



General Assembly

January Session, 2021

**Raised Bill No. 416**

LCO No. 2229



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***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2 repealed and the following is substituted in lieu thereof (*Effective from*  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] Department of  
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19 repealed and the following is substituted in lieu thereof (*Effective from*  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.

231 Sec. 6. Subsection (b) of section 45a-674 of the general statutes is  
232 repealed and the following is substituted in lieu thereof (*Effective from*  
233 *passage*):

234 (b) The written report or testimony by the assessment team shall not  
235 be required for a hearing on the appointment of a plenary guardian or  
236 limited guardian if the individual has been determined ineligible for  
237 services of the Department of Developmental Services by the  
238 commissioner or his or her designee, provided such denial of eligibility  
239 is based on the determination that the individual does not have  
240 intellectual disability as defined in section 1-1g. A copy of the eligibility  
241 determination letter indicating that the basis of ineligibility is the  
242 absence of intellectual disability, as defined in section 1-1g, shall be  
243 provided to the Probate Court in lieu of a report by the assessment team  
244 and no further assessment by the team, including any subsequent  
245 assessment requested pursuant to subsection (a) of section 45a-681, as

246 amended by this act, shall be required.

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
Sec. 6	<i>from passage</i>	45a-674(b)

**Statement of Purpose:**

To (1) make information in the Department of Developmental Services' abuse and neglect registry available to the Department of Administrative Services, (2) allow the Commissioner of Developmental Services or a Department of Developmental Services regional or training school director to consent to emergency medical treatment for an individual under the custody or control of the department, (3) restrict legal representatives of persons with intellectual disabilities from accessing abuse and neglect reports when the legal representative is the alleged perpetrator of such abuse or neglect or is residing with the alleged perpetrator, (4) update the membership of the Camp Harkness Advisory Committee, and (5) excuse the Department of Developmental Services from assessments of individuals in the context of a review of guardianship by the Probate Court where the department has previously determined that such individual does not have intellectual disability.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*