



Acts Affecting People with Disabilities

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Notice to Readers

This report summarizes laws passed during the 2018 regular session affecting people with disabilities. In each summary, we indicate the public act (PA) or special act (SA) number. Not all provisions of the acts are included.

Complete summaries of all 2018 Public Acts will be available on OLR's webpage:

<http://www.cga.ct.gov/olr>.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website

(<http://www.cga.ct.gov/default.asp>).

For purposes of brevity, this report uses the following acronyms for state agencies:

DDS (Department of Developmental Services)

DPH (Department of Public Health)

DMHAS (Department of Mental Health and Addiction Services)

DSS (Department of Social Services)

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Abuse, Neglect, and Reporting

Timeframe for Mandated Reporters of Abuse and Neglect

A new law reduces, from 72 to 48 hours, the amount of time a mandated reporter has to report the suspected abuse or neglect of a person (1) with an intellectual disability or (2) served by DSS's Division of Autism Spectrum Disorder Services. Existing law, unchanged by the act, imposes a fine of up to \$500 on anyone who violates the reporting requirement. Mandated reporters generally include health professionals, certain people working in schools, and police officers. The act also makes licensed behavioral analysts mandated reporters ([PA 18-96](#), effective July 1, 2018).

Whiting Forensic Hospital

In December 2017, the governor issued Executive Order 63, which designated the Whiting Forensic Hospital as an independent division within DMHAS, instead of a division of Connecticut Valley Hospital.

A new law makes various changes affecting Whiting Forensic Hospital, such as (1) subjecting the hospital to DPH licensure and regulation; (2) requiring DPH, by January 1, 2019, to conduct an on-site inspection and records review of the hospital; (3) establishing a task force to review and evaluate DMHAS facility operations and conditions, among other things; and (4) establishing the mandatory reporting and investigation of suspected patient abuse at DMHAS-operated behavioral health facilities ([PA 18-86](#), various effective dates).

Advance Directives and Other Documents

Advanced Practice Registered Nurses (APRNs) and Advance Directives

A new law incorporates APRNs into the laws on living wills and other advance directives. In doing so, it extends to APRNs the authority to perform certain functions that previously could be performed only by a physician or, in some cases, other specified providers ([PA 18-168](#), §§ 34-39, effective October 1, 2018).

Pregnant Patients and Living Wills

A new law allows pregnant women age 18 or older to exercise living wills and other advance directives. It correspondingly extends to pregnant women certain related laws, such as the law setting conditions under which certain health care providers may not be held liable for the removal of a patient's life support ([PA 18-11](#), effective upon passage).

Health Care

Insurance Coverage for Prosthetic Devices

A new law requires certain health insurance policies to cover prosthetic devices, and medically necessary repairs and replacements to them, subject to specified conditions. It defines a “prosthetic device” as an artificial device to replace all or part of an arm or leg, including one with a microprocessor if the patient's health care provider determines it is medically necessary. Coverage must be at least equivalent to the coverage Medicare provides for such devices ([PA 18-69](#), effective January 1, 2019).

Medicare Savings Program (MSP)

A new law eliminates a decrease in MSP eligibility that was scheduled to take effect July 1, 2018, thus maintaining the program’s current income eligibility limits shown in Table 1 below.

Table 1: Current MSP Income Limits

MSP Tier	Individual Income Limit (% FPL)	Individual Annual Income Limit
QMB	Less than 211%	\$25,615
SLMB	211% to 231%	\$28,043
QI	231% to 246%	\$29,864

By law, the MSP covers certain Medicare cost-sharing for low-income Medicare beneficiaries. It generally consists of three separate tiers: (1) Qualified Medicare Beneficiaries (QMB), (2) Specified Low-Income Medicare Beneficiaries (SLMB), and (3) Qualified Individual (QI). MSP eligibility is based on the federal poverty level (FPL), which is adjusted annually, and applicants at the lowest income levels qualify for the most benefits ([PA 18-81](#), effective July 1, 2018).

Money Follows the Person

A new law removes the 5,000-person cap on the number of individuals who may be served under the Money Follows the Person (MFP) demonstration program, which supports Medicaid enrollees who choose to transition from living in institutions to less restrictive, community-based settings. By law, a person must (1) have been institutionalized for at least 90 days and (2) meet Medicaid eligibility criteria in order to qualify. In addition, it cannot cost more to care for the person in the community than in an institution ([PA 18-99](#), effective upon passage).

Office of the Long-Term Care Ombudsman

A new law transfers the Office of the Long-Term Care Ombudsman from the Office of Policy and Management to the Department of Rehabilitative Services (DORS). It also makes various changes to the office to comply with recent Older Americans Act regulations. Among other things, it (1) adds to the conditions under which the state ombudsman may remove a resident advocate from his or her position and (2) specifies that the office serves all long-term care facility residents, regardless of age ([PA 18-6](#), effective upon passage). ([PA 18-169](#), §§ 24-28, effective upon passage, also contains similar provisions transferring the ombudsman from OPM to DORS.)

Housing and Transportation

Recommendations for Public Housing Projects for Seniors and People with Disabilities

SA 17-19 required the housing commissioner, in consultation with Disability Rights Connecticut, Inc. and the departments of Mental Health and Addiction Services, Aging, and Developmental Services, to study three state-funded housing projects serving the elderly and people with disabilities. Based on the results of this study, a new act requires the commissioner to make recommendations for improving these types of housing projects. The commissioner must submit the report to the Housing Committee by October 1, 2018 ([SA 18-12](#), effective upon passage).

Renters' Rebate Program Payments to Municipalities

A new law eliminates the requirement under the Renters' Rebate Program that OPM annually recover from each municipality 50% of the cost of issuing rebates to older adults or totally disabled renters, up to \$250,000. It thus shifts responsibility for funding the program entirely back to the state. Prior law required OPM to recover rebate costs by selecting at least one state grant per municipality from which to withhold funds ([PA 18-81](#), § 34, effective July 1, 2018).

Task Force on Transportation for Persons with Disabilities, Seniors, and Veterans

A new law establishes a 12-member task force to study issues with publicly-funded transportation for individuals with disabilities, older adults, and veterans. The study must include (1) other states' best practices; (2) services and public transportation fare discounts currently available; (3) current and anticipated transportation needs; and (4) ways the state can provide more cost-effective, efficient, and reliable transportation. The task force must report its findings and recommendations to the Aging, Human Services, Transportation, and Veterans' Affairs committees by January 1, 2019 ([SA 18-3](#), effective upon passage).

Intellectual Disability

Intellectual Disability Residential Services Pilot Programs

A new law requires DDS to establish, within available appropriations, up to three pilot programs that use alternative service models for people with intellectual disability who are eligible and waiting for DDS residential services. The programs must establish and evaluate alternative service models in which people receiving residential services may move, with the consent of the person or the person's legal representative, into more independent, less restrictive settings. The new law allows selected service providers to use any cost savings they generate through the program to serve other eligible individuals waiting for services or enhance services currently provided. The program terminates by July 1, 2021, unless the legislature reauthorizes it ([SA 18-2](#), § 2, effective July 1, 2018).

Intellectual Disability Task Force

A new law creates a task force to study (1) the short-term and long-term needs of adults with intellectual disability, including those with significant behavioral health issues or aging-related issues (e.g., dementia) and (2) ways to provide the needed services and support. The group must report its findings and recommendations to the Public Health Committee by January 1, 2019 ([SA 18-2](#), § 1, effective upon passage).

Schools and Special Education

Contracts Required for Private Special Education Providers

The legislature enacted a law that requires, starting July 1, 2019, a local or regional board of education to have a written contract, instead of an agreement, with a private special education provider in order to receive a state reimbursement grant for special education costs (known as the excess cost grant). Under the excess cost grant program, the state reimburses a board for a student's special education costs that exceed four and a half times the average per pupil educational cost of that school district ([PA 18-183](#), § 1, effective July 1, 2018).

Life-Threatening Food Allergies in Schools

This session, the legislature made several changes in education laws addressing food allergies in schools. A new law allows any student with a medically diagnosed life-threatening allergic condition to (1) possess, (2) self-administer, or (3) possess and self-administer his or her medication. Correspondingly, it requires the State Department of Education (SDE) to adopt implementing regulations. The act requires SDE, in conjunction with DPH, to revise, review, and update its

guidelines for managing students with life-threatening food allergies and glycogen storage disease. It additionally requires SDE to update its health and physical education curriculum standards and apply for external funding to raise public awareness about food allergies.

The act requires school transportation carriers to provide related training to all school bus drivers. Finally, it extends the protections of the “Good Samaritan” law to cover school bus drivers rendering certain emergency first aid in response to a student's allergic reaction ([PA 18-185](#), various effective dates).

Special Education Services Documentation

A new law requires SDE to develop standards and a process for documenting privately provided special education services that includes the use of standard forms or other electronic reporting systems. The forms or systems must allow the provider to document the frequency, type, and scope of services provided to individual students. The law also requires private providers to submit their operating budgets to SDE by October 1 of the school year in which they are providing the service ([PA 18-183](#), §§ 4 & 5, effective July 1, 2018).

Student Data Privacy and Special Education

A new law creates an exception, under certain conditions, to the student data privacy law for boards of education when special education students use a necessary online service or application and the service or application operator cannot meet the privacy law contract requirements ([PA 18-125](#), § 2, effective July 1, 2018).

Service Providers

DDS Facility Background Search Program

Existing law requires DDS to conduct state criminal background checks on any job applicant that will provide direct services to people with intellectual disability. A new law also subjects these job applicants to fingerprint and national criminal background checks.

The new law also allows DDS to subject private providers licensed or funded by the department to state criminal background checks. Prior law allowed DDS to subject private subcontractors to these checks.

Additionally, the new law allows DDS and private providers to employ applicants on a conditional basis until they receive and review the background check results, which prior law prohibited ([PA 18-168](#), § 52, effective October 1, 2018).

DPH Long-Term Care Facility Background Search Program

By law, DPH administers a comprehensive criminal history and patient abuse background search program that facilitates background searches on people who have direct access to long-term care facility residents (i.e., employees and volunteers).

A new law exempts from the program's requirements intermediate care facilities for individuals with intellectual disabilities (ICF-IIDs) operated by DDS that are already subject to background checks under existing law (see above). It also exempts DPH background search program records and information from disclosure under the Freedom of Information Act ([PA 18-168](#), § 51, effective July 1, 2018).

Provider Wage Increase

A new law allows the OPM secretary to allocate available FY 19 funds to increase the wages of certain employees who provide services to individuals with intellectual disability authorized to receive services and supports through DDS. The increase applies to private providers of employment, day, and behavioral services and group home services. By December 1, 2018, the act requires such providers to submit documentation to OPM that such funds will be used only for (1) increasing the minimum wage paid to employees to at least \$14.75 per hour by January 1, 2019, and (2) providing a wage increase (up to 5%) to employees earning between \$14.76 and \$30.00 per hour by January 1, 2019. Additionally, OPM must reimburse the providers, within available appropriations, for the cost of employer taxes, increased benefits, and other costs associated with the wage increases ([SA 18-5](#), effective upon passage).

Substance Use Disorder

Opioid Drug Abuse

A new law makes various changes intended to prevent and treat opioid drug abuse. It:

1. requires the Chief Court Administrator to study the feasibility of establishing an opioid intervention court;
2. prohibits prescribing practitioners from prescribing, dispensing, or administering Schedule II to IV controlled substances to themselves or immediate family members, except in emergencies;

3. authorizes prescribing practitioners and pharmacists authorized to prescribe naloxone to enter into an agreement to distribute opioid antagonists to certain entities (e.g., community health organizations and law enforcement agencies);
4. requires the Alcohol and Drug Policy Council to convene a working group to evaluate methods of combating the opioid epidemic;
5. requires any hospital or emergency medical services personnel that treats a patient for an opioid overdose to report such overdose to DPH; and
6. extends a Department of Correction methadone treatment pilot program, expands its scope if federal funds are available, and requires a new report on the program's results by July 1, 2019 ([PA 18-166](#), various effective dates).

Prescribing Controlled Substances Using Telehealth

A new law allows telehealth providers to prescribe non-opioid Schedule II or III controlled substances using telehealth to treat a psychiatric disability or substance use disorder, including medication-assisted treatment.

Providers may only do this (1) in a manner consistent with the federal Ryan Haight Online Pharmacy Consumer Protection Act; (2) if it is allowed under their current scope of practice; and (3) if they submit the prescription electronically, in accordance with existing law. Prior law prohibited telehealth providers from prescribing any Schedule I, II, or III controlled substances using telehealth ([PA 18-148](#), effective July 1, 2018).

Sober Living Homes

A new law contains several provisions on the oversight of sober living homes. Among other things, it (1) allows a certified sober living home's owner to report the home's certified status to DMHAS, (2) requires DMHAS to post on its website a list of these certified homes as well as the number of available beds at each home and update the information weekly, and (3) establishes certain advertising requirements and restrictions for operators.

The new law also requires operators who report their home's certified status to maintain at least two doses of an opioid antagonist (i.e., Narcan) on the premises and train all residents in how to administer it. The operator must do this when the home is occupied by at least one resident diagnosed with an opioid use disorder ([PA 18-171](#), effective October 1, 2018).

Veterans

Benefits for Certain Veterans with a "Qualifying Condition"

The legislature extended certain benefits, already available to veterans honorably discharged or released under honorable conditions from active service in the armed forces, to veterans who (1) were discharged under conditions other than (a) dishonorable discharge or (b) for bad conduct and (2) have a "qualifying condition" (i.e., a diagnosis of post-traumatic stress disorder or traumatic brain injury made by, or a military sexual trauma experience disclosed to, an individual licensed to provide care at a U.S. Department of Veterans Affairs facility). The benefits extended include:

1. tuition waivers for the state's public colleges and universities if the veteran served in time of war;
2. state-mandated wartime property tax exemptions (minimum \$1,500);
3. motor vehicle license and registration fee exemptions, under certain conditions;
4. temporary aid (such as food, clothing, and medical aid) from the Soldiers, Sailors and Marines Fund;
5. income disregards (i.e., federal Aid and Attendance Pension) when calculating income for means-tested assistance programs (e.g., Medicaid); and
6. preference for Department of Economic Development-funded low- or moderate-income rental housing ([PA 18-47](#), most provisions effective October 1, 2018).

Miscellaneous

Autism Spectrum Disorder Council

This session, the legislature made the Autism Spectrum Disorder Council permanent. Under prior law, the council was scheduled to terminate on June 30, 2018. By law, the council consists of 25 members, including persons with the disorder, their parents or guardians, and service providers appointed by the governor and legislative leaders. Among other things, the council must advise DSS on policies and programs for people with autism spectrum disorder ([PA 18-23](#), effective upon passage).

Competency to Stand Trial

A new law decreases how often certain criminal defendants deemed incompetent to stand trial must be examined. Generally, this legislation covers defendants charged with certain sex offenses or crimes that resulted in death or serious physical injury.

Under prior law, the court could order periodic competency examinations as often as every six months as a condition of release or placement for a defendant deemed incompetent despite treatment to restore competency. Under the new law, the minimum interval between examinations increases to 18 months if, after the initial periodic examination, the court again finds a substantial probability that the defendant will never regain competency even with treatment. Under existing law, periodic examinations must continue until the (1) defendant attains competency or (2) time within which the defendant may be charged for the alleged crime expires, whichever occurs first ([PA 18-134](#), effective October 1, 2018).

Damages for Injuring or Killing Guide or Assistance Dogs

By law, the owner or keeper of a dog that injures or kills a companion animal is liable for damages to the companion animal including veterinary care, the animal's monetary value, and any burial expenses. Under a new law, if the companion animal is also a guide or assistance dog owned by a blind, deaf, or mobility impaired person, the owner or keeper of the attacking dog is additionally liable for all its training expenses ([PA 18-131](#), effective upon passage).

Department of Developmental Services

A new law makes numerous changes in statutes governing DDS and related matters. Specifically, it:

1. allows other relatives, rather than just parents or guardians, of camp participants to be appointed to the Camp Harkness Advisory Committee;
2. allows other relatives, rather than just parents, of individuals with intellectual disability to be members of DDS's regional advisory and planning councils;
3. modifies reporting requirements for DDS-appointed assessment teams that evaluate individuals alleged to have intellectual disability as part of a probate court guardianship hearing;
4. allows the DDS commissioner to waive the \$50 application fee for private providers applying for a license to operate DDS community living arrangements (i.e., group homes);
5. specifies that such licensure applications do not need to be notarized, but must be verified by oath, as under prior law;
6. requires the DDS commissioner to establish a minimum number of unannounced licensure-related visits for group homes, and eliminates the requirement that at least half of a broader range of DDS facility visits be unannounced;

7. allows an APRN to order or provide a second opinion on a properly executed medical order to withhold cardiopulmonary resuscitation (“CPR”) for an individual with intellectual disability under DDS supervision; and
8. updates terminology to conform to existing practice, such as standardizing references to an individual's “legal representative” in laws that previously referenced specific types of such representatives ([PA 18-32](#), various effective dates).

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