
OLR Bill Analysis

sSB 989

AN ACT CONCERNING NURSING HOME AIR CONDITIONING, COST REPORTING TRANSPARENCY, WAITING LIST REQUIREMENTS, INVOLUNTARY PATIENT TRANSFER NOTICES AND TRANSPORTATION FOR RESIDENT SOCIAL VISITS.

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§§ 1 & 2 — AIR CONDITIONING IN NURSING HOMES

Requires nursing homes to provide air conditioning in every resident room by January 1, 2026; requires DPH to review and report to the legislature on this topic before the requirement takes effect; creates a revolving loan account within CHEFA to help nursing home owners pay to install the resident air conditioning systems

The bill requires nursing homes, by January 1, 2026, to provide air conditioning in every resident room. (It expressly exempts residential care homes from the requirement.) Before the requirement takes effect, the bill requires the Department of Public Health (DPH) to review each nursing home to determine which homes do not currently do this and report specified information on these homes to the Aging, Human Services, and Public Health committees by January 1, 2025.

Additionally, the bill creates a revolving loan account within the Connecticut Health and Educational Facilities Authority (CHEFA) to help nursing home owners pay to install the resident air conditioning systems.

DPH Review and Report

Beginning July 1, 2024, the bill requires DPH to review each nursing home to determine which homes already have air conditioning in all resident rooms. Those homes that do not must report the following information to DPH as the commissioner prescribes:

1. whether and how the nursing home can adequately control the climate in resident rooms during hot weather,
2. feasible air conditioning system options to install at the nursing home, and
3. the cost and physical plant needs for providing air conditioning in each resident room and any other impediments to doing so.

The bill requires DPH to report on this information to the Aging, Human Services, and Public Health committees by January 1, 2025.

CHEFA Revolving Loan Account

Under the bill, the revolving loan account must contain (1) moneys provided or required by law to be deposited into it and (2) public or

private contributions CHEFA accepts.

The bill subjects the loans' terms and conditions to eligibility, loan approval, credit, and other underwriting requirements and criteria that CHEFA determines are reasonable given the program's purpose. To implement the program, CHEFA may use its existing powers and must adopt written procedures following notice requirements for quasi-public agencies.

The bill prohibits CHEFA from issuing new loans to nursing homes after January 1, 2026, once the air conditioning requirement takes effect. At that time, it may withdraw any remaining account funds and use them for other purposes, subject to any restrictions on account contributions.

By law, CHEFA generally assists higher education institutions, healthcare institutions, nursing homes, child care or child development facilities, and qualified nonprofit organizations with construction, financing or refinancing projects, or in other ways authorized by law (CGS § 10a-180).

CHEFA Report

The bill requires CHEFA to report the following information to the Aging, Human Services, and Public Health committees by January 1, 2026:

1. a list of program loans issued and a general description of their terms, conditions, and repayment history;
2. an assessment of their impact on nursing homes' compliance with the bill's air conditioning requirement;
3. the need for additional program funding; and
4. other information CHEFA deems relevant to evaluate the program's success in meeting its objectives.

Background — Nursing Home Minimum Temperature Standards

DPH regulations set minimum temperature requirements of 75

degrees in areas that residents use and at least 70 degrees in all other occupied areas (Conn. Agencies Regs., 19-13-D8t(d)(4)).

EFFECTIVE DATE: Upon passage

§§ 3 & 4 — INVOLUNTARY TRANSFER NOTICE

Requires nursing homes to notify the Long-Term Care Ombudsman of a resident's involuntary transfer or discharge on the same day the nursing home notifies the resident

By law, nursing homes must give residents and their representatives written notification about a discharge or transfer at least 30 days in advance, including information about the appeals process and the ombudsman's contact information. Under the bill, nursing homes must also notify the Long-Term Care Ombudsman on the same date as the resident notification if the transfer or discharge is involuntary. If the nursing home fails to do so, the involuntary transfer or discharge is invalidated and cannot proceed. The ombudsman must prescribe how to give the notification.

EFFECTIVE DATE: Upon passage

Background — Involuntary Transfers and Discharges

Under federal and state law, nursing homes cannot transfer or discharge a resident unless the (1) facility cannot provide the resident adequate care, (2) resident's health has improved to the point that he or she no longer needs the home's services, (3) health or safety of people in the facility are endangered, (4) resident failed to pay for care after reasonable notice, or (5) facility closes (42 C.F.R. § 483.15(c), CGS § 19a535(b)).

Background — Related Bill

sSB 930 (File 99), favorably reported by the Aging Committee, has identical provisions.

§ 5 — NURSING HOME TRANSPORTATION FOR NONAMBULATORY RESIDENTS

Allows nursing homes to transport residents to their family members' homes under certain conditions and requires DSS to establish a grant program and report on transportation as a health-related social need and potential federal funding for it

The bill allows nursing homes to transport nonambulatory residents

(i.e., those unable to walk) to their family members' homes if:

1. a licensed physician, physician's assistant, or advanced practice registered nurse approves it at least five business days in advance;
2. the nursing home has available vehicles equipped to transport the residents; and
3. the family members live within 15 miles of the nursing home.

The bill also allows the Department of Social Services (DSS) commissioner, within available appropriations, to establish a grant program to fund this transportation. If she does so, the commissioner must establish forms and procedures for nursing homes to apply for a grant.

Under the bill, the commissioner must also evaluate if (1) the need for this transportation would qualify as a health-related social need (i.e., a health need derived from an adverse social condition that contributes to poor health and health disparities) and (2) there is any available federal funding for the transportation. She must report on the evaluation to the Council on Medical Assistance Program Oversight (MAPOC) by October 1, 2023.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

HB 6575 (File 71), favorably reported by the Aging Committee, has similar provisions, but does not require DSS to report to MAPOC.

§ 6 — NURSING HOME WAITLIST WORKING GROUP

Requires the Long-Term Care Ombudsman to convene a working group to recommend revisions to nursing home waitlist requirements and report to the Human Services and Public Health committees by January 1, 2024

The bill requires the Long-Term Care Ombudsman to convene a working group to recommend revisions to existing law's nursing home waitlist requirements (CGS § 19a-533). Working group members must include the following:

1. the Long-Term Care Ombudsman, or her designee, who serves as chairperson;
2. at least two nursing home industry representatives, appointed by the ombudsman;
3. DSS and DPH commissioners, or their designees; and
4. any other member the ombudsman appoints.

The bill requires the working group to meet at least monthly, but does not specify when it must convene.

Under the bill, the working group must report its recommended changes to the waiting list requirements (e.g., authorizing nursing homes to maintain waiting lists electronically) by January 1, 2024, to the Human Services and Public Health committees.

EFFECTIVE DATE: Upon passage

§ 7 — NURSING HOME EXPENDITURE SUMMARIES

Requires nursing homes to submit to DSS narrative summaries of certain expenditures with their annual cost reports, requires DSS to post this information online, and sets a \$10,000 fine for violations

Beginning the cost report year ending September 30, 2024, the bill requires nursing homes to annually submit narrative summaries of cost expenditures to the DSS commissioner, alongside their statutorily required cost reports. The summaries must include the percentage of Medicaid funding allocated to, and expenditures in, (1) direct costs, (2) indirect costs, (3) fair rent, (4) capital-related costs, and (5) administrative and general costs. They must also include expenditures for each allowable cost component by the nursing home and any related party (see below).

Beginning January 1, 2025, DSS must annually post on the agency's website (1) these cost reports and summaries for each nursing home, (2) comparisons between individual nursing homes by expenditures, and (3) a summary of the average reported expenditures of all reporting nursing homes for each category. Any cost report forms DSS uses must

include a glossary, an explanation of the terms used, a description of the reported categories, and a plain language explanation of the formulas used to determine costs for the five allowable cost components.

The bill requires a nursing home that fails to comply with this reporting requirement to be fined up to \$10,000. Before imposing a penalty, the DSS commissioner must notify the nursing home about the violation and allow it to request a review. The home must request a review within 15 days after receiving the notice, and DSS cannot impose the penalty while the review is pending.

Under the bill, the penalty may be imposed even if the nursing home's ownership changes after the violation takes place, as long as DSS issued the notice about the violation before the change in ownership became effective and the record of the notice is readily available in a central registry maintained by DSS. The DSS commissioner may collect the penalty by offsetting payments due to the facility. Payments made for these penalties must be deposited in the General Fund and credited to the Medicaid account.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6678 (File 74) (§ 1), favorably reported by the Aging Committee, has similar provisions with earlier deadlines.

§ 8 — PRIVATE EQUITY OWNERS AND NURSING HOME LICENSURE

Requires applicants for a nursing home license to provide to DPH (1) information on private equity funds that own any part of the nursing home and (2) the owner's audited and certified financial statements

The bill expands the information the nursing home licensure applicants must give DPH to include (1) information on any private equity fund that owns any part of the home, the name of the fund's investment advisor, and a copy of the most recent quarterly statement given to the private fund's investors and (2) the owner's audited and certified financial statements. Under current law, these statements are only required if requested by DPH. The financial statement must

include a balance sheet from the end of the most recent fiscal year and income statements from the most recent fiscal year (or an applicable shorter period if the owner has not existed for a full fiscal year).

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6678 (File 74) (§ 2), favorably reported by the Aging Committee, has identical provisions.

§ 9 — FOR-PROFIT NURSING HOME RELATED PARTY REPORTING

Broadens nursing home related party cost reporting requirements by removing the cost threshold

The bill broadens related party reporting requirements for for-profit nursing homes that receive Medicaid funding. Current law requires these nursing homes to include in their annual reports a profit and loss statement from each related party (i.e., a company related to the home through family association, common ownership, control, or business association with the home’s owners or operators) that receives at least \$50,000 of income from the home per year. The bill removes this income threshold, requiring statements from each related party that received any income from the home.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6678 (File 74) (§ 3), favorably reported by the Aging Committee, also removes the income requirement, and further expands the reporting requirement to nonprofit nursing homes.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute
Yea 20 Nay 1 (03/28/2023)