The report shall contain the name and
573 address of the person believed to have intellectual disability and be in
574 need of immediate care and treatment, and [his or her] such person's
575 family, legal representative or other person responsible for [his or her]
576 such person's care, and all evidence forming the basis for such belief
577 and shall be signed and dated by the person making such report. The
578 Commissioner of Developmental Services shall promptly determine

579 whether there is reasonable cause to believe that the person named in
580 the report has intellectual disability and is in need of immediate care
581 and treatment, which care and treatment is not being provided by [his
582 or her] such person's family, legal representative or other person
583 responsible for [his or her] such person's care and if the commissioner
584 so determines, shall assume the care and custody of such person. The
585 commissioner or [his] the commissioner's designee shall, within
586 twenty-four hours, excluding Saturdays, Sundays and legal holidays,
587 after assuming the care and custody of such person, file a petition
588 pursuant to subsection (b) of this section in the Probate Court for the
589 district in which such person resided prior to emergency placement.
590 The Probate Court in which such application is filed shall assign a time
591 and place for a hearing pursuant to subsection (c) of this section.

592 Sec. 27. Section 17a-277 of the general statutes is repealed and the
593 following is substituted in lieu thereof (*Effective July 1, 2018*):

594 [The] A regional or training school director [of any state training
595 school, regional facility or other facility for the care and training of
596 persons with intellectual disability] may place any resident with
597 intellectual disability committed or admitted to such training school,
598 regional facility or other residential facility provided for the care and
599 training of persons with intellectual disability, under the provisions of
600 sections 17a-210 to 17a-247, inclusive, as amended by this act, and 17a-
601 273, as amended by this act, in a community companion home,
602 community living arrangement, [private boarding home,] group home,
603 other residential facility or residential program to be cared for in
604 accordance with the following conditions:

605 (1) Such resident shall, despite such transfer, remain subject to the
606 control of the regional or training school director [of such training
607 school, regional facility or other facility provided for the care and
608 training of persons with intellectual disability] and the director may, at
609 any time, order and provide for the return of any such resident to such
610 training school, regional facility or other residential facility provided
611 for the care and training of persons with intellectual disability; [

612 subject to any limitations of the term of commitment contained in the
613 order of commitment under which such resident was committed;]

614 (2) When the transfer of any such resident has been authorized or
615 when, having been transferred to a community companion home,
616 community living arrangement, [private boarding home,] group home,
617 other residential facility or residential program for persons with
618 intellectual disability, such resident has [been] returned to the training
619 school, regional facility or other residential facility, the regional or
620 training school director [of such training school, regional facility or
621 other facility] shall forthwith so notify the Commissioner of
622 Developmental Services;

623 (3) Such community companion home, community living
624 arrangement, [private boarding home,] group home, other residential
625 facility or residential program shall be licensed by the Department of
626 Developmental Services, the Department of Children and Families or
627 the Department of Public Health under such regulations as the
628 departments adopt, in accordance with chapter 54; and

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

634 Sec. 28. Section 17a-281 of the general statutes is repealed and the
635 following is substituted in lieu thereof (*Effective July 1, 2018*):

636 Any person who is a resident of Connecticut at the time an
637 application is made by [such resident] or on behalf of such resident
638 under the provisions of this section, and who is, or appears to be, or
639 believes [himself or herself] such resident to be a person with
640 intellectual disability, may apply, in writing, to the Commissioner of
641 Developmental Services, on a form prescribed by the commissioner,
642 for admission to any facility for persons with intellectual disability.
643 Such application shall be accompanied by a medical history of the

644 applicant, including any medical or physical condition requiring
645 special attention, treatment or precautions, a written psychological
646 report provided by a psychologist either licensed under the provisions
647 of chapter 383 or employed by the Department of Developmental
648 Services, who has personally examined the applicant prior to the filing
649 of application for residential placement or a copy of the determination
650 of eligibility made in accordance with section 17a-212, as amended by
651 this act, and the regulations adopted thereunder. The written
652 psychological report shall include (1) a statement that the psychologist
653 has personally examined the applicant not more than ninety days prior
654 to the date of filing of the application, (2) the results of a psychometric
655 assessment conducted not more than one year prior to the date of
656 filing of the application, and (3) an evaluation of the applicant's current
657 level of adaptive functioning, including self-care, mental health, social,
658 academic and vocational needs. In the event of an emergency,
659 admission to a residential facility may be made and the required
660 medical history and psychologist's report may be submitted not later
661 than thirty days after the date of such admission. The application for
662 such person, if such person is a minor, may be made by a parent,
663 [guardian of the person] legal representative of, or person having
664 custody of, such minor. If such person is an adult who has had a
665 plenary or limited guardian appointed pursuant to sections 45a-669 to
666 45a-683, inclusive, such person's guardian may apply for admission
667 and the commissioner may admit such person, provided the
668 commissioner is satisfied that there is no conflict concerning the
669 admission between the guardian and [his or her ward] the protected
670 person or the [ward's] protected person's next of kin. If such conflict
671 exists, the applicant may only be admitted under the provisions of
672 section 17a-274, as amended by this act. The commissioner may
673 approve any such application for admission if the person on whose
674 behalf application is made is suitable for admission and if space is
675 available and may terminate such admission at any time when the
676 commissioner feels such person will not profit from continued
677 placement. The provisions of this section shall not apply to persons
678 who apply to the commissioner for respite care services for a period

679 not to exceed thirty days.

680 Sec. 29. Section 17a-282 of the general statutes is repealed and the
681 following is substituted in lieu thereof (*Effective July 1, 2018*):

682 No person admitted to a facility for persons with intellectual
683 disability under the provisions of section 17a-281, as amended by this
684 act, shall be detained in such facility for more than seven days after
685 such person or such person's legal representative has given notice in
686 writing [, or, if such person is a minor or an adult for whom a guardian
687 or an involuntary conservator has been appointed, after such notice
688 has been given on his or her behalf by his or her parent, guardian,
689 conservator or person having custody,] to the Commissioner of
690 Developmental Services, of [his or her] such person's intention or
691 desire to leave such facility. If the commissioner is of the opinion that
692 such person is in need of further treatment or observation, the
693 commissioner may make and file, in the [probate court] Probate Court
694 for the district within which such person resides, an application for the
695 involuntary placement of such person to such facility and the [probate
696 court] Probate Court shall proceed thereon in the same manner as is
697 provided in section 17a-274, as amended by this act.

698 Sec. 30. Subdivisions (1) to (3), inclusive, of section 46a-11a of the
699 2018 supplement to the general statutes are repealed and the following
700 is substituted in lieu thereof (*Effective July 1, 2018*):

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

703 (1) "Abuse" means the wilful infliction of physical pain or injury or
704 the wilful deprivation by a [caretaker] caregiver of services which are
705 necessary to the person's health or safety;

706 (2) "Neglect" means a situation where a person with intellectual
707 disability either is living alone and is not able to [provide for himself
708 or herself] obtain the services which are necessary to maintain [his or
709 her] such person's physical and mental health or is not receiving such

710 necessary services from the [caretaker] caregiver;

711 (3) ["Caretaker"] "Caregiver" means a person who has the
712 responsibility for the care of a person with intellectual disability as a
713 result of a family relationship or who has assumed the responsibility
714 for the care of the person with intellectual disability voluntarily, by
715 contract or by order of a court of competent jurisdiction. The legal
716 representative of a person with intellectual disability need not be such
717 person's [caretaker] caregiver;

718 Sec. 31. Subsection (e) of section 46a-11b of the 2018 supplement to
719 the general statutes is repealed and the following is substituted in lieu
720 thereof (*Effective July 1, 2018*):

721 (e) Any person who makes any report pursuant to sections 46a-11a
722 to 46a-11g, inclusive, as amended by this act, or who testifies in any
723 administrative or judicial proceeding arising from such report shall be
724 immune from any civil or criminal liability on account of such report
725 or testimony, except for liability for perjury, unless such person acted
726 in bad faith or with malicious purpose. Any person who obstructs,
727 hinders or endangers any person reporting or investigating abuse or
728 neglect or providing protective services or who makes a report in bad
729 faith or with malicious purpose and who is not subject to any other
730 penalty shall be fined not more than five hundred dollars. No resident
731 or employee of a facility, as defined in section 46a-11a, as amended by
732 this act, shall be subject to reprisal or discharge because of [his] such
733 resident's or employee's actions in reporting pursuant to sections 46a-
734 11a to 46a-11g, inclusive, as amended by this act.

735 Sec. 32. Subsection (a) of section 46a-11c of the 2018 supplement to
736 the general statutes is repealed and the following is substituted in lieu
737 thereof (*Effective July 1, 2018*):

738 (a) The commissioner, upon receiving a report that a person with
739 intellectual disability allegedly is being or has been abused or
740 neglected, shall make an initial determination whether such person has
741 intellectual disability, shall determine if the report warrants

742 investigation and shall cause, in cases that so warrant, a prompt,
743 thorough evaluation to be made to determine whether the person has
744 intellectual disability and has been abused or neglected. For the
745 purposes of sections 46a-11a to 46a-11g, inclusive, as amended by this
746 act, the determination of intellectual disability may be made by means
747 of a review of records and shall not require the commissioner to
748 conduct a full psychological examination of the person. Any delay in
749 making such determination of intellectual disability shall not delay the
750 investigation of abuse or neglect or recommendation of provision of
751 protective services. The evaluation shall include a visit to the named
752 person with intellectual disability and consultation with those
753 individuals having knowledge of the facts of the particular case. All
754 state, local and private agencies shall have a duty to cooperate with
755 any investigation conducted by the Department of Developmental
756 Services under this section, including the release of complete records
757 of the named person for review, inspection and copying, except where
758 the person with intellectual disability refuses to permit [his or her
759 record] such records to be released. The commissioner shall have
760 subpoena powers to compel any information related to such
761 investigation. All records of the named person shall be kept
762 confidential by said department. Upon completion of the evaluation of
763 each case, written findings shall be prepared which shall include a
764 determination of whether abuse or neglect has occurred and
765 recommendations as to whether protective services are needed. The
766 commissioner, except in cases where the legal representative is the
767 alleged perpetrator of abuse or neglect or is residing with the alleged
768 perpetrator, shall notify the legal representative, if any, of the person
769 with intellectual disability if a report of abuse or neglect is made which
770 the commissioner determines warrants investigation. The
771 commissioner shall provide the legal representative who the
772 commissioner determines is entitled to such information with further
773 information upon request. The person filing the report of abuse or
774 neglect shall be notified of the findings upon such person's request.

775 Sec. 33. Subsections (a) and (b) of section 46a-11d of the 2018
776 supplement to the general statutes are repealed and the following is

777 substituted in lieu thereof (*Effective July 1, 2018*):

778 (a) If it is determined by an investigation that a person with
779 intellectual disability has been abused or neglected, the commissioner
780 shall develop and implement a plan of protective services. The name of
781 the person making the report of abuse or neglect shall not be disclosed
782 without [his or her] such person's consent.

783 (b) If the [caretaker] caregiver of a person with intellectual disability
784 who has consented to the receipt of protective services refuses to allow
785 the provision of such services to such person, the commissioner may
786 petition the Superior Court for an order enjoining the [caretaker]
787 caregiver from interfering with the provision of protective services to
788 the person. The petition shall allege specific facts sufficient to show
789 that the person with intellectual disability is in need of protective
790 services and consents to their provision and that the [caretaker]
791 caregiver refuses to allow the provision of such services. If the court
792 finds that the person is in need of such services and has been
793 prevented by the [caretaker] caregiver from receiving the same, the
794 court may issue an order enjoining the [caretaker] caregiver from
795 interfering with the provision of protective services to the person.

796 Sec. 34. Subsection (a) of section 46a-11e of the 2018 supplement to
797 the general statutes is repealed and the following is substituted in lieu
798 thereof (*Effective July 1, 2018*):

799 (a) If a person with intellectual disability does not consent to the
800 receipt of protective services, or if such person withdraws [his] consent
801 to the receipt of such services, such services shall not be provided or
802 continued, except that if the commissioner has reason to believe that
803 such person lacks capacity to consent to or refuse such services, the
804 commissioner may petition the Probate Court for the appointment of a
805 legal representative. If any legal representative, appointed pursuant to
806 the provisions of this section, does not consent to the provision of such
807 services, the commissioner may petition the Probate Court for the
808 removal and replacement of such legal representative.

809 Sec. 35. Section 46a-11g of the 2018 supplement to the general
810 statutes is repealed and the following is substituted in lieu thereof
811 (*Effective July 1, 2018*):

812 If, as a result of any investigation initiated under the provisions of
813 sections 17a-247f and 46a-11a to 46a-11f, inclusive, as amended by this
814 act, a determination is made that a [caretaker] caregiver or other
815 person has abused a person with intellectual disability or a person
816 receiving services from the Department of Social Services' Division of
817 Autism Spectrum Disorder Services, the commissioner shall refer such
818 information in writing to the appropriate office of the state's attorney,
819 which shall conduct such further investigation as may be deemed
820 necessary and shall determine whether criminal proceedings should be
821 initiated against such [caretaker] caregiver or other person, in
822 accordance with applicable state law. If any initial investigation by the
823 commissioner discloses evidence of an immediate and serious threat to
824 the health or life of a person with intellectual disability or a person
825 receiving services from the Department of Social Services' Division of
826 Autism Spectrum Disorder Services, said department shall
827 immediately refer the matter to state or local police, as appropriate,
828 who shall immediately investigate the matter. The commissioner shall
829 notify the Commissioner of Social Services, or his or her designee, of
830 any referral of information to the office of the state's attorney or to
831 state or local police concerning an abuse or neglect investigation of a
832 person receiving services from the Department of Social Services'
833 Division of Autism Spectrum Disorder Services.

834 Sec. 36. Section 46a-13a of the 2018 supplement to the general
835 statutes is repealed and the following is substituted in lieu thereof
836 (*Effective July 1, 2018*):

837 Each state, local or private agency responsible for the protection of
838 persons with disabilities shall cooperate with any investigation
839 conducted by the Department of Developmental Services and shall
840 release [client] records of any named person with intellectual disability
841 or who receives services from the Department of Social Services'

842 Division of Autism Spectrum Disorder Services for review and
843 inspection by [said department] the Department of Developmental
844 Services. No such state, local or private agency shall release the records
845 of a [client] named person without the express consent of such [client]
846 named person or as otherwise provided by law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	17a-210(b)
Sec. 2	<i>July 1, 2018</i>	17a-210a(a) and (b)
Sec. 3	<i>July 1, 2018</i>	17a-211(a)
Sec. 4	<i>July 1, 2018</i>	17a-212
Sec. 5	<i>July 1, 2018</i>	17a-212a
Sec. 6	<i>July 1, 2018</i>	17a-217a(a)
Sec. 7	<i>July 1, 2018</i>	17a-218(a) to (e)
Sec. 8	<i>July 1, 2018</i>	17a-218a(a)
Sec. 9	<i>July 1, 2018</i>	17a-228(e)
Sec. 10	<i>July 1, 2018</i>	17a-229
Sec. 11	<i>July 1, 2018</i>	17a-230(a) to (d)
Sec. 12	<i>July 1, 2018</i>	17a-232
Sec. 13	<i>July 1, 2018</i>	17a-233(b)
Sec. 14	<i>July 1, 2018</i>	17a-234
Sec. 15	<i>July 1, 2018</i>	17a-236
Sec. 16	<i>July 1, 2018</i>	17a-237
Sec. 17	<i>July 1, 2018</i>	17a-238a(b)
Sec. 18	<i>July 1, 2018</i>	17a-238(f)
Sec. 19	<i>July 1, 2018</i>	17a-238(h)
Sec. 20	<i>July 1, 2018</i>	17a-247
Sec. 21	<i>July 1, 2018</i>	17a-247c(a)
Sec. 22	<i>July 1, 2018</i>	17a-272(b)
Sec. 23	<i>July 1, 2018</i>	17a-273(a) and (b)
Sec. 24	<i>July 1, 2018</i>	17a-274(a)
Sec. 25	<i>July 1, 2018</i>	17a-274(d)
Sec. 26	<i>July 1, 2018</i>	17a-274(k)
Sec. 27	<i>July 1, 2018</i>	17a-277
Sec. 28	<i>July 1, 2018</i>	17a-281
Sec. 29	<i>July 1, 2018</i>	17a-282
Sec. 30	<i>July 1, 2018</i>	46a-11a(1) to (3)
Sec. 31	<i>July 1, 2018</i>	46a-11b(e)

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Sec. 32	<i>July 1, 2018</i>	46a-11c(a)
Sec. 33	<i>July 1, 2018</i>	46a-11d(a) and (b)
Sec. 34	<i>July 1, 2018</i>	46a-11e(a)
Sec. 35	<i>July 1, 2018</i>	46a-11g
Sec. 36	<i>July 1, 2018</i>	46a-13a