



Substitute Senate Bill No. 416

Public Act No. 21-135

AN ACT CONCERNING VARIOUS REVISIONS TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES STATUTES.

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

Section 1. Subsection (c) of section 17a-247b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

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Sec. 2. Subsection (f) of section 17a-238 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) The Commissioner of Developmental Services shall require the attending physician of any person placed or treated in a residential facility under the direction of the commissioner to obtain informed written consent from the following persons prior to authorizing any [surgical procedure or any] medical treatment or surgical procedure, excluding routine medical treatment which is necessary to maintain the general health of the person or to prevent the spread of any communicable disease: (1) The person if such person is eighteen years of age or over or is legally emancipated and competent to give such consent; (2) the parent of a person under eighteen years of age who is not legally emancipated; or (3) the legal representative of a person of any age who is adjudicated unable to make informed decisions about matters relating to such person's medical care. The person whose consent is required shall be informed of the nature and consequences of the particular medical treatment or surgical procedure, the reasonable risks, benefits and purpose of such medical treatment or surgical procedure and any alternative medical treatment or surgical [procedures] procedure which [are] is available. The consent of any person or of any parent or legal representative of any person may be withdrawn at any time prior to the commencement of the medical treatment or surgical procedure. The regional or training school director having custody and control of a person living in a residential facility may authorize necessary [surgery] medical treatment or surgical procedure for such person where, in the opinion of the person's attending physician, the [surgery] medical treatment or surgical procedure is of an emergency nature and there is insufficient time to obtain the required written consent provided for in this section. The attending physician shall prepare a report describing the nature of the emergency which necessitated such [surgery] medical treatment or

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surgical procedure and shall file a copy of such report in the patient's record.

Sec. 3. Section 46a-11c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The commissioner, upon receiving a report that a person with intellectual disability allegedly is being or has been abused or neglected, shall make an initial determination whether such person has intellectual disability, shall determine if the report warrants investigation and shall cause, in cases that so warrant, a prompt, thorough evaluation to be made to determine whether the person has intellectual disability and has been abused or neglected. For the purposes of sections 46a-11a to 46a-11g, inclusive, the determination of intellectual disability may be made by means of a review of records and shall not require the commissioner to conduct a full psychological examination of the person. Any delay in making such determination of intellectual disability shall not delay the investigation of abuse or neglect or recommendation of provision of protective services. The evaluation shall include a visit to the named person with intellectual disability and consultation with those individuals having knowledge of the facts of the particular case. All state, local and private agencies shall have a duty to cooperate with any investigation conducted by the Department of Developmental Services under this section, including the release of complete records of the named person for review, inspection and copying, except where the person with intellectual disability refuses to permit such records to be released. The commissioner shall have subpoena powers to compel any information related to such investigation. All records of the named person shall be kept confidential by said department. Upon completion of the evaluation of each case, written findings shall be prepared which shall include a determination of whether abuse or neglect has occurred and recommendations as to whether protective services are needed. The commissioner, except in cases where the legal representative is the

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alleged or substantiated perpetrator of abuse or neglect or is residing with the alleged or substantiated perpetrator, shall notify the legal representative, if any, of the person with intellectual disability if a report of abuse or neglect is made which the commissioner determines warrants investigation. The commissioner, except in cases where the legal representative is the alleged or substantiated perpetrator of abuse or neglect or is residing with the alleged or substantiated perpetrator, shall provide the legal representative who the commissioner determines is entitled to such information with further information upon request. The person filing the report of abuse or neglect shall be notified of the findings upon such person's request.

(b) The commissioner, upon receiving a report that a person who receives services from the Department of Social Services' Division of Autism Spectrum Disorder Services, allegedly is being or has been abused or neglected, shall make an initial determination whether such person receives funding or services from said division, shall determine if the report warrants investigation and shall cause, in cases that so warrant, a prompt, thorough evaluation, as described in subsection (b) of section 17a-247f, to be made by the Department of Developmental Services to determine whether the person has been abused or neglected.

(c) In cases where there is a death of a person with intellectual disability for whom the Department of Developmental Services has direct or oversight responsibility for medical care, and there is reasonable cause to suspect or believe that such death may be due to abuse or neglect, the commissioner shall conduct an investigation to determine whether abuse or neglect occurred, except as may be otherwise required by court order. The commissioner shall establish protocols for conducting such investigations.

(d) The commissioner shall maintain an electronic copy of the reports received of alleged abuse or neglect and all evaluation reports.

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(e) Neither the original report of alleged abuse or neglect nor the evaluation report of the investigator which includes findings and recommendations shall be deemed a public record for purposes of section 1-210. The original report of alleged abuse or neglect or the evaluation report of the investigator shall not be provided to a legal representative who is the alleged or substantiated perpetrator of abuse or neglect or is residing with the alleged or substantiated perpetrator. The name of the person making the original report shall not be disclosed to any person unless the person making the original report consents to such disclosure or unless a judicial proceeding results therefrom.

Sec. 4. Section 17a-217a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be a Camp Harkness Advisory Committee to advise the Commissioner of Developmental Services with respect to issues concerning the health and safety of persons who attend and utilize the facilities at Camp Harkness. The advisory committee shall be composed of twelve members as follows: (1) Six members appointed by the Governor, one of whom shall be the director of Camp Harkness, who shall serve *ex officio*, one of whom shall represent [the Southeastern Connecticut Association for Developmental Disabilities] a mental health organization that uses the camp, one of whom shall represent the Southbury Training School, one of whom shall represent [the] The Arc of [New London County] Eastern Connecticut, one of whom shall be a person who uses the camp on a residential basis and one of whom shall be a relative or guardian of a person who uses the camp; and (2) six members appointed by the General Assembly, one of whom shall be a relative or guardian of a person who uses the camp, who shall be appointed by the president pro tempore of the Senate; one of whom shall be a [member of the Family Support Council established pursuant to section 17a-219c and represent persons who use the camp on a day basis] special education director, who shall be appointed by the speaker

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of the House of Representatives; one of whom shall represent the board of selectmen of the town of Waterford, who shall be appointed by the majority leader of the House of Representatives; one of whom shall represent a private nonprofit corporation that is: (A) Tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent internal revenue code of the United States, as amended from time to time, and (B) established to promote and support Camp Harkness and its camping programs, who shall be appointed by the majority leader of the Senate; one of whom shall represent the Connecticut Institute for the Blind and the Oak Hill School, who shall be appointed by the minority leader of the House of Representatives; and one of whom shall represent [the United Cerebral Palsy Association] Sunrise Northeast, Inc., who shall be appointed by the minority leader of the Senate.

(b) The advisory committee shall promote communication regarding camp services and develop recommendations for the commissioner regarding the use of Camp Harkness.

Sec. 5. Section 45a-681 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The court shall review each guardianship at least every three years and shall either continue, modify or terminate the order for guardianship. Pursuant to such review:

(1) The court shall receive and review written evidence as to the condition of the protected person. Except as provided in subdivision (2) of this subsection, the guardian and a Department of Developmental Services professional or, if requested by the protected person or by the court, an assessment team appointed by the Commissioner of Developmental Services or the commissioner's designee shall each submit a written report to the court not later than forty-five days after the court's request for such report.

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(2) In the case of a protected person who is functioning adaptively and intellectually within the severe or profound range of intellectual disability, as determined by the Department of Developmental Services, the court shall receive and review written reports as to the condition of the protected person only from the guardian, except that the court may require a Department of Developmental Services professional or assessment team to submit a written report as to the condition of the protected person.

(3) The Department of Developmental Services professional or assessment team shall personally observe or examine the protected person within the forty-five-day period preceding the date it submits any report under subdivision (4) of this subsection.

(4) Each written report shall be submitted to the court not later than forty-five days after the court's request for such report. On receipt of a written report from the guardian or a Department of Developmental Services professional or assessment team, the court shall provide a copy of the report to the attorney for the protected person.

(5) The written report or testimony by the Department of Developmental Services professional or assessment team shall not be required for the court's review of guardianship pursuant to this section if the protected person has been determined ineligible for services of the Department of Developmental Services by the commissioner or his or her designee, provided such denial of eligibility is based on the determination that the individual does not have intellectual disability as defined in section 1-1g. A copy of the eligibility determination letter indicating that the basis of ineligibility is the absence of intellectual disability, as defined in section 1-1g, shall be provided to the court in lieu of a report by the assessment team and no further assessment by the team shall be required.

[(5)] (6) Not later than thirty days after the attorney for the protected

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person receives a copy of a report pursuant to subdivision (4) of this subsection, the protected person's attorney shall (A) meet with the protected person concerning the report, and (B) provide written notice to the court (i) that the protected person's attorney has met with the protected person, and (ii) indicating whether a hearing is requested. Nothing in this section shall prevent the protected person or the protected person's attorney from requesting a hearing at any other time as permitted by law.

[(6)] (7) If the protected person is unable to request or obtain an attorney, the court shall appoint an attorney for the protected person. If the protected person is unable to pay for the services of the attorney, the reasonable compensation of such attorney shall be established by, and paid from funds appropriated to, the Judicial Department; however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(b) If the court determines, after receipt of the reports from the Department of Developmental Services professional or assessment team and the guardian, and notice from the attorney for the protected person, that there has been no change in the condition of the protected person since the last preceding review by the court, a hearing on the condition of the protected person shall not be required, but the court, in its discretion, may hold such hearing. If the protected person's attorney, the Department of Developmental Services professional or assessment team or the guardian requests a hearing, the court shall hold a hearing within thirty days of such request. No order expanding or reducing the powers and responsibilities of a guardian shall be issued unless such hearing is held.

Approved July 7, 2021