



DDS

State of Connecticut Department of Developmental Services

Dannel P. Malloy
Governor

Jordan A. Scheff
Commissioner

Peter Mason
Deputy Commissioner

DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY BEFORE THE PUBLIC HEALTH COMMITTEE February 28, 2018

Senators Gerratana and Somers, Representatives Steinberg and Betts and members of the Public Health Committee. I am Jordan A. Scheff, Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to testify in support of **H.B. No. 5153 AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS REGARDING GUARDIANSHIP ASSESSMENTS.**

This proposal would eliminate a DDS guardianship assessment requirement for individuals already found ineligible for DDS services due to a finding that the individual does not have a diagnosis of intellectual disability pursuant to section 1-1g of the Connecticut General Statutes.

Guardianship is a legal option for individuals with intellectual disability over the age of 18. If an individual has been determined not eligible for DDS based on a finding that the individual does not have a diagnosis of intellectual disability pursuant to section 1-1g of the Connecticut General Statutes, then the individual cannot legally have a guardian. Therefore the guardianship assessment process should be moot. This is also true for individuals with a diagnosis of autism spectrum disorder, but not intellectual disability, who have been found eligible for the Department of Social Services' Autism Division. Allowing DDS to submit a copy of an eligibility denial letter will suffice as evidence that the guardianship for an individual is not a legal option. However, conservatorship would still be a possible avenue for individuals who do not have a diagnosis of intellectual disability.

DDS respectfully requests the following revisions to the new language in the proposed bill to mirror what was originally intended to be submitted to the Committee:

Section 45a-674 (NEW) The written report or testimony by the assessment team shall not be required for a hearing on the appointment of a plenary guardian or limited guardian if the individual has been determined ineligible for services of the Department of Developmental Services by the Commissioner or Commissioner's designee [not later than one year after the date of the request for assessment], 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 probate court in lieu of report by the assessment team, and no further assessment [of] by the team shall be required.

Phone: 860 418-6000 ♦ TDD 860 418-6079 ♦ Fax: 860 418-6001
460 Capitol Avenue ♦ Hartford, Connecticut 06106
www.ct.gov/dds ♦ e-mail: ddsct.co@ct.gov
An Affirmative Action/Equal Opportunity Employer

To explain the minor changes, the assessment is done by the team which is reflected in the change from “of” to “by”. Additionally, DDS believes that the one year post assessment caveat is unnecessary. If an individual or their legal representative has new information that they believe will change a non-eligible determination, they may reapply to DDS at any time. The production of new documents to meet the statutory definition of intellectual disability could be weeks, months, or years after the initial eligibility denial letter is issued. Additionally, individuals have 60 days with which to appeal a denial of DDS eligibility. In some cases, the appeal hearing is scheduled within one year of the date on the denial letter. In other cases, however, it takes longer than one year to bring an appeal to hearing. If a non-eligible determination was overturned, only then would someone have legal authority to apply to the probate court for guardianship. The proposed statute is clear that the only reason an assessment is unnecessary is when it is clear that the ineligibility is due to the absence of intellectual disability as defined in statute.

DDS has provided the Probate Court Administration with specific examples of redacted eligibility denial letters to demonstrate that the letter would not simply state a person was ineligible but would explain why or how a determination was made that the individual did not meet the statutory definition of intellectual disability defined in Section 1-1g. DDS can share these letters with legislators if you are interested in seeing them.

Thank you again for the opportunity to offer testimony in support of [H.B. No. 5153](#) **AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS REGARDING GUARDIANSHIP ASSESSMENTS**. I would be happy to answer any questions you have at this time. You may also contact Christine Pollio Cooney, DDS Director of Legislative and Executive Affairs at (860) 418-6066 with additional questions.