



Senate

General Assembly

File No. 34

January Session, 2021

Substitute Senate Bill No. 416

Senate, March 9, 2021

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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:

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2 repealed and the following is substituted in lieu thereof (*Effective from*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

4 (c) The department shall make information in the registry available
5 only to: (1) Authorized agencies, for the purpose of protective service
6 determinations; (2) employers who employ employees to provide
7 services to an individual who receives services or funding from the
8 department; (3) the Departments of Children and Families, Mental
9 Health and Addiction Services, [and] Social Services and
10 Administrative Services, for the purpose of determining whether an
11 applicant for employment with the Departments of Children and
12 Families, Developmental Services, Mental Health and Addiction
13 Services and Social Services appears on the registry; or (4) charitable

14 organizations that recruit volunteers to support programs for persons
15 with intellectual disability or autism spectrum disorder, upon
16 application to and approval by the commissioner, for purposes of
17 conducting background checks on such volunteers.

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19 repealed and the following is substituted in lieu thereof (*Effective from*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

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

48 attending physician shall prepare a report describing the nature of the
49 emergency which necessitated such [surgery] medical treatment or
50 surgical procedure and shall file a copy of such report in the patient's
51 record.

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

54 (a) The commissioner, upon receiving a report that a person with
55 intellectual disability allegedly is being or has been abused or neglected,
56 shall make an initial determination whether such person has intellectual
57 disability, shall determine if the report warrants investigation and shall
58 cause, in cases that so warrant, a prompt, thorough evaluation to be
59 made to determine whether the person has intellectual disability and
60 has been abused or neglected. For the purposes of sections 46a-11a to
61 46a-11g, inclusive, the determination of intellectual disability may be
62 made by means of a review of records and shall not require the
63 commissioner to conduct a full psychological examination of the person.
64 Any delay in making such determination of intellectual disability shall
65 not delay the investigation of abuse or neglect or recommendation of
66 provision of protective services. The evaluation shall include a visit to
67 the named person with intellectual disability and consultation with
68 those individuals having knowledge of the facts of the particular case.
69 All state, local and private agencies shall have a duty to cooperate with
70 any investigation conducted by the Department of Developmental
71 Services under this section, including the release of complete records of
72 the named person for review, inspection and copying, except where the
73 person with intellectual disability refuses to permit such records to be
74 released. The commissioner shall have subpoena powers to compel any
75 information related to such investigation. All records of the named
76 person shall be kept confidential by said department. Upon completion
77 of the evaluation of each case, written findings shall be prepared which
78 shall include a determination of whether abuse or neglect has occurred
79 and recommendations as to whether protective services are needed. The
80 commissioner, except in cases where the legal representative is the
81 alleged or substantiated perpetrator of abuse or neglect or is residing

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

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

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

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

111 (e) Neither the original report of alleged abuse or neglect nor the
112 evaluation report of the investigator which includes findings and
113 recommendations shall be deemed a public record for purposes of
114 section 1-210. The original report of alleged abuse or neglect or the

115 evaluation report of the investigator shall not be provided to a legal
116 representative who is the alleged or substantiated perpetrator of abuse
117 or neglect or is residing with the alleged or substantiated perpetrator.
118 The name of the person making the original report shall not be disclosed
119 to any person unless the person making the original report consents to
120 such disclosure or unless a judicial proceeding results therefrom.

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

123 (a) There shall be a Camp Harkness Advisory Committee to advise
124 the Commissioner of Developmental Services with respect to issues
125 concerning the health and safety of persons who attend and utilize the
126 facilities at Camp Harkness. The advisory committee shall be composed
127 of twelve members as follows: (1) Six members appointed by the
128 Governor, one of whom shall be the director of Camp Harkness, who
129 shall serve ex officio, one of whom shall represent [the Southeastern
130 Connecticut Association for Developmental Disabilities] a mental health
131 organization that uses the camp, one of whom shall represent the
132 Southbury Training School, one of whom shall represent [the] The Arc
133 of [New London County] Eastern Connecticut, one of whom shall be a
134 person who uses the camp on a residential basis and one of whom shall
135 be a relative or guardian of a person who uses the camp; and (2) six
136 members appointed by the General Assembly, one of whom shall be a
137 relative or guardian of a person who uses the camp, who shall be
138 appointed by the president pro tempore of the Senate; one of whom
139 shall be a [member of the Family Support Council established pursuant
140 to section 17a-219c and represent persons who use the camp on a day
141 basis] special education director, who shall be appointed by the speaker
142 of the House of Representatives; one of whom shall represent the board
143 of selectmen of the town of Waterford, who shall be appointed by the
144 majority leader of the House of Representatives; one of whom shall
145 represent a private nonprofit corporation that is: (A) Tax exempt under
146 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
147 subsequent internal revenue code of the United States, as amended from
148 time to time, and (B) established to promote and support Camp

149 Harkness and its camping programs, who shall be appointed by the
150 majority leader of the Senate; one of whom shall represent the
151 Connecticut Institute for the Blind and the Oak Hill School, who shall
152 be appointed by the minority leader of the House of Representatives;
153 and one of whom shall represent [the United Cerebral Palsy
154 Association] Sunrise Northeast, Inc., who shall be appointed by the
155 minority leader of the Senate.

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

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

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

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

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

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

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

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

201 [(5)] (6) Not later than thirty days after the attorney for the protected
202 person receives a copy of a report pursuant to subdivision (4) of this
203 subsection, the protected person's attorney shall (A) meet with the
204 protected person concerning the report, and (B) provide written notice
205 to the court (i) that the protected person's attorney has met with the
206 protected person, and (ii) indicating whether a hearing is requested.
207 Nothing in this section shall prevent the protected person or the
208 protected person's attorney from requesting a hearing at any other time
209 as permitted by law.

210 [(6)] (7) If the protected person is unable to request or obtain an
211 attorney, the court shall appoint an attorney for the protected person. If
212 the protected person is unable to pay for the services of the attorney, the

213 reasonable compensation of such attorney shall be established by, and
 214 paid from funds appropriated to, the Judicial Department; however, if
 215 funds have not been included in the budget of the Judicial Department
 216 for such purposes, such compensation shall be established by the
 217 Probate Court Administrator and paid from the Probate Court
 218 Administration Fund.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17a-247b(c)
Sec. 2	<i>from passage</i>	17a-238(f)
Sec. 3	<i>from passage</i>	46a-11c
Sec. 4	<i>from passage</i>	17a-217a
Sec. 5	<i>from passage</i>	45a-681

PH *Joint Favorable Subst.*

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

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes various changes, including making the Department of Developmental Services' abuse and neglect registry accessible to the Department of Administrative Services, which have no fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 416*****AN ACT CONCERNING VARIOUS REVISIONS TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES STATUTES.*****SUMMARY**

This bill makes various changes to Department of Developmental Services (DDS)-related statutes, including:

1. making information in DDS's abuse and neglect registry available to the Department of Administrative Services (DAS) to determine whether an applicant for employment with DDS or certain other state agencies appears on the registry;
2. allowing DDS regional or training school directors to consent to emergency medical treatment for an individual under their custody or control, under the same conditions and procedures that already apply to emergency surgery;
3. expanding the circumstances under which perpetrators of abuse or neglect, or individuals who live with them, are denied access to certain information about DDS's investigation;
4. updating appointments to the Camp Harkness Advisory Committee to reflect name changes for certain entities and making related changes; and
5. requiring DDS to submit an individual's eligibility denial letter, rather than a reassessment, to the probate court during guardianship reviews for adults determined ineligible for DDS services.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

§ 1 — DAS ACCESS TO DDS ABUSE AND NEGLECT REGISTRY

By law, DDS maintains a registry of certain people fired from their jobs because of a substantiated abuse or neglect complaint against them. These are individuals who were employed by DDS, or an agency, organization, or person who DDS licenses or funds. The information is available only to certain agencies and employers for specified purposes.

The bill makes information in the registry available to DAS for determining whether an applicant for employment with certain state agencies appears on the registry. Specifically, this applies to applicants at DDS or the departments of children and families, mental health and addiction services, and social services. These other agencies already have access to the registry to determine whether applicants appear on it.

In practice, pursuant to the governor's Executive Order 2, DAS generally oversees human resources functions for executive branch agencies.

§ 2 — EMERGENCY MEDICAL TREATMENT

Under certain circumstances, existing law allows a DDS regional or training school director to consent to emergency surgery for an individual under their custody or control living in a residential facility. The bill extends this authority to include other kinds of emergency medical treatment, under the same conditions and procedures that already apply to surgery.

Thus, this authority applies when (1) the individual's attending physician determines that the treatment is of an emergency nature and (2) there is insufficient time to obtain the written consent otherwise required (i.e., from the individual, a parent of a minor, or the legal representative if the individual is adjudicated unable to make informed decisions about medical care).

Additionally, the attending physician must prepare a report

describing the nature of the emergency that made the treatment necessary and file a copy in the patient's record.

§ 3 — ABUSE AND NEGLECT INVESTIGATIONS

When DDS determines that reported abuse or neglect warrants an investigation, existing law requires the department to notify the victim's legal representative, unless the representative is the alleged perpetrator or resides with the alleged perpetrator. The bill extends this exception to cases where the representative is, or resides with, the substantiated perpetrator.

Current law requires DDS to provide the legal representative with further information upon request, if the commissioner determines that the representative is entitled to it. The bill creates an exception for cases where the representative is, or resides with, the alleged or substantiated perpetrator.

The bill also prohibits DDS from providing the original abuse report or the investigator's evaluation report to a legal representative who is, or resides with, the alleged or substantiated perpetrator.

§ 4 — CAMP HARKNESS ADVISORY COMMITTEE

By law, a 12-member committee advises the DDS commissioner on issues concerning the health and safety of users of Camp Harkness facilities. As shown in Table 1, the bill updates the qualifications for four appointments to reflect a change in name or closure of certain entities.

Table 1: Updates to Camp Harkness Advisory Committee Appointments*

<i>Appointing Authority</i>	<i>Current Law</i>	<i>The Bill</i>
Governor	Representative of the Southeastern Connecticut Association for Developmental Disabilities	Representative of a mental health organization that uses the camp
Governor	Representative of The Arc of New London County	Representative of The Arc of Eastern Connecticut
House speaker	Member of DDS's Family Support Council who	Special education director

	represents day camp users	
Senate minority leader	Representative of the United Cerebral Palsy Association	Representative of Sunrise Northeast Inc.

* Under existing law, there are eight additional committee members whose qualifications are unchanged by the bill.

Camp Harkness, located in Waterford, is dedicated to exclusive use by individuals with disabilities and their accompanying family and friends.

§ 5 — GUARDIANSHIP REVIEWS

By law, the probate court must review an adult’s guardianship at least every three years to determine whether to continue, modify, or terminate it. The bill eliminates the requirement that the DDS assessment team submit a written report or testimony to the court, if DDS determined that the individual does not have an intellectual disability and thus is ineligible for DDS services. It instead (1) requires DDS to provide the court with a copy of the eligibility determination letter and (2) specifies that the team is not required to further evaluate the individual.

This change corresponds to existing law for the initial appointment of a guardian in cases where DDS determines the individual does not have intellectual disability (CGS § 45a-674(b)).

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 33 Nay 0 (02/22/2021)