



State of Connecticut  
Department of Developmental Services



Dannel P. Malloy  
Governor

Terrence W. Macy, Ph.D.  
Commissioner

November 6, 2013

Proposed DDS Legislation for the 2014 Legislative Session (in priority order):

- 1. An Act Concerning Mandatory Reporting of Abuse or Neglect of Individuals with Autism Spectrum Disorder.**
- 2. An Act Concerning Definitions for Purposes of the Abuse and Neglect Registry Established Pursuant to CGS Sections 17a-247b to 17a-247e, inclusive.**
- 3. An Act Concerning Unified School District #3.**
- 4. An Act Concerning the Department of Developmental Services Revolving Loan Fund.**
- 5. An Act Concerning the Appointment of Conservators for Persons with Intellectual Disability.**
- 6. An Act Concerning Councils of Developmental Services.**

Please contact Christine Pollio Cooney, Director of Legislative and Executive Affairs at 418-6066 or [christine.pollio@ct.gov](mailto:christine.pollio@ct.gov) with any questions regarding these proposals.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DDS11-6-13MandatoryReportingASD.docx**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Developmental Services

Liaison: Christine Pollio Cooney

Phone: 860.418.6066

E-mail: [Christine.pollio@ct.gov](mailto:Christine.pollio@ct.gov)

Lead agency division requesting this proposal:

Autism Division

Agency Analyst/Drafter of Proposal: Christine Pollio Cooney

**Title of Proposal**

**An Act Concerning Mandatory Reporting of Abuse or Neglect of Individuals with Autism Spectrum Disorder**

**Statutory Reference**

(NEW) 17a-215d

**Proposal Summary**

This proposal requires mandatory reporters to report suspected abuse or neglect of individuals receiving services funded by the Division of Autism Spectrum Services, not already covered under another mandatory reporting statute, to DDS.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? no*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? don't know*
- (3) *Have certain constituencies called for this action? Internal agency request after a case presented itself.*
- (4) *What would happen if this was not enacted in law this session? A loophole could exist in that there would be no system for reporting suspected abuse or neglect of individuals receiving services from the DDS Autism Division if they weren't children covered by DCF mandatory reporting statutes or adults age 60 and over covered by DSS mandatory reporting statutes. OPA mandatory reporting statutes only apply to suspected abuse or neglect of individuals with intellectual disability so individuals age 18-59 are currently not covered if they receive services from the Autism Division.*

- **Origin of Proposal**

**New Proposal**

**Resubmission**



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal    \_\_\_ YES    \_\_\_ NO    \_\_\_ Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?    \_\_\_ YES    \_\_\_ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



This proposal attempts to close a potential abuse/neglect reporting gap that exists related to individuals receiving services from DDS's autism division by expanding mandatory reporting requirements to cover individuals who receive services from this division. This proposal requires mandatory reporters to report suspected abuse or neglect of individuals receiving services funded by the Division of Autism Spectrum Services, who is not already covered under another mandatory reporting statute, to DDS. The intent is that for anyone not covered elsewhere in statute already, the report/allegation would be made to DDS who would then have jurisdiction over the investigation. Individuals with autism would already be covered by DCF's mandatory reporting statute (CGS 17a-101) if under the age of 18 or DSS's (CGS 17b-451) if age 60 or older. The OPA mandatory reporting statute (CGS 46a-11b) only applies to individuals with intellectual disability between the ages of 18 and 60, and therefore would not apply to individuals served by DDS's Autism Division.

### **An Act Concerning Mandatory Reporting of Abuse or Neglect of Individuals with Autism Spectrum Disorder**

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

Section 1. (NEW) 17a-215d. The Department of Developmental Services shall investigate any allegation of abuse or neglect, as defined in Section 17a-247a, of an individual who receives services from the Division of Autism Spectrum Services if not otherwise required by statute. For purposes of this section, persons identified in subsection (a) of section 46a-11b, who are required to report suspected abuse or neglect of persons with intellectual disability shall be mandated to report allegations of abuse or neglect of an individual receiving services from the Division of Autism Spectrum Services. Any other person having reasonable cause to suspect or believe that an individual who receives services from the Division of Autism Spectrum Services is being, or has been, abused or neglected may report such information in any reasonable manner to the commissioner or the commissioner's designee.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DDS11-6-13RegistryAbuseDefinition.docx**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Developmental Services

Liaison: Christine Pollio Cooney

Phone: 860.418.6066

E-mail: [Christine.pollio@ct.gov](mailto:Christine.pollio@ct.gov)

Lead agency division requesting this proposal: Commissioner’s office

Agency Analyst/Drafter of Proposal: Christine Pollio Cooney

**Title of Proposal**

**An Act Concerning Definitions for Purposes of the Abuse and Neglect Registry Established Pursuant to CGS 17a-247b to 17a-247e, inclusive.**

**Statutory Reference**

**17a-247a to 17a-247c, inclusive**

**Proposal Summary**

This proposal would expand the definition of abuse, for purposes of the statutes governing the DDS Abuse and Neglect Registry, to include financial exploitation, psychological abuse, sexual abuse and verbal abuse.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- **Reason for Proposal**

*Please consider the following, if applicable:*

- (5) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? no*
- (6) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? CT is a leader in the area of abuse and neglect investigations and the registry.*
- (7) *Have certain constituencies called for this action? Internal response to concerns regarding what constitutes abuse for purposes of a registry referral.*
- (8) *What would happen if this was not enacted in law this session? Registry referral may not occur in some cases, including those involving financial exploitation.*

- **Origin of Proposal**

**New Proposal**

**Resubmission**



If this is a resubmission, please share:

- (5) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (6) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (7) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (8) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted:  Approve of Proposal    ___ YES    ___ NO    ___ Talks Ongoing
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<b>Summary of Affected Agency's Comments</b>
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Will there need to be further negotiation?    ___ YES    ___ NO
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- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<b>Municipal</b> (please include any municipal mandate that can be found within legislation) None
<b>State</b> None
<b>Federal</b> None
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



This proposal would expand the definition of abuse, for purposes of the statutes governing the DDS Abuse and Neglect Registry, to include financial exploitation, psychological abuse, sexual abuse and verbal abuse. The threshold for referral of employees with substantiated abuse to the registry would be expanded and could result in additional referrals, thus potentially restricting more employees from being able to work in the field after a substantiation of abuse. Agencies that are authorized to investigate allegations of abuse already make determinations as to whether or not these categories of abuse are substantiated, however this proposal allows DDS to make registry referrals for substantiations of these additional types of abuse.

**An Act Concerning Definitions for Purposes of the Abuse and Neglect Registry Established Pursuant to CGS 17a-247b to 17a-247e, inclusive.**

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

Section 1.

Sec. 17a-247a. Registry of former employees of department or other service providers terminated because of substantiated acts of abuse or neglect. Definitions. As used in sections 17a-247b to 17a-247e, inclusive:

(1) "Abuse" means the wilful infliction by an employee of (1) physical pain or injury; [or] (2) the wilful deprivation of services necessary to the physical and mental health and safety of an individual [a department client.]; (3) financial exploitation; (4) psychological abuse; (5) sexual abuse; or (6) verbal abuse.

(2) "Authorized agency" means any agency authorized in accordance with the general statutes to conduct abuse and neglect investigations and responsible for issuing or carrying out protective services for persons with intellectual disability or for individuals receiving services from or funded by the department's Division of Autism Spectrum Services.

(3) "Commissioner" means the Commissioner of Developmental Services.

(4) "Department" means the Department of Developmental Services.

[(5) "Department client" means a person who is eligible for, and receives services or funding from, the department.]

(6) "Employee" means any [individual] person employed (A) by the department, or (B) by an agency, organization or individual that is licensed or funded by the department.



(7) “Employer” means (A) the department, or (B) an agency, organization or [individual]person that is licensed or funded by the department.

(8) “Financial exploitation” means the theft or misappropriation of property or monetary resources, which are intended to be used for or by an individual.

(9) “Individual” means a person who is eligible for, and receives services or funding from, the department.

~~[(8)]~~(10) “Neglect” means the failure by an employee, through action or inaction, to provide [a department client] an individual with the services necessary to maintain [such client’s]the individual’s physical and mental health and safety.

~~[(9)]~~(11) “Protective services” has the same meaning as provided in section 46a-11a.

(12) “Psychological abuse” means an act or acts that humiliate, intimidate, degrade, or demean an individual; that inflict emotional harm on or invoke fear in an individual; or that otherwise negatively impact the mental health, the physical health or the safety of an individual.

~~[(10)]~~(13) “Registry” means a centralized data base containing information regarding substantiated abuse or neglect.

(14) “Sexual abuse” means any sexual contact or encouragement of sexual activity between a family member, paid staff or a volunteer and an individual, regardless of the individual’s ability to consent.

~~[(11)]~~(15) “Substantiated abuse or neglect” means a determination by an authorized agency, following an investigation conducted or monitored by such agency, that (A) abuse or neglect of an individual [a department client] has occurred, or (B) there has been a criminal conviction of a felony or misdemeanor involving abuse or neglect.

(16) “Verbal abuse” means the use of offensive or intimidating language or both that may provoke or upset an individual.

Sec. 17a-247b. Establishment and maintenance of registry. (a) The Department of Developmental Services shall establish and maintain a registry of [individuals] persons who have been terminated or separated from employment as a result of substantiated abuse or neglect. The department shall, for the purposes of maintaining the registry, be capable of responding to inquiries in accordance with subsection (c) of this section as to whether [an individual] a person has been terminated or separated from employment as a result of substantiated abuse or neglect.





Such capability may include response by telephone voice mail or other automated response for initial inquiries.

(b) The registry shall include, but not be limited to, the following: (1) The names, addresses and Social Security numbers of those [individuals] persons terminated or separated from employment as a result of substantiated abuse or neglect; (2) the date of termination or separation; (3) the type of abuse or neglect; and (4) the name of any employer or authorized agency requesting information from the registry, the reason for the request and the date of the request.

(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 [individuals] persons to provide services to [a department client]an individual; (3) the Departments of Children and Families and Mental Health and Addiction Services, for the purpose of determining whether an applicant for employment appears on the registry; or (4) charitable organizations which 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.

(d) The department shall limit responses to requests for identifying information from the registry established under this section to (1) identification of the [individual]person terminated or separated from employment for substantiated abuse or neglect, and (2) the type of abuse or neglect so substantiated.

(e) Not later than five business days following receipt of written notification by an authorized agency of the substantiation of abuse or neglect by an employee who has been terminated or separated from employment for such abuse or neglect, an employer shall submit to the department the name of such employee and such other information as the department may request. Upon receipt of notification of such termination or separation, the department shall conduct a hearing in accordance with sections 4-177 to 4-181a, inclusive, governing contested cases. The department shall not place [an individual's]a person's name on the registry until the department has completed the hearing and the hearing has resulted in a decision to place the [individual's]person's name on the registry.

(f) The department shall remove [an]a former employee's name from the registry if an arbitration or a legal proceeding results in a finding that the former employee was unfairly terminated from employment.

(g) No employer shall be liable in any civil action for damages brought by [an]a former employee or an applicant for employment whose name appears on the registry established by this section arising out of the conduct of the employer in (1) making any report in good faith pursuant to subsection (e) of this section, (2) testifying under oath in any administrative or judicial proceeding arising from such report, (3) refusing to hire or to retain any [individual]person whose name appears on the registry established under this section, or (4) taking any other action



to conform to the requirements of this section. The immunity provided in this subsection shall not apply to gross negligence or to wilful or wanton misconduct.

Sec. 17a-247c. Prohibition on hiring persons on registry. Notice to employers. (a) No employer shall hire [an individual]a person whose name appears on the registry and no employer shall retain [an individual]an employee after receiving notice that [an individual's]the employee's name so appears.

(b) The department shall, on at least a semiannual basis, issue a notice to employers containing the name of each [individual]person placed on the registry and the identifying information pertaining to such [individual]person as provided in subsection (d) of section 17a-247b.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DDS11-6-13USD#3.docx**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Developmental Services

Liaison: Christine Pollio Cooney

Phone: 860.418.6066

E-mail: [Christine.pollio@ct.gov](mailto:Christine.pollio@ct.gov)

Lead agency division requesting this proposal: Birth to Three

Agency Analyst/Drafter of Proposal: Christine Pollio Cooney

### Title of Proposal

**An Act Concerning Unified School District #3.**

**Statutory Reference** Secs. 17a-239 through 17a-244, Sec. 5-259d(d), Sec. 10-15d and Sec. 10-76d (e)(3)

### Proposal Summary

This bill would repeal statutes pertaining to Unified School District #3 which is the Early Connections Program, the state run Birth to Three provider.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

### Reason for Proposal

*Please consider the following, if applicable:*

- (9) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? Program will no longer be operational, statute is therefore unnecessary.*
- (10) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? don't know*
- (11) *Have certain constituencies called for this action? See #4*
- (12) *What would happen if this was not enacted in law this session? If the USD#3 continues past July 1, 2014 one issue we will be that a teacher evaluation system needs to be in place. This is a new SDE initiative that requires extensive observations and documentation of teacher skills and development. Because the program is down to 5 teachers who each have a very small caseload this is not feasible. For this reason we received a waiver from SDE with the understanding that the district would not exist at the end of the waiver period. B23 will be unable to continue to report to state and federal agencies on data that does not exist because we have no children or staff to report on.*

### Origin of Proposal

**X** New Proposal

Resubmission



If this is a resubmission, please share:

- (9) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (10) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (11) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (12) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: n/a

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal    \_\_\_ YES    \_\_\_ NO    \_\_\_ Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?    \_\_\_ YES    \_\_\_ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This bill would repeal statutes pertaining to Unified School District #3 which is the Early Connections Program, the state run Birth to Three provider. Admissions to Early Connections have been closed since July 2011 and the last children will exit (age out) as of June 30, 2014. All public employee staff have either retired or taken other opportunities within DDS.



### **An Act Concerning Unified School District #3**

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

Section 1. Sec. 5-259d(d). No state employee shall be deemed ineligible for any benefit under this section or under any other provision of this chapter solely because such employee's leave time is classified as recess or other equivalent leave time rather than vacation time pursuant to the provisions of a collective bargaining agreement, including a collective bargaining agreement covering a state employee in a teaching, instructional or professional position in Unified School District [#1, #2 or #3]#1 or #2.

Section 2. Sec. 10-15d. Applicability of education statutes to the Unified School Districts and the technical high schools. For the fiscal year beginning July 1, 1987, and annually thereafter, all provisions of the general statutes concerning education, except those provisions relating to the eligibility for noncompetitive state aid unless otherwise provided, shall apply to the operation of the State of Connecticut-Unified School District #2 established pursuant to section 17a-37 within the Department of Children and Families, and State of Connecticut-Unified School District #1 established pursuant to section 18-99a within the Department of Correction[ and State of Connecticut-Unified School District #3 established pursuant to section 17a-240 within the Department of Developmental Services]. All provisions of the general statutes concerning education, except those provisions relating to the eligibility for state aid unless otherwise provided, shall apply to the operation of the technical high schools established pursuant to the provisions of section 10-95. Notwithstanding the provisions of this section, where such a school or school district shows that a particular statutory provision should not apply, the commissioner may grant an exception.

Section 3. Sec. 10-76d (e)(3). Payment for children who require special education and who reside on state-owned or leased property or in permanent family residences as defined in section 17a-154, and who are not the educational responsibility of the unified school districts established pursuant to section 17a-37[, section 17a-240] or section 18-99a, shall be made in the following manner: The State Board of Education shall pay to the school district which is responsible for providing instruction for each such child pursuant to the provisions of this subsection one hundred per cent of the reasonable costs of such instruction. In the fiscal year following such payment, the State Board of Education shall deduct from the special education grant due the local or regional board of education under whose jurisdiction the child would otherwise be attending school, where such board has been identified, the amount for which such board would otherwise have been financially responsible pursuant to the provisions of subdivision (2) of this subsection. No such deduction shall be made for any school district which is responsible for providing special education instruction for children whose parents or legal guardians do not reside within such district. The amount deducted shall be included as a net cost



of special education by the Department of Education for purposes of the state's special education grant calculated pursuant to section 10-76g. A school district otherwise eligible for reimbursement under the provisions of this subdivision for the costs of education of a child residing in a permanent family residence shall continue to be so eligible in the event that a person providing foster care in such residence adopts the child. Notwithstanding the provisions of this subdivision, for the fiscal years ending June 30, 2004, and June 30, 2005, and for the fiscal years ending June 30, 2012, and June 30, 2013, the amount of the grants payable to local or regional boards of education in accordance with this subdivision shall be reduced proportionately if the total of such grants in such year exceeds the amount appropriated for the purposes of this subdivision for such year.

Section 4. Section 17a-239 is repealed.

*Sec. 17a-239. (Formerly Sec. 19a-470). Definitions. For the purposes of sections 17a-240 to 17a-244, inclusive, "a person eligible to receive services from State of Connecticut- Unified School District #3" means a child who has not attained the age of eligibility for the provision of special education and related services as specified in subsection (q) of section 10-76a-1 of the regulations of Connecticut state agencies, as amended, and who has a significant developmental delay or a diagnosed physical or mental condition with a high probability of resulting in a significant developmental delay.*

Section 5. Section 17a-240 is repealed.

*Sec. 17a-240. (Formerly Sec. 19a-471). Establishment of Unified School District #3 in the Department of Developmental Services. The Commissioner of Developmental Services shall, within available appropriations, operate a school district within the Department of Developmental Services, to be known as State of Connecticut- Unified School District #3. The school district shall provide educational services to persons eligible to receive services from State of Connecticut- Unified School District #3. The school district shall operate on a twelve-month calendar to provide uninterrupted educational programming.*

Section 6. Section 17a-241 is repealed.

*Sec. 17a-241. (Formerly Sec. 19a-472). Appointment and duties of school superintendent. (a) The Commissioner of Developmental Services shall appoint a superintendent for the school district. Said superintendent shall operate the school district in accordance with the rules and orders of the commissioner. The superintendent shall, subject to the approval of the commissioner, make rules for the administration of the school system, provided all such rules are in accordance with regulations established by the State Board of Education.*

*(b) The superintendent of the school district under the general supervision of the Commissioner of Developmental Services shall have the power to (1) establish and maintain within the department a state-wide system of programs as required; (2) purchase, receive, hold and convey personal property for school purposes and equip and supply such schools with necessary*



*furniture, equipment and other appendages; (3) make agreements and regulations for establishing and conducting the district's programs and employ and dismiss, in accordance with the applicable provisions of section 10-151, such teachers and other staff as are necessary to carry out the intent of sections 17a-239 to 17a-244, inclusive, and to pay their salaries; (4) receive any federal funds or aid made available to the state for such programs and shall be eligible for and may receive any other funds or aid whether private, state or otherwise, to be used for the purposes of sections 17a-239 to 17a-244, inclusive. The superintendent of the school district may cooperate with the federal government in carrying out the purposes of any federal law pertaining to the education of students within said district, and may adopt such methods of administration as are found by the federal government to be necessary, and may comply with such conditions as may be necessary to secure the full benefit of all federal funds available.*

Section 7. Section 17a-244 is repealed.

*Sec. 17a-244. (Formerly Sec. 19a-475). Regulations. The Commissioner of Developmental Services shall, pursuant to chapter 54, adopt such regulations as may be necessary to carry out the provisions of sections 17a-239 to 17a-244, inclusive.*



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DDS11-6-13RevolvingLoanFund.docx**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Dept. of Developmental Services

Liaison: Christine Pollio Cooney

Phone: 860.418.6066

E-mail: Christine.pollio@ct.gov

Lead agency division requesting this proposal: Budget

Agency Analyst/Drafter of Proposal: Christine Pollio Cooney w/ Kevin Lawton

### Title of Proposal

**An Act Concerning the Department of Developmental Services Revolving Loan Fund**

Statutory Reference **CGS 17a-224**

### Proposal Summary

This bill would transfer the administration of DDS's Revolving Loan Fund to the CT Housing Finance Authority (CHFA).

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

### • Reason for Proposal

*Please consider the following, if applicable:*

- (13) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? no*
- (14) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? don't know*
- (15) *Have certain constituencies called for this action? No, internal proposal and believe CHFA can better market this program.*
- (16) *What would happen if this was not enacted in law this session? It is possible the DDS staff person who administers this program will be moving with the Birth to Three program to the Office of Early Childhood if that decision is finalized.*

### • Origin of Proposal        X   New Proposal           Resubmission

*If this is a resubmission, please share:*

- (13) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (14) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (15) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (16) *What was the last action taken during the past legislative session?*

## PROPOSAL IMPACT





• **Agencies Affected** (please list for each affected agency)

Agency Name: CHFA Agency Contact (name, title, phone): Peg Fitzgerald, Legislative Program Officer, 860.571.4339 Date Contacted: DDS and CHFA staff met to discuss 10/8/13, information sharing and discussions about this proposal have been occurring since the Spring of 2013 between DDS and CHFA staff.  Approve of Proposal    ___ YES    ___ NO <u>_X_</u> Talks Ongoing
<b>Summary of Affected Agency's Comments</b> CHFA staff were open to the idea of this proposal and have been working with DDS staff to have their questions answered about the details of what their role would be.
Will there need to be further negotiation? <u>_X*</u> YES    ___ NO    (*details are still being negotiated and final sign off has not yet occurred. An MOA would include a level of detail not needed in legislation)

• **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<b>Municipal</b> (please include any municipal mandate that can be found within legislation) None
<b>State</b> None
<b>Federal</b> None
Additional notes on fiscal impact

• **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

The Revolving Loan Fund is used to make loans (mortgages) to private non-profit organizations for the construction, purchase and renovation, or rehabilitation of community-based residential facilities for persons with intellectual disability. This bill would transfer the administration of DDS's Revolving Loan Fund to the CT Housing Finance Authority (CHFA). DDS doesn't have a real estate/mortgage background and the staff person currently administering the program is a Birth to Three staff person who could presumably move to the Office of Early Childhood if the program moves (which is currently under consideration).
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**An Act Concerning the Department of Developmental Services Revolving Loan Fund**



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

Section 1. Sec. 17a-224. (Formerly Sec. 19a-464g). Administration of program. The department may administer the residential facility revolving loan program through a purchase-of-service contract with any state-wide private nonprofit housing development corporation which is organized for the purpose of expanding independent living opportunities for persons with disabilities or through a memorandum of agreement with the Connecticut Housing Finance Authority established pursuant to Section 8-244 of the Connecticut General Statutes.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DDS11-6-13Conservator.docx**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Developmental Services

Liaison: Christine Pollio Cooney

Phone: 860.418.6066

E-mail: [Christine.pollio@ct.gov](mailto:Christine.pollio@ct.gov)

Lead agency division requesting this proposal:

Legal Division

Agency Analyst/Drafter of Proposal: Christine Pollio Cooney

**Title of Proposal**

**An Act Concerning the Appointment of Conservators for Persons with Intellectual Disability**

**Statutory Reference**

**45a-650**

**Proposal Summary**

To allow a licensed psychologist to introduce evidence to the court regarding a respondent's condition in lieu of a physician if the respondent has intellectual disability.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

*Please consider the following, if applicable:*

(17) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? no*

(18) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? not that we are aware of*

(19) *Have certain constituencies called for this action? Licensed psychologists that work with individuals with intellectual disability have brought this to DDS's attention. Specifically, there was a case during a hearing for a conservator when a primary care physician did not feel competent to make the determination and requested a neuropsychological exam to answer the statutory questions. DDS had to engage a neuropsychologist to do an evaluation (at an elevated cost), when a regular psychologist could have easily done a satisfactory evaluation. This cost the Department significant unnecessary funds.*

(20) *What would happen if this was not enacted in law this session? The current statutory requirements would continue with psychiatrists/medical doctors doing the evaluations.*

- **Origin of Proposal**

**New Proposal**

**Resubmission**



If this is a resubmission, please share:

- (17) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (18) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (19) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (20) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Office of the Probate Court Administrator  
Agency Contact (name, title, phone): Vincent Russo, Manager of Communications & Intergovernmental Relations (860) 231-2442 ext. 332  
Date Contacted: 9-25-13  
Approve of Proposal     YES     NO     Talks Ongoing

### Summary of Affected Agency's Comments

Narrowed down proposal to only persons with intellectual disability so as not to impact conservatorship for DMHAS clients.

Will there need to be further negotiation?  possibly YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

CGS 45a-650 (probate administration statutes) requires that for the appointment of an involuntary conservator, one needs a report from a licensed physician. This proposal would allow a licensed psychologist do the report for persons with intellectual disability who are DDS consumers. For individuals with intellectual disability, sometimes the psychologist would have the best vantage to weigh in on the required report.



## **An Act Concerning the Appointment of Conservators for Persons with Intellectual Disability.**

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

Section 1. Sec. 45a-650. (Formerly Sec. 45-70d). Hearing on application for involuntary representation. Evidence. Appointment of conservator. Limitation re powers and duties. Probate bond. (a) At any hearing on an application for involuntary representation, before the court receives any evidence regarding the condition of the respondent or of the respondent's affairs, the court shall require clear and convincing evidence that the court has jurisdiction, that the respondent has been given notice as required in section 45a-649, and that the respondent has been advised of the right to retain an attorney pursuant to section 45a-649a and is either represented by an attorney or has waived the right to be represented by an attorney. The respondent shall have the right to attend any hearing held under this section.

(b) The rules of evidence in civil actions adopted by the judges of the Superior Court shall apply to all hearings pursuant to this section. All testimony at a hearing held pursuant to this section shall be given under oath or affirmation.

(c) After making the findings required under subsection (a) of this section, the court shall receive evidence regarding the respondent's condition, the capacity of the respondent to care for himself or herself or to manage his or her affairs, and the ability of the respondent to meet his or her needs without the appointment of a conservator. Unless waived by the court pursuant to this subsection, evidence shall be introduced from one or more physicians licensed to practice medicine in the state who have examined the respondent within forty-five days preceding the hearing except that for a person with intellectual disability as defined in section 1-1g, evidence instead may be introduced from a licensed psychologist who has examined the respondent within forty-five days preceding the hearing. The evidence shall contain specific information regarding the respondent's condition and the effect of the respondent's condition on the respondent's ability to care for himself or herself or to manage his or her affairs. The court may also consider such other evidence as may be available and relevant, including, but not limited to, a summary of the physical and social functioning level or ability of the respondent, and the availability of support services from the family, neighbors, community or any other appropriate source. Such evidence may include, if available, reports from the social work service of a general hospital, municipal social worker, director of social service, public health nurse, public health agency, psychologist, coordinating assessment and monitoring agencies, or such other persons as the court considers qualified to provide such evidence. The court may waive the requirement that medical evidence be presented if it is shown that the evidence is impossible to obtain because of the absence of the respondent or the respondent's refusal to be examined by a physician or that the alleged incapacity is not medical in nature. If such requirement is waived, the court shall make a specific finding in any decree issued on the application stating why medical evidence was not required. Any hospital, psychiatric or medical record or report filed with the court pursuant to this subsection shall be confidential.



(d) Upon the filing of an application for involuntary representation pursuant to section 45a-648, the court shall issue an order for the disclosure of the medical information required pursuant to this section to the respondent's attorney and, upon request, to the respondent. The court may issue an order for the disclosure of such medical information to any other person as the court determines necessary.

(e) Notwithstanding the provisions of section 45a-7, the court may hold the hearing on the application at a place other than its usual courtroom if it would facilitate attendance by the respondent.

(f) (1) If the court finds by clear and convincing evidence that the respondent is incapable of managing the respondent's affairs, that the respondent's affairs cannot be managed adequately without the appointment of a conservator and that the appointment of a conservator is the least restrictive means of intervention available to assist the respondent in managing the respondent's affairs, the court may appoint a conservator of his or her estate after considering the factors set forth in subsection (g) of this section.

(2) If the court finds by clear and convincing evidence that the respondent is incapable of caring for himself or herself, that the respondent cannot be cared for adequately without the appointment of a conservator and that the appointment of a conservator is the least restrictive means of intervention available to assist the respondent in caring for himself or herself, the court may appoint a conservator of his or her person after considering the factors set forth in subsection (g) of this section.

(3) No conservator may be appointed if the respondent's personal needs and property management are being met adequately by an agency or individual appointed pursuant to section 1-43, 19a-575a, 19a-577, 19a-580e or 19a-580g.

(g) When determining whether a conservator should be appointed the court shall consider the following factors: (1) The abilities of the respondent; (2) the respondent's capacity to understand and articulate an informed preference regarding the care of his or her person or the management of his or her affairs; (3) any relevant and material information obtained from the respondent; (4) evidence of the respondent's past preferences and life style choices; (5) the respondent's cultural background; (6) the desirability of maintaining continuity in the respondent's life and environment; (7) whether the respondent had previously made adequate alternative arrangements for the care of his or her person or for the management of his or her affairs, including, but not limited to, the execution of a durable power of attorney, springing power of attorney, the appointment of a health care representative or health care agent, the execution of a living will or trust or the execution of any other similar document; (8) any relevant and material evidence from the respondent's family and any other person regarding the respondent's past practices and preferences; and (9) any supportive services, technologies or other means that are available to assist the respondent in meeting his or her needs.



(h) The respondent or conserved person may appoint, designate or nominate a conservator pursuant to section 19a-580e, 19a-580g or 45a-645, or may, orally or in writing, nominate a conservator who shall be appointed unless the court finds that the appointee, designee or nominee is unwilling or unable to serve or there is substantial evidence to disqualify such person. If there is no such appointment, designation or nomination or if the court does not appoint the person appointed, designated or nominated by the respondent or conserved person, the court may appoint any qualified person, authorized public official or corporation in accordance with subsections (a) and (b) of section 45a-644. In considering whom to appoint as conservator, the court shall consider (1) the extent to which a proposed conservator has knowledge of the respondent's or conserved person's preferences regarding the care of his or her person or the management of his or her affairs, (2) the ability of the proposed conservator to carry out the duties, responsibilities and powers of a conservator, (3) the cost of the proposed conservatorship to the estate of the respondent or conserved person, (4) the proposed conservator's commitment to promoting the respondent's or conserved person's welfare and independence, and (5) any existing or potential conflicts of interest of the proposed conservator.

(i) If the court appoints a conservator of the estate of the respondent, the court shall require a probate bond. The court may, if it considers it necessary for the protection of the respondent, require a bond of any conservator of the person appointed under this section.

(j) Absent the court's order to the contrary and except as otherwise provided in subsection (b) of section 19a-580e, a conservator appointed pursuant to this section shall be bound by all health care decisions properly made by the conserved person's health care representative.

(k) A conserved person shall retain all rights and authority not expressly assigned to the conservator.

(l) The court shall assign to a conservator appointed under this section only the duties and authority that are the least restrictive means of intervention necessary to meet the needs of the conserved person. The court shall find by clear and convincing evidence that such duties and authority restrict the decision-making authority of the conserved person only to the extent necessary to provide for the personal needs or property management of the conserved person. Such personal needs and property management shall be provided in a manner appropriate to the conserved person. The court shall make a finding of the clear and convincing evidence that supports the need for each duty and authority assigned to the conservator.

(m) Nothing in this chapter shall impair, limit or diminish a conserved person's right to retain an attorney to represent such person or to seek redress of grievances in any court or administrative agency, including proceedings in the nature of habeas corpus arising out of any limitations imposed on the conserved person by court action taken under this chapter, chapter 319i, chapter 319j or section 45a-242. In any other proceeding in which the conservator has retained counsel for the conserved person, the conserved person may request the Court of Probate to direct the conservator to substitute an attorney chosen by the conserved person.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DDS11-6-13CouncilsandTech.docx**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Developmental Services

Liaison: Christine Pollio Cooney

Phone: 860.418.6066

E-mail: [Christine.pollio@ct.gov](mailto:Christine.pollio@ct.gov)

Lead agency division requesting this proposal: Legislative Affairs

Agency Analyst/Drafter of Proposal: Christine Pollio Cooney

**Title of Proposal**

**An Act Concerning Councils of Developmental Services**

**Statutory Reference**

**17a-273, 17a-270 and 17b-244**

**Proposal Summary**

This bill revises statutes related to DDS Regional Advisory Councils and the Council on Developmental Services and makes a technical correction to reflect statutory change in terminology from mental retardation to intellectual disability.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- Reason for Proposal**

*Please consider the following, if applicable:*

(21) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? Yes to technical ICF/IID change*

(22) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? n/a*

(23) *Have certain constituencies called for this action? Internal proposal based on involvement and interactions with councils.*

(24) *What would happen if this was not enacted in law this session? RAC member terms would end on date certain and not be able to serve until successor appointed (sometimes creating membership gaps), smaller scope of representation on the DS council (wouldn't specifically allow for representation of well-established autism division); representative appointments would remain restricted to guardian or parent, not allowing siblings or other relatives; DS Council unable to stagger meeting schedule to better fit schedule of membership, would be required to maintain minimum bimonthly schedule.*

- Origin of Proposal**

**New Proposal**

**Resubmission**





If this is a resubmission, please share:

- (21) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (22) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (23) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (24) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted:  Approve of Proposal    ___ YES    ___ NO    ___ Talks Ongoing
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<b>Summary of Affected Agency's Comments</b>
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Will there need to be further negotiation?    ___ YES    ___ NO
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- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<b>Municipal</b> (please include any municipal mandate that can be found within legislation) None
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<b>State</b> None
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<b>Federal</b> None
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Additional notes on fiscal impact
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- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



Revises statutes related to DDS Regional Advisory Councils (RACs) and Council on Developmental Services. 17a-273 (RACs): allow members to serve until successor is appointed. 17a-270 (Council on DS): changes bimonthly meeting requirement to at least six times per year. Change one of Governors appointments to any family member or guardian of a person receiving services from DDS (so allows parent, sibling or guardian of any consumer including individuals with autism but not intellectual disability). Adds an appointment for an individual with autism but not ID receiving services from DDS.

## **An Act Concerning Councils of Developmental Services**

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

Section 1. Sec. 17a-273. (Formerly Sec. 19a-468). Advisory and planning councils for state developmental services regions. (a) The Commissioner of Developmental Services shall appoint at least one advisory and planning council for each state developmental services region operated by the Department of Developmental Services, which council shall have the responsibility of consulting with and advising the director of the region on the needs of persons with intellectual disability in the region, the annual plan and budget of the region and other matters deemed appropriate by the council.

(b) Each such council shall consist of at least ten members appointed from the state developmental services region. No employee of any state agency engaged in the care or training of persons with intellectual disability shall be eligible for appointment. At least one member shall be designated by a local chapter of the Arc of Connecticut in the region. At least one member shall be an individual who is eligible for and receives services from the Department of Developmental Services. At least two members shall be parents of persons with intellectual disability. Members shall be appointed for terms of three years. No member may serve more than two consecutive terms except that a member may continue to serve until a successor is appointed. Each council shall appoint annually, from among its members, a chairperson, vice-chairperson and secretary. The council may make rules for the conduct of its affairs. The director of the region shall be an ex-officio member of the council without vote and shall attend its meetings.

(c) The council shall meet at least six times a year and at other times upon the call of the chair or the director of the state developmental services region or on the written request of any two members. A majority of the council members in office shall constitute a quorum. Any member who fails to attend three consecutive meetings or who fails to attend fifty per cent of all meetings held during any calendar year shall be deemed to have resigned from office.

Section 2. Sec. 17a-270. (Formerly Sec. 19a-445). Council on Developmental Services. (a) There is established a Council on Developmental Services which shall consist of [~~thirteen~~]fourteen



members appointed as follows: [Eight]Nine shall be appointed by the Governor, one of whom shall be a doctor of medicine, one of whom shall be a person with intellectual disability who is receiving services from the Department of Developmental Services, one of whom shall be a person with autism spectrum disorder who is receiving, or has received, services from the department's Division of Autism Spectrum Services and at least two of whom shall be [parents]a relative or guardian[s] of a person[s] with intellectual disability, to serve for terms of two years each; four shall be appointed by members of the General Assembly for two-year terms, one of whom shall be a [parent]relative or guardian of a person with intellectual disability, appointed by the speaker of the House, one appointed by the minority leader of the House, one appointed by the president pro tempore of the Senate and one of whom shall be a [parent]relative or guardian of a person with intellectual disability, appointed by the minority leader of the Senate; and one of whom shall be a member of the board of trustees of the Southbury Training School, appointed by said board for a term of one year. No member of the council may serve more than three consecutive terms, except that a member may continue to serve until a successor is appointed. The members of the council shall serve without compensation except for necessary expenses incurred in performing their duties. The Commissioner of Developmental Services or the commissioner's designee shall be an ex-officio member of the Council on Developmental Services without vote and shall attend its meetings. No employee of any state agency engaged in the care or training of persons with intellectual disability shall be eligible for appointment to the council. The council shall appoint annually, from among its members, a chairperson, vice chairperson and secretary. The council may make rules for the conduct of its affairs. The council shall meet at least [bimonthly] six times per year and at other times upon the call of the chair or the written request of any two members.

(b) The council shall consider and advise on such matters as its members, the board of trustees of the training school and the Commissioner of Developmental Services may request. The council shall consult with the Commissioner of Developmental Services on the administration of the state program for persons with intellectual disability. The council shall recommend to the Governor and to the General Assembly such legislation as will in its judgment improve the care and training of persons with intellectual disability.

Section 3 Sec. 17b-244. (Formerly Sec. 17-313b). Payments to private facilities providing functional or vocational services for severely handicapped persons and payments for residential care. Establishment of rate. Regulations. (a) The room and board component of the rates to be paid by the state to private facilities and facilities operated by regional education service centers which are licensed to provide residential care pursuant to section 17a-227, but not certified to participate in the Title XIX Medicaid program as intermediate care facilities for [persons with mental retardation,] individuals with intellectual disabilities, shall be determined annually by the Commissioner of Social Services, except that rates effective April 30, 1989, shall remain in effect through October 31, 1989. Any facility with real property other than land placed in service prior to July 1, 1991, shall, for the fiscal year ending June 30, 1995, receive a rate of return on real property equal to the average of the rates of return applied to real property other than land



placed in service for the five years preceding July 1, 1993. For the fiscal year ending June 30, 1996, and any succeeding fiscal year, the rate of return on real property for property items shall be revised every five years. The commissioner shall, upon submission of a request by such facility, allow actual debt service, comprised of principal and interest, on the loan or loans in lieu of property costs allowed pursuant to section 17-313b-5 of the regulations of Connecticut state agencies, whether actual debt service is higher or lower than such allowed property costs, provided such debt service terms and amounts are reasonable in relation to the useful life and the base value of the property. In the case of facilities financed through the Connecticut Housing Finance Authority, the commissioner shall allow actual debt service, comprised of principal, interest and a reasonable repair and replacement reserve on the loan or loans in lieu of property costs allowed pursuant to section 17-313b-5 of the regulations of Connecticut state agencies, whether actual debt service is higher or lower than such allowed property costs, provided such debt service terms and amounts are determined by the commissioner at the time the loan is entered into to be reasonable in relation to the useful life and base value of the property. The commissioner may allow fees associated with mortgage refinancing provided such refinancing will result in state reimbursement savings, after comparing costs over the terms of the existing proposed loans. For the fiscal year ending June 30, 1992, the inflation factor used to determine rates shall be one-half of the gross national product percentage increase for the period between the midpoint of the cost year through the midpoint of the rate year. For fiscal year ending June 30, 1993, the inflation factor used to determine rates shall be two-thirds of the gross national product percentage increase from the midpoint of the cost year to the midpoint of the rate year. For the fiscal years ending June 30, 1996, and June 30, 1997, no inflation factor shall be applied in determining rates. The Commissioner of Social Services shall prescribe uniform forms on which such facilities shall report their costs. Such rates shall be determined on the basis of a reasonable payment for necessary services. Any increase in grants, gifts, fund-raising or endowment income used for the payment of operating costs by a private facility in the fiscal year ending June 30, 1992, shall be excluded by the commissioner from the income of the facility in determining the rates to be paid to the facility for the fiscal year ending June 30, 1993, provided any operating costs funded by such increase shall not obligate the state to increase expenditures in subsequent fiscal years. Nothing contained in this section shall authorize a payment by the state to any such facility in excess of the charges made by the facility for comparable services to the general public. The service component of the rates to be paid by the state to private facilities and facilities operated by regional education service centers which are licensed to provide residential care pursuant to section 17a-227, but not certified to participate in the Title XIX Medicaid programs as intermediate care facilities for [persons with mental retardation,] individuals with intellectual disabilities, shall be determined annually by the Commissioner of Developmental Services in accordance with section 17b-244a. For the fiscal year ending June 30, 2008, no facility shall receive a rate that is more than two per cent greater than the rate in effect



for the facility on June 30, 2007, except any facility that would have been issued a lower rate effective July 1, 2007, due to interim rate status or agreement with the department, shall be issued such lower rate effective July 1, 2007. For the fiscal year ending June 30, 2009, no facility shall receive a rate that is more than two per cent greater than the rate in effect for the facility on June 30, 2008, except any facility that would have been issued a lower rate effective July 1, 2008, due to interim rate status or agreement with the department, shall be issued such lower rate effective July 1, 2008. For the fiscal years ending June 30, 2010, and June 30, 2011, rates in effect for the period ending June 30, 2009, shall remain in effect until June 30, 2011, except that (1) the rate paid to a facility may be higher than the rate paid to the facility for the period ending June 30, 2009, if a capital improvement required by the Commissioner of Developmental Services for the health or safety of the residents was made to the facility during the fiscal years ending June 30, 2010, or June 30, 2011, and (2) any facility that would have been issued a lower rate for the fiscal years ending June 30, 2010, or June 30, 2011, due to interim rate status or agreement with the department, shall be issued such lower rate. For the fiscal year ending June 30, 2012, rates in effect for the period ending June 30, 2011, shall remain in effect until June 30, 2012, except that (A) the rate paid to a facility may be higher than the rate paid to the facility for the period ending June 30, 2011, if a capital improvement required by the Commissioner of Developmental Services for the health or safety of the residents was made to the facility during the fiscal year ending June 30, 2012, and (B) any facility that would have been issued a lower rate for the fiscal year ending June 30, 2012, due to interim rate status or agreement with the department, shall be issued such lower rate. For the fiscal year ending June 30, 2013, any facility that has a significant decrease in land and building costs shall receive a reduced rate to reflect such decrease in land and building costs.

(b) The Commissioner of Social Services and the Commissioner of Developmental Services shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of this section.