Agency Legislative Proposal - 2022 Session

Document Name: MMDD21_DSS_An Act Concerning the Opening or Setting Aside of a Paternity Judgment

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Social Services
Liaison: Alvin Wilson / David Seifel **Phone:** 860-424-5105 / 860-424-5612 **E-mail:** alvin.wilson@ct.gov / david.seifel@ct.gov
Lead agency division requesting this proposal: Office of Child Support Services
Agency Analyst/Drafter of Proposal: Graham Shaffer – Legal Unit

Title of Proposal: AN ACT CONCERNING THE OPENING OR SETTING ASIDE OF A PATERNITY JUDGMENT
Statutory Reference: CGS 46b-171, 46b-172a
Proposal Summary: This proposal clarifies how a court or family support magistrate (FSM) should evaluate a motion to open and set aside a judgment of parentage. First, the court or FSM should apply the normal standard for opening a judgment that applies to any civil judgment; then, the court should take into consideration the best interest of the child before deciding whether to set aside the judgment. This analysis has previously been followed in a number of Superior Court decisions, though there has never been a clear statutory basis for it. Furthermore, the proposal mimics the analysis prescribed by the Uniform Parentage Act (UPA), Public Act 21-15, for opening and setting aside a final acknowledgment of parentage (which is legally equivalent to a judgment of parentage) by ensuring that the same "best interest of the child" analysis is followed by a court considering a motion to open and set aside a judgment of parentage. See generally section 31 of the UPA. The proposal therefore creates uniformity in our statutes concerning what it takes to open and set aside a judgment of parentage, whether parentage was established in a court proceeding or through an acknowledgment.

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?
(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
(3) Have certain constituencies called for this action?
(4) What would happen if this was not enacted in law this session?

(1) No. (2) Yes – several other states require that the best interest of the child be taken into consideration prior to opening and setting aside a final judgment of paternity/parentage. In fact, many family support magistrates have done so in specific Connecticut decisions to one degree or another, even without a statutory basis for doing so. This proposal would codify this analysis, giving the courts a firm statutory basis for engaging in it. (3) The concept was suggested by the Office of the Attorney General. (4) Without a statutory basis for a best-interest-of-the-child analysis, an adjudicated parent seeking to open a judgment of parentage could contend that there is no legal basis for taking the child's best interests into consideration when deciding whether the previous judgment should be set aside. In other words, the challenger could argue that only biology matters in determining parentage, a position clearly rejected in Connecticut through the passage of the UPA.

◊ **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?

(1) We were told that, due to the time dedicated to passage of the UPA, the Judiciary Committee did not intend to take up other proposals concerning parentage during the session. In fact, one half of what DSS sought to accomplish last legislative session was enacted in section 31 of the UPA, which requires a court considering a motion to open and set aside an acknowledgment of parentage to take into consideration the best interests of the child. (2) No, but the proposal was revised to reflect the changes made by the UPA. (3) TBD (4) Last session, the proposal did not make it out of committee. The previous legislative session the proposal was voted out of the Judiciary Committee, but died on the floor as a victim of the pandemic.

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: none **Agency Contact (*name, title, phone*):** Click here to enter text. **Date Contacted:** Click here to enter text. Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**
Summary of Affected Agency's Comments Click here to enter text.
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 Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

none

◊ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs. Click here to enter text.

Insert fully drafted bill here

Section 1. Subsection (b) of section 46b-171 of the general statutes, as amended by section 126 of Public Act 21-15, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

(b) (1) Except as provided in subdivision (2) of this subsection, a judgment of parentage entered by the Superior Court or family support magistrate pursuant to this chapter may not be opened or set aside unless a motion to open or set aside is filed not later than four months after the date on which the judgment was entered, and only upon a showing of reasonable cause, or that a valid defense to the petition for a judgment of parentage existed, in whole or in part, at the time judgment was rendered, and that the person seeking to open or set aside the judgment was prevented by mistake, accident or other reasonable cause from making a valid defense.

(2) The Superior Court or a family support magistrate may consider a motion to open or set aside a judgment of parentage filed more than four months after such judgment was entered if such court or magistrate determines that the judgment was entered due to fraud, duress or material mistake of fact, with the burden of proof on the person seeking to open or set aside such judgment. If the court or family support magistrate determines that the challenger has met the challenger's burden of proof under this subdivision, the judgment shall be set aside only if the court or family support magistrate determines that doing so is in the best interest of the child, based on the relevant factors set forth in section 23 of Public Act 21-15.

(3) Whenever the Superior Court or family support magistrate **[**reopens**]** opens a judgment of parentage entered pursuant to this section in which a person was found to be the parent of a child who is or has been supported by the state and the court or family support magistrate finds that the person adjudicated the parent is not the parent of the child, the Department of Social Services shall refund to such person any money paid to the state by such person during the period such child was supported by the state.

Sec. 2. Section 46b-172a of the general statutes, as amended by section 127 of Public Act 21-15, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

(a) Any person claiming to be the alleged genetic parent of a child born to an unmarried birth parent and for whom parentage of the nonbirth parent has not yet been established shall file a claim for parentage with the Probate Court for the district in which either the birth parent or the child resides, on forms provided by such court. The claim may be filed at any time during the life of the child, whether before, on or after the date the child reaches the age of eighteen, or after the death of the child, but not later than sixty days after the date of notice under section 45a-716. The claim shall contain the claimant's name and address, the name and last-known address of the birth parent and

the month and year of the birth or expected birth of the child. Not later than five days after the filing of a claim for parentage, the court shall cause a certified copy of such claim to be served upon the birth parent of such child by personal service or service at the birth parent's usual place of abode, and to the Attorney General by first class mail. The Attorney General may file an appearance and shall be and remain a party to the action if the child is receiving or has received aid or care from the state, or if the child is receiving child support enforcement services, as defined in subdivision (2) of subsection (b) of section 46b-231. The claim for parentage shall be admissible in any action for parentage under section 46b-160, and shall estop the claimant from denying parentage of such child and shall contain language that such person acknowledges liability for contribution to the support and education of the child after the child's birth and for contribution to the pregnancy-related medical expenses of the birth parent.

(b) If a claim for parentage is filed by the alleged genetic parent of any minor child born to an unmarried birth parent, the Probate Court shall schedule a hearing on such claim, send notice of the hearing to all parties involved and proceed accordingly.

(c) The child shall be made a party to the action and shall be represented by a guardian ad litem appointed by the court in accordance with section 45a-708. Payment shall be made in accordance with such section from funds appropriated to the Judicial Department, except that, if funds have not been included in the budget of the Judicial Department for such purposes, such payment shall be made from the Probate Court Administration Fund.

(d) In the event that the birth parent or the alleged genetic parent is a minor, the court shall appoint a guardian ad litem to represent him or her in accordance with the provisions of section 45a-708. Payment shall be made in accordance with said section from funds appropriated to the Judicial Department, except that, if funds have not been included in the budget of the Judicial Department for such purposes, such payment shall be made from the Probate Court Administration Fund.
(e) By filing a claim under this section, the alleged genetic parent submits to the jurisdiction of the Probate Court.

(f) Once parental rights of the alleged genetic parent have been adjudicated in such parent's favor under subsection (b) of this section, or acknowledged as provided for under sections 24 to 35, inclusive, of Public Act 21-15, such parent's rights and responsibilities shall be equivalent to those of the birth parent, including those rights defined under section 45a-606. Thereafter, disputes involving custody, visitation or support shall be transferred to the Superior Court under chapter 815j, except that the Probate Court may enter a temporary order for custody, visitation or support until an order is entered by the Superior Court.

(g) Failing perfection of parental rights as prescribed by this section, any person claiming to be the alleged genetic parent of a child born to an unmarried birth parent (1) who has not been adjudicated the parent of such child by a court of competent jurisdiction, **[**or**]** (2) who has not acknowledged in

writing that such person is the parent of such child, **[**or**]** (3) who has not contributed regularly to the support of such child, or (4) whose name does not appear on the birth certificate, shall cease to be a legal party in interest in any proceeding concerning the custody or welfare of the child, including, but not limited to, guardianship and adoption, unless such person has shown a reasonable degree of interest, concern or responsibility for the child's welfare.

(h) Notwithstanding the provisions of this section, after the death of the alleged genetic parent of a child born to an unmarried birth parent, a party deemed by the court to have a sufficient interest may file a claim for parentage on behalf of such alleged genetic parent with the Probate Court for the district in which either the alleged genetic parent resided or the party filing the claim resides. If a claim for parentage is filed pursuant to this subsection, the Probate Court shall schedule a hearing on such claim, send notice of the hearing to all parties involved and proceed accordingly.

(i) (1) Except as provided in subdivision (2) of this subsection, a decree or order adjudicating the parentage of a child that is issued pursuant to this section may not be opened or set aside unless a motion to open or set aside is filed with the Probate Court district that entered such decree or order not later than four months after the date on which it was entered, and only upon a showing of reasonable cause, or that a valid defense to the claim of parentage existed, in whole or in part, at the time the decree or order was rendered, and that the person seeking to open or set aside the decree or order was prevented by mistake, accident or other reasonable cause from making a valid defense.

(2) The Probate Court in the district where a decree or order adjudicating the parentage of a child was entered may consider a motion to open or set aside such decree or order filed more than four months after the decree or order was rendered if such court determines that the decree or order was rendered due to fraud, duress or material mistake of fact, with the burden of proof on the person seeking to open or set aside such decree or order. If such court determines that the challenger has met the challenger’s burden of proof under this subdivision, the decree or order shall be set aside only if the court determines that doing so is in the best interest of the child, based on the relevant factors set forth in section 23 of Public Act 21-15.

Agency Legislative Proposal - 2022 Session

Document Name: Contracting with Other States

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Social Services
Liaison: Alvin Wilson / David Seifel **Phone:** 860-424-5105 / 860-424-5612 **E-mail:** alvin.wilson@ct.gov / david.seifel@ct.gov
Lead agency division requesting this proposal: OLCRAH
Agency Analyst/Drafter of Proposal: Corinne Seibert

Title of Proposal: Authorizing the Department of Social Services to Contract with Other States
Statutory Reference: 17b-3
Proposal Summary: This proposal would provide the necessary legislative authority to allow the Department of Social Services (DSS) to contact with another state. As with all DSS contracts, these contracts would comply with the state's standard contract language and review process.

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?
(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
(3) Have certain constituencies called for this action?
(4) What would happen if this was not enacted in law this session?

This proposal would provide the necessary legislative authority to allow the Department of Social Services (DSS) to contact with another state. As with all DSS contracts, these contracts would comply with the state's standard contract language and review process. Without the ability to enter into contracts with other states, DSS may lose the ability to enter into and maintain contractual relationships with partners in other states for essential services for clients. DSS has several contract opportunities with other states for critical services that are impaired due to the lack of authority.

◊ **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?

This is a resubmission. It was submitted in prior sessions and taken up in the Governor's bill as an amendment to Section 4-8 to permit all agencies to contract with other states. However, the amendment to 4-8 never made it into the final implementer.

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: none
Agency Contact (*name, title, phone*): Click here to enter text.
Date Contacted: Click here to enter text.

Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**

Summary of Affected Agency's Comments
Click here to enter text.

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
Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

The AG's office indicated DSS could be out of compliance without this legislation.

◊ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.

Click here to enter text.

Insert fully drafted bill here

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

Sec. 17b-3. Commissioner of Social Services: Powers and duties. (a) The Commissioner of Social Services shall administer all law under the jurisdiction of the Department of Social Services. The commissioner shall have the power and duty to do the following: (1) Administer, coordinate and direct the operation of the department; (2) adopt and enforce such regulations, in accordance with chapter 54, as are necessary to implement the purposes of the department as established by statute; (3) establish rules for the internal operation and administration of the department; (4) establish and develop programs and administer services to achieve the purposes of the department as established by statute; (5) [contract] enter into a contract, including, but not limited to, a contract with another state, for facilities, services and programs to implement the purposes of the department as established by statute; (6) process applications and requests for services promptly; (7) with the approval of the Comptroller and in accordance with such procedures as may be specified by the Comptroller, make payments to providers of services for individuals who are eligible for benefits from the department as appropriate; (8) make no duplicate awards for items of assistance once granted, except for replacement of lost or stolen checks on which payment has been stopped; (9) promote economic self-sufficiency where appropriate in the

department's programs, policies, practices and staff interactions with recipients; (10) act as advocate for the need of more comprehensive and coordinated programs for persons served. by the department; (11) plan services and programs for persons served by the department; (12) coordinate outreach activities by public and private agencies assisting persons served by the department; (13) consult and cooperate with area and private planning agencies; (14) advise and inform municipal officials and officials of social service agencies about social service programs and collect and disseminate information pertaining thereto, including information about federal, state, municipal and private assistance programs and services; (15) encourage and facilitate effective communication and coordination among federal, state, municipal and private agencies; (16) inquire into the utilization of state and federal government resources which offer solutions to problems of the delivery of social services; (17) conduct, encourage and maintain research and studies relating to social services development; (18) prepare, review and encourage model comprehensive social service programs; (19) maintain an inventory of data and information and act as a clearing house and referral agency for information on state and federal programs and services; and (20) conduct, encourage and maintain research and studies and advise municipal officials and officials of social service agencies about forms of intergovernmental cooperation and coordination between public and private agencies designed to advance social service programs. The commissioner may require notice of the submission of all applications by municipalities, any agency thereof, and social service agencies, for federal and state financial assistance to carry out social services. The commissioner shall establish state-wide and regional advisory councils.

DSS Legislative Proposal - 2022 Session

Document Name: An Act Concerning Oversight of the Connecticut Fatherhood Initiative

State Agency: Dept. of Social Services
Liaison: Alvin Wilson / David Seifel **Phone:** 860-424-5105 / 860-424-5612 **E-mail:** alvin.wilson@ct.gov / david.seifel@ct.gov

Title of Proposal: AN ACT CONCERNING OVERSIGHT OF THE CONNECTICUT FATHERHOOD INITIATIVE
Statutory Reference: CGS 17b-27a
Proposal Summary: This proposal more thoroughly outlines the decisions made during the development of the CT Fatherhood Initiative's Strategic Plan, which included representation by over 50 agencies and more than 80 stakeholders, for short- and long -term strategies to support the objectives of the legislation. The CFI stakeholder network as a whole, and CFI Council as its guiding body, has agreed to this amendment to the current statute. The Network and Council includes leadership from numerous state agencies (both Executive and Judicial Branches) as well as local providers serving fathers and families, the Commission on Women, Children, Seniors Equity and Opportunity, experts in domestic violence, men's health, legal aid and research. Amending the legislative language will strengthen the CFI infrastructure and meet the stakeholders'' call to action

Insert fully drafted bill here

Section 1. (NEW) (*Effective from passage*) (a) As used in this section and section 2 of this act, (1) "Connecticut Fatherhood Initiative", or "CFI", means an initiative that (A) promotes the positive involvement and interaction of fathers with their children with an emphasis on low-income children and (B) identifies services that effectively encourage and enhance responsible and skillful parenting and increase the ability of fathers to meet the financial and emotional needs of their children; and

(2) "CFI objectives" means:

(A) Promoting public education concerning the financial and emotional responsibilities of fatherhood;

(B) Assisting men in preparation for the legal, financial and emotional responsibilities of fatherhood;

(C) Promoting the establishment of paternity at childbirth;

(D) Encouraging fathers, regardless of marital status, to foster their emotional connection to and financial support of their children;

(E) Establishing support mechanisms for fathers in their relationship with their children, regardless of their marital and financial status; and

(F) Integrating state and local services available for families.

(b) There is established within the Department of Social Services the Office of the Connecticut Fatherhood Initiative. The office shall be overseen by the Commissioner of Social Services and shall perform administrative duties on behalf of the CFI in accordance with a strategic plan developed and implemented by the CFI with the approval of the council established pursuant to section 2 of this act.

Sec. 2. (NEW) (*Effective from passage*) (a) There is established a CFI Council to approve the work of the CFI, including, but not limited to, implementation of CFI objectives through a strategic plan developed by the CFI. The council shall actively participate in efforts that further CFI objectives, including, but not limited to, (1) fostering collaboration between state agencies that provide services for fathers and families; (2) seeking opportunities to coordinate comprehensive services, ensuring the continuity of services, heightening the impact of services and avoiding duplication of services; and (3) supporting fathers of children eligible or formerly eligible for services under the Temporary Assistance for Needy Families block grant.

(b) The membership of the council shall include, but need not be limited to:

(1) The Commissioner of Social Services, or the commissioner's designee;

(2) The Commissioner of Children and Families, or the commissioner's designee;

(3) The Commissioner of Correction, or the commissioner's designee;

(4) The Commissioner of Early Childhood, or the commissioner's designee;

(5) The Commissioner of Education, or the commissioner's designee;

(6) The Commissioner of Developmental Services, or the commissioner's designee;

(7) The Commissioner of Housing, or the commissioner's designee;

(8) The Labor Commissioner, or the commissioner's designee;

(9) The Commissioner of Mental Health and Addiction Services, or the commissioner's designee;

(10) The Commissioner of Public Health, or the commissioner's designee;

(11) The commissioner of Veterans Affairs, or the commissioner's designee;

(12) The chairperson of the Board of Pardons and Parole, or the chairperson's designee;

(13) The executive directors of the Support Enforcement Services Division and the Court Support Services Division of the Judicial Branch, or their respective designees;

(14) The Chief Family Support Magistrate, or the Chief Family Support Magistrate's designee;

(15) The president of the Connecticut State Colleges and Universities, or the president's designee;

(16) The director of the Office of Child Support Services within the Department of Social Services, or the director's designee; and

(17) At least eleven members appointed by the Commissioner of Social Services, including:

(A) One with expertise in the area of legal assistance to low-income populations;

(B) One representative of the Connecticut Employment and Training Commission;

(C) One representative of a regional workforce development board;

(D) One member with expertise in family relations;

(E) One or more representatives of a local fatherhood program;

(F) One member with expertise in male psychology and health;

(G) One member representing the interests of custodial parents;

(H) One member representing the interests of noncustodial parents;

(I) One member representing the interests of children;

(J) One member with expertise in the area of domestic violence; and

(K) One member with expertise in child development.

(c) The Commissioner of Social Services shall serve as a chairperson of the council and shall designate a second cochairperson from among the membership of the council. The commissioner shall convene the council not later than thirty days after the effective date of this section, and the council shall meet at least quarterly thereafter. The commissioner shall fill any vacancy on the council.

(d) The Commissioner of Social Services may designate a working group from among the members of the council to carry out specific duties required under this section and section 1 of this act. The commissioner shall seek the advice and participation of any person, organization or state or federal agency the commissioner deems necessary to carry out the provisions of this section and section 1 of this act.

(e) The Commissioner of Social Services, in consultation with the council and within available resources, shall apply for any available federal and private funds for programs that promote CFI objectives in accordance with this section and section 1 of this act. The commissioner shall award grants from any such available funds to entities that provide (1) employment and training opportunities for low-income fathers to increase the earning capacity of such fathers; (2) classes in parenting and financial literacy; and (3) other support services and programs that promote responsible parenting, economic stability and communication and

interaction between fathers and their children.

(f) Applicants for grants provided pursuant to subsection (e) of this section shall apply to the Commissioner of Social Services at such time and in such manner as prescribed by the commissioner. The commissioner shall, in consultation with the council, establish criteria for eligibility for grants and for the awarding of grants. At a minimum, the commissioner shall require grantees to (1) implement accountability measures and results-based outcomes as a condition of being awarded a grant; (2) leverage funds through existing resources and collaboration with community-based and nonprofit organizations; and (3) consult with experts in domestic violence to ensure that, when appropriate, the programs and services provided to fathers and families pursuant to this section and section 1 of this act address issues concerning domestic violence.

(g) Not later than December 1, 2022, and annually thereafter, the commissioner, in consultation with the council, shall report, in accordance with section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, human services and children on the grant program's effectiveness in achieving CFI objectives.

Sec. 3. Section 17b-27a of the general statutes is repealed. (*Effective from passage*)

Agency Legislative Proposal - 2022 Session

Document Name:

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: DSS
Liaison: Alvin Wilson / David Seifel **Phone:** 860-424-5105 / 860-424-5612 **E-mail:** alvin.wilson@ct.gov / david.seifel@ct.gov
Lead agency division requesting this proposal: Reimbursement & Certificate of Need
Agency Analyst/Drafter of Proposal: Nicole Godburn, Betsy Bujwid & Melanie Dillon

Title of Proposal: An Act Concerning Certificate of Need
Statutory Reference: Conn. Gen. Stat. §§ 17b-352, 17b-353 and 17b-354
Proposal Summary: The Reimbursement and Certificate of Need (CON) unit proposes to add language to sections 17b-352 and 17b-353 that would allow the Commissioner to include conditions in any decision approving or modifying a request for a CON. To ensure that the criteria in 17b-354 (a)(3) and (4) applies to all CON applications to relocate beds from an existing facility to an existing or to a new or replacement facility, the proposal adds a reference to section 17b-354 (a) (3) and (4) in subsection (b) of section 17b-352. The department also proposes to revise section 17b-354 (a) to allow an exception to the moratorium on applications to increase nursing home beds if a nursing facility is agreeable to reducing their licensed beds by a percentage established by the Commissioner in accordance with the department's strategic plan for long term care and establishing a non-traditional small house style nursing home. Finally, the Department proposes to revise section 17b-355 to establish additional criteria and revise existing criteria that are consistent with the department's strategic plan for long term care when evaluating Certificate of Need applications.

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?
(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
(3) Have certain constituencies called for this action?
(4) What would happen if this was not enacted in law this session?

In 1993, CON review for nursing facilities, RCHs, and ICF IIDs was transferred from the Commission on Hospitals and Health Care at the Department of Public Health to Reimbursement and CON here at the Department. The Department reviews CON requests for renovations, new construction, bed terminations, new services, etc. The Department considers the financial feasibility of the request and impact on the applicant's rates and financial condition as well as other factors. For almost 30 years, the Department has included conditions in Decisions and the proposed legislation reflects this practice.

Generally, and where appropriate, conditions are used to document summary detail on an Applicant's proposed project as well as to memorialize what the Department is agreeing to for Connecticut Medicaid reimbursement purposes. Applications are not often referenced after the Final Decisions are ordered and the conditions are used for audit purposes as well as for project planning purposes for the reference of both the Applicant and the Department.

In December 2020, this practice was challenged by an Applicant with approval to terminate 39 of 99 CCNH beds requested that the Department reconsider conditions were included in the Final Decision. The Applicant objected to being required to provide updated floor plans, self-disallow on the cost report an entire floor that would not be used, being ineligible for a waiver of the 90% occupancy standard, and maintaining direct care staffing levels.

Sections 17b-352 (f) and 17b 353 (d) provide in relevant part that "the commissioner shall grant, modify or deny the request within ninety days of receipt thereof, except as otherwise provided in this section." We proposed to add a sentence that would allow the commissioner to include conditions in a decision approving or modifying a CON.

The Reimbursement and CON unit have received several inquiries from nursing facilities as well as Leading Age and CAHCF regarding proposals to relocate beds from an existing facility to a new or replacement facility. The Department has always intended for any proposal to build a new or replacement facility and relocate beds from an existing facility to a new or replacement facility to be limited by section 17b-354 (a)(4); however, upon further review of the language, the section would only apply in situations in which the facility proposed to add nursing home beds, which is precluded under 17b-354 (a) (4) (A). Accordingly, the proposal adds language to subsection (b) of section 17b-352 that cross-references 17b-354 (a) (3) and (4).

In an effort to encourage more nursing facilities to establish nontraditional small house style nursing facilities, the department proposes to include language in section 17b-354 that would allow an increase in beds for facilities that would be willing to reduce their existing bed capacity by a certain percentage determined by the Commissioner to build a new facility. The proposed language is modeled after similar language in a Rhode Island statute § 23-17-44 (d).
Finally, the revisions in 17b-355 add more criteria for the commissioner to consider when approving, modifying or denying a CON and delete obsolete language.

◊ **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?

Click here to enter text.

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: Click here to enter text.
Agency Contact (*name, title, phone*): Click here to enter text.
Date Contacted: Click here to enter text.

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)*
Click here to enter text.

State
Click here to enter text.

Federal
Click here to enter text.

Additional notes on fiscal impact
Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

In sections 1 & 2, the proposed language with respect to the Commissioner adding conditions to a CON decision reflects historical Department practice. Also in Section 1, adding a reference to 17b-354 (a)((3) and (4) to 17b-352(b) is to ensure that any application to relocate existing NH beds to either a new facility or an existing facility is reviewed based on the criteria in 17b-354 (a)(3) and (4). The proposed changes in Section 3 would allow for the Commissioner to consider applications for a new nursing facility provided that the facility is agreeable to building a non-traditional small house style facility and reduce the overall number of beds by a percentage to be determined by the Commissioner. Finally, in Section 3, the proposed deletion of references to the state health plan is necessary because DPH now issues a State Health Improvement Plan and State Health Assessment, both of which focus more on the health of Connecticut's residents rather than providing information regarding specific types of health care facilities. The Office of Health Strategy focuses on health care facilities and prepares a statewide health care and facilities inventory pursuant to Conn. Gen. Stat. § 19a-634 (c). While there is a listing of all nursing facilities and the total number of beds, there is little in the way of goals for long term care since that it is actually under the purview of DSS and addressed in the DSS Strategic Plan for Long Term Care. Additionally, the proposed language concerning CON requests to add a new facility would be limited to applications that propose a non-traditional small house style facility and include the goals referenced in the Department's strategic plan for long term care, including, but not limited to, enhanced quality of care, providing person centered care, creating community space for all residents and developing stronger connections with the surrounding community. This would be a change, but it promotes applications that will move the Department closer toward the overarching goal of reducing the number of nursing facility beds and enhancing the quality of care in nursing homes.

◊ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.

Click here to enter text.

Insert fully drafted bill here

Sec.1. Section 17b-352 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

(a) For the purposes of this section and section 17b-353, "facility" means a residential facility for persons with intellectual disability licensed pursuant to section 17a-277 and certified to participate in the Title XIX Medicaid program as an intermediate care facility for individuals with intellectual disabilities, a nursing home, rest home or residential care home, as defined in section 19a-490. "Facility" does not include a nursing home that does not participate in the Medicaid program and is associated with a continuing care facility as described in section 17b-520.

(b) Any facility which intends to (1) transfer all or part of its ownership or control prior to being initially licensed; (2) introduce any additional function or service into its program of care or expand an existing function or service; (3) terminate a service or decrease substantially its total bed capacity; or (4) relocate all or a portion of such facility's licensed beds, to a new facility or replacement facility, shall submit a complete request for permission to implement such transfer, addition, expansion, increase, termination, decrease or relocation of facility beds to the Department of Social Services with such information as the department requires, provided no permission or request for permission to close a facility is required when a facility in receivership is closed by order of the Superior Court pursuant to section 19a-545. <u>The commissioner shall consider the criteria in section 17b-354 (a) (3) and (4) when evaluating a certificate of need request to relocate nursing facility beds from an existing facility to an existing facility or to a new facility or replacement facility.</u> The Office of the Long-Term Care Ombudsman pursuant to section 17a-405 shall be notified by the facility of any proposed actions pursuant to this subsection at the same time the request for permission is submitted to the department and when a facility in receivership is closed by order of the Superior Court pursuant to 19a-545.

(c) A facility may submit a petition for closure to the Department of Social Services. The Department of Social Services may authorize the closure of a facility if the facility's management demonstrates to the satisfaction of the Commissioner of Social Services in the petition for closure that the facility (1) is not viable based on actual and projected operating losses; (2) has an occupancy rate of less than seventy per cent of the facility's licensed bed capacity; (3) closure is consistent with the strategic rebalancing plan developed in accordance with section 17b-369, including bed need by geographical region; (4) is in compliance with the requirements of Sections 1128I(h) and 1819(h)(4) of the Social Security Act and 42 CFR 483.75; and (5) is not providing special services that would go unmet if the facility closes. The department shall review a petition for closure to the extent it deems necessary and the facility shall submit information the department requests or deems necessary to substantiate that the facility closure is consistent with the provisions of this subsection. The facility shall submit information the department requests or deems necessary to allow the department to provide oversight during this process. The Office of the Long-Term Care Ombudsman shall be notified by the facility at the same time as a petition for closure is submitted to the department. Any facility acting pursuant to this subsection shall provide written notice, on the same date that the facility submits its petition for closure, to all

patients, guardians or conservators, if any, or legally liable relatives or other responsible parties, if known, and shall post such notice in a conspicuous location at the facility. The facility's written notice shall be accompanied by an informational letter issued jointly from the Office of the Long-Term Care Ombudsman and the Department of Rehabilitation Services on patients' rights and services available as they relate to the petition for closure. The informational letter shall also state the date and time that the Office of the Long-Term Care Ombudsman and the Department of Public Health will hold an informational session at the facility for patients, guardians or conservators, if any, and legally liable relatives or other responsible parties, if known, about their rights and the process concerning a petition for closure. The notice shall state: (A) The date the facility submitted the petition for closure, (B) that only the Department of Social Services has the authority to either grant or deny the petition for closure, (C) that the Department of Social Services has up to thirty days to grant or deny the petition for closure, (D) a brief description of the reason or reasons for submitting the petition for closure, (E) that no patient shall be involuntarily transferred or discharged within or from a facility pursuant to state and federal law because of the filing of a petition for closure, (F) that all patients have a right to appeal any proposed transfer or discharge, and (G) the name, mailing address and telephone number of the Office of the Long-Term Care Ombudsman and local legal aid office. The commissioner shall grant or deny a petition for closure within thirty days of receiving such request.

(d) An applicant, prior to submitting a certificate of need application, shall request, in writing, application forms and instructions from the department. The request shall include: (1) The name of the applicant or applicants; (2) a statement indicating whether the application is for (A) a new, additional, expanded or replacement facility, service or function or relocation of facility beds, (B) a termination or reduction in a presently authorized service or bed capacity, or (C) any new, additional or terminated beds and their type; (3) the estimated capital cost; (4) the town where the project is or will be located; and (5) a brief description of the proposed project. Such request shall be deemed a letter of intent. No certificate of need application shall be considered submitted to the department unless a current letter of intent, specific to the proposal and in accordance with the provisions of this subsection, has been on file with the department for not less than ten business days. For purposes of this subsection, "a current letter of intent" means a letter of intent on file with the department for not more than one hundred eighty days. A certificate of need application shall be deemed withdrawn by the department, if a department completeness letter is not responded to within one hundred eighty days. The Office of the Long-Term Care Ombudsman shall be notified by the facility at the same time as the letter of intent is submitted to the department.

(e) Any facility acting pursuant to subdivision (3) of subsection (b) of this section shall provide written notice, at the same time it submits its letter of intent, to all patients, guardians or conservators, if any, or legally liable relatives or other responsible parties, if known, and shall post such notice in a

conspicuous location at the facility. The facility's written notice shall be accompanied by an informational letter issued jointly from the Office of the Long-Term Care Ombudsman and the Department of Aging and Disability Services on patients' rights and services available as they relate to the letter of intent. The notice shall state the following: (1) The projected date the facility will be submitting its certificate of need application, (2) that only the Department of Social Services has the authority to either grant, modify or deny the application, (3) that the Department of Social Services has up to ninety days to grant, modify or deny the certificate of need application, (4) a brief description of the reason or reasons for submitting a request for permission, (5) that no patient shall be involuntarily transferred or discharged within or from a facility pursuant to state and federal law because of the filing of the certificate of need application, (6) that all patients have a right to appeal any proposed transfer or discharge, and (7) the name, mailing address and telephone number of the Office of the Long-Term Care Ombudsman and local legal aid office.

(f) The department shall review a request made pursuant to subsection (b) of this section to the extent it deems necessary, including, but not limited to, in the case of a proposed transfer of ownership or control prior to initial licensure, the financial responsibility and business interests of the transferee and the ability of the facility to continue to provide needed services, or in the case of the addition or expansion of a function or service, ascertaining the availability of the function or service at other facilities within the area to be served, the need for the service or function within the area and any other factors the department deems relevant to a determination of whether the facility is justified in adding or expanding the function or service. The commissioner shall grant, modify or deny the request within ninety days of receipt thereof, except as otherwise provided in this section. <u>The commissioner may place conditions, as the commissioner deems necessary to address specified concerns, on any decision approving or modifying a request for a certificate of need filed pursuant to this section. Conditions may include, but are not limited to, project and Medicaid reimbursement detail and applicant requirements for summary and audit purposes.</u> Upon the request of the applicant, the review period may be extended for an additional fifteen days if the department has requested additional information subsequent to the commencement of the commissioner's review period. The director of the office of certificate of need and rate setting may extend the review period for a maximum of thirty days if the applicant has not filed in a timely manner information deemed necessary by the department. The applicant may request and shall receive a hearing in accordance with section 4-177 if aggrieved by a decision of the commissioner.

(g)The Commissioner of Social Services shall not approve any requests for beds in residential facilities for persons with intellectual disability which are licensed pursuant to section 17a-227 and are certified to participate in the Title XIX Medicaid Program as intermediate care facilities for individuals with intellectual disabilities, except those beds necessary to implement the residential placement goals of

the Department of Developmental Services which are within available appropriations.

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

Sec. 2. Subsection (c) of section 17b-353 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

(c) In conducting its activities pursuant to this section, section 17b-352 or both, except as provided for in subsection (d) of this section, the Commissioner of Social Services or said commissioner's designee may hold a public hearing on an application or on more than one application, if such applications are of a similar nature with respect to the request. At least two weeks' notice of the hearing shall be given to the facility by certified mail and to the public by publication in a newspaper having a substantial circulation in the area served by the facility. Such hearing shall be held at the discretion of the commissioner in Hartford or in the area so served. The commissioner or the commissioner's designee shall consider such request in relation to the community or regional need for such capital program or purchase of land, the possible effect on the operating costs of the facility and such other relevant factors as the commissioner or the commissioner's designee deems necessary. In approving or modifying such request, the commissioner or the commissioner's designee may not prescribe any condition, such as, but not limited to, any condition or limitation on the indebtedness of the facility in connection with a bond issued, the principal amount of any bond issued or any other details or particulars related to the financing of such capital expenditure, not directly related to the scope of such capital program and within the control of the facility. If the hearing is conducted by a designee of the commissioner, the designee shall submit any findings and recommendations to the commissioner. The commissioner shall grant, modify or deny such request within ninety days, except as provided for in this section. The commissioner may place conditions, as the commissioner deems necessary to address specified concerns, on any decision approving or modifying a request for a certificate of need filed pursuant to this section. Conditions may include, but are not limited to, project and Medicaid reimbursement detail and applicant requirements for summary and audit purposes. Upon the request of the applicant, the review period may be extended for an additional fifteen days if the commissioner or the commissioner's designee has requested additional information subsequent to the commencement of the review period. The commissioner or the commissioner's designee may extend the review period for a maximum of thirty days if the applicant has not filed in a timely manner information deemed necessary by the commissioner or the commissioner's designee.

Sec. 3. Subsection (a) of section 17b-354 of the general statutes is repealed and the following is

substituted in lieu thereof (*Effective July 1, 2022*):

(a) The Department of Social Services shall not accept or approve any requests for additional nursing home beds, except (1) beds restricted to use by patients with acquired immune deficiency syndrome or by patients requiring neurological rehabilitation; (2) beds associated with a continuing care facility, as described in section 17b-520, provided such beds are not used in the Medicaid program and the ratio of proposed nursing home beds to the continuing care facility's independent living units is within applicable industry standards. For the purpose of this subsection, beds associated with a continuing care facility are not subject to the certificate of need provisions pursuant to sections 17b-352 and 17b-353; (3) Medicaid certified beds to be relocated from one licensed nursing facility to another licensed nursing facility to meet a priority need identified in the strategic plan developed pursuant to subsection (c) of section 17b-369; [and] (4) licensed Medicaid nursing facility beds to be relocated from one or more existing nursing facilities to a new nursing facility, provided (A) no new Medicaid certified beds are added, (B) at least one currently licensed facility is closed in the transaction as a result of the relocation, (C) the relocation is done within available appropriations, (D) the facility participates in the Money Follows the Person demonstration project pursuant to section 17b-369, (E) the availability of beds in the area of need will not be adversely affected, (F) the certificate of need approval for such new facility or facility relocation and the associated capital expenditures are obtained pursuant to sections 17b-352 and 17b-353, and (G) the facilities included in the bed relocation and closure shall be in accordance with the strategic plan developed pursuant to subsection (c) of section 17b-369; and (5) proposals to build a non-traditional small house style nursing home designed to enhance the quality of life for nursing facility residents provided that the nursing facility agrees to reduce its total number of licensed beds by a percentage determined by the commissioner in accordance with the department's strategic plan for long term care.

Sec. 4. Section 17b-355 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

In determining whether a request submitted pursuant to sections 17b-352 to 17b-354, inclusive, will be granted, modified or denied, the Commissioner of Social Services shall consider the following: [The relationship of the request to the state health plan,] the financial feasibility of the request and its impact on the applicant's rates and financial condition, the contribution of the request to the quality, accessibility and cost-effectiveness [of health care] of the delivery of long term care in the region, whether there is clear public need for the request, the relationship of any proposed change to the applicant's current utilization statistics and the effect of the proposal on the utilization statistics of other facilities in the applicant's service area, the business interests of all owners, partners, associates, incorporators, directors, sponsors, stockholders and operators and the personal background of such persons, and any other factor which the department deems relevant. [Whenever the granting,

modification or denial of a request is inconsistent with the state health plan, a written explanation of the reasons for the inconsistency shall be included in the decision. In considering whether there is clear public need for any request for additional nursing home beds associated with a continuing care facility submitted pursuant to section 17b-354, the commissioner shall only consider the need for beds for current and prospective residents of the continuing care facility.] In considering whether there is clear public need for any request for the relocation of beds to a replacement facility, the commissioner shall consider whether there is a demonstrated bed need in the towns within a fifteen-mile radius of the town in which the beds are proposed to be located and whether the availability of beds in the applicant's service area will be adversely affected. Any proposal to relocate nursing home beds from an existing facility to a new facility shall not increase the number of Medicaid certified beds and shall result in the closure of at least one currently licensed facility other than the facility that is being replaced. The Commissioner may request that any applicant seeking to replace an existing facility reduce the number of beds in the new facility by a percentage that is consistent with the department's strategic plan for long term care. The Commissioner shall also consider whether an application to establish a new or replacement nursing facility proposes a non-traditional small house style nursing facility and incorporates goals for nursing facilities referenced in the department's strategic plan for long term care, including, but not limited to, promoting person-centered care, providing enhanced quality of care, creating community space for all nursing facility residents and developing stronger connections between the nursing facility residents and the surrounding community. Bed need shall be based on the recent occupancy percentage of area nursing facilities and the projected bed need for no more than five years into the future at ninety-seven and one-half percent occupancy using the latest official population projections by town and age as published by the Office of Policy and Management and the latest available state-wide nursing facility utilization statistics by age cohort from the Department of Public Health. The commissioner may also consider area specific utilization and reductions in utilization rates to account for the increased use of less institutional alternatives.

Agency Legislative Proposal - 2022 Session

Document Name: MMDD21_DSS_Oaths

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Social Services

Liaison: Alvin Wilson / David Seifel
Phone: 860-424-5105 / 860-424-5612
E-mail: alvin.wilson@ct.gov / david.seifel@ct.gov

Lead agency division requesting this proposal: Division of Program Oversight & Grant Administration

Agency Analyst/Drafter of Proposal: Graham Shaffer – Legal Unit

Title of Proposal: AN ACT AUTHORIZING DEPARTMENT OF SOCIAL SERVICES ELIGIBILITY WORKERS TO ADMINISTER OATHS

Statutory Reference: CGS 1-24

Proposal Summary:
This proposal authorizes DSS eligibility workers and supervisors to administer an oath in connection with the taking of an acknowledgment or affirmation of paternity, which is required in some cases as a condition of eligibility for Temporary Family Assistance (TFA).

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?
(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
(3) Have certain constituencies called for this action?
(4) What would happen if this was not enacted in law this session?

(1) No. (2) Yes, to the extent that eligibility workers are authorized to witness an acknowledgment of parentage/paternity in other states. (3) No. (4) Federal and state law require the mother of a child applying for TFA to cooperate with the agency in establishing the parentage of the child, if parentage has not previously been established. One component of this cooperation is the execution of an acknowledgment of parentage (if the other parent is willing to acknowledge parentage) or affirmation of parentage (signed only by the mother if the other parent is not willing to acknowledge parentage). The acknowledgment or affirmation must be accompanied by an oral recitation of the rights and responsibilities that result from its execution, and must be notarized or witnessed, historically by some other official authorized to

administer oaths under section 1-24 of the General Statutes. At one time, DSS regional offices were staffed with eligibility workers who were notaries public and could administer an oath and witness the execution of an acknowledgment or affirmation. Over the years, the State stopped paying costs associated with maintaining a notary license for these employees as a cost savings measure. As a result, many regional offices no longer have notaries public available, and investigators employed by DSS in the Office of Child Support Services stepped in to fill the resulting void, since these investigators are authorized to administer oaths under section 1-24. However, further cost cutting has resulted in a depletion of the number of investigators in the regional offices, and these investigators are often unavailable to witness the execution of an affirmation or acknowledgment due to other responsibilities (ie, participating in court proceedings, in-hand service of papers to obligors, etc.).

◊ **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: none
Agency Contact (*name, title, phone*): Click here to enter text.
Date Contacted: Click here to enter text.

Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**

Summary of Affected Agency's Comments
Click here to enter text.

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 Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

This proposal would authorize DSS eligibility workers and supervisors to administer an oath in connection with the taking of an affirmation or acknowledgment of parentage, should an OCSS investigator not be available. If this proposal were not passed, DSS regional offices may not be able to facilitate the taking of an affirmation or acknowledgment of parentage in the future, which may delay the granting of TFA benefits for needy families.

◊ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.

Click here to enter text.

Insert fully drafted bill here

Section 1-24 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

The following officers may administer oaths: (1) The clerks of the Senate, the clerks of the House of Representatives and the chairpersons of committees of the General Assembly or of either branch thereof, during its session; (2) state officers, as defined in subsection (t) of section 9-1, judges and

clerks of any court, family support magistrates, judge trial referees, justices of the peace, commissioners of the Superior Court, notaries public, town clerks and assistant town clerks, in all cases where an oath may be administered, except in a case where the law otherwise requires; (3) commissioners on insolvent estates, auditors, arbitrators and committees, to parties and witnesses, in all cases tried before them; (4) assessors and boards of assessment appeals, in cases coming before them; (5) commissioners appointed by governors of other states to take the acknowledgment of deeds, in the discharge of their official duty; (6) the moderator of a school district meeting, in such meeting, to the clerk of such district, as required by law; (7) the chief elected official of a municipality, in any matter before the chief elected official of a municipality; (8) the Chief Medical Examiner, Deputy Medical Examiner and assistant medical examiners of the Office of the Medical Examiner, in any matter before them; (9) registrars of vital statistics, in any matter before them; (10) any chief inspector or inspector appointed pursuant to section 51-286; (11) registrars of voters, deputy registrars, assistant registrars, and moderators, in any matter before them; (12) special assistant registrars, in matters provided for in subsections (b) and (c) of section 9-19b and section 9-19c; (13) the Commissioner of Emergency Services and Public Protection and any sworn member of any local police department or the Division of State Police within the Department of Emergency Services and Public Protection, in all affidavits, statements, depositions, complaints or reports made to or by any member of any local police department or said Division of State Police or any constable who is under the supervision of said commissioner or any of such officers of said Division of State Police and who is certified under the provisions of sections 7-294a to 7-294e, inclusive, and performs criminal law enforcement duties; (14) judge advocates of the United States Army, Navy, Air Force and Marine Corps, law specialists of the United States Coast Guard, adjutants, assistant adjutants, acting adjutants and personnel adjutants, commanding officers, executive officers and officers whose rank is lieutenant commander or major, or above, of the armed forces, as defined in section 27-103, to persons serving with or in the armed forces, as defined in said section, or their spouses; (15) investigators, deputy investigators, investigative aides, secretaries, clerical assistants, social workers, social worker trainees, paralegals and certified legal interns employed by or assigned to the Public Defender Services Commission in the performance of their assigned duties; (16) bail commissioners, intake, assessment and referral specialists, family relations counselors, support enforcement officers, chief probation officers and supervisory judicial marshals employed by the Judicial Department in the performance of their assigned duties; (17) juvenile matter investigators employed by the Division of Criminal Justice in the performance of their assigned duties; (18) the chairperson of the Connecticut Siting Council or the chairperson's designee; (19) the presiding officer at an agency hearing under section 4-177b; (20) investigators employed by the Department of Social Services Office of Child Support Services, in the performance of their assigned duties; (21) the chairperson, vice-chairperson, members and employees of the Board of Pardons and Paroles, in the performance of their assigned duties; (22) the Commissioner of Correction or the commissioner's designee; (23) sworn law enforcement officers, appointed under section 26-5, within the Department of Energy and Environmental Protection, in all affidavits, statements, depositions, complaints or reports made to or by any such sworn law enforcement officer; **[**and**]** (24) sworn motor vehicle inspectors acting under the authority of section 14-8; and (25) eligibility workers, specialists, and supervisors employed by the

Department of Social Services when witnessing the execution of an affirmation or acknowledgment of parentage if witnessing such execution is an assigned duty.”.

Agency Legislative Proposal - 2022 Session

Document Name: 093021_DSS_TFA Employment Services Assessment Interview and Sanctions Proposal

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: DSS
Liaison: Alvin Wilson / David Seifel **Phone:** 860-424-5105 / 860-424-5612 **E-mail:** alvin.wilson@ct.gov / david.seifel@ct.gov
Lead agency division requesting this proposal: Program Oversight and Grant Administration
Agency Analyst/Drafter of Proposal: Peter Hadler, Graham Shaffer, and Tricia Morelli

Title of Proposal: An Act Concerning TFA Employment Services Assessment Interviews and Sanctions
Statutory Reference: Connecticut General Statutes § 17b-688c(b)
Proposal Summary: This proposal changes the requirement that DSS grant TFA assistance within ten days of receiving the application if an employment services assessment interview is not scheduled. It proposes that DSS hold a prompt application interview to determine if a client is exempt from participating in the employment services program. If a client is required to participate, then DSS must schedule the initial employment services assessment interview within ten days of the application interview, and if this is not done DSS must not delay in granting TFA assistance. The proposal also changes the process by which benefits are reduced when a family member required to participate in the employment services program fails to comply with an employment services requirement without good cause. In lieu of reducing benefits to the full family for the first violation by twenty-five percent for three months, for the second violation by thirty-five percent for three months, and for the third violation termination of benefits for three months, the Department instead would reduce the benefit award by excluding the noncompliant family member from the benefit calculation for each month that the member is out of compliance. If only one member of a family is eligible for temporary family assistance and such member fails to comply with an employment services requirement, the department would reduce benefits by twenty-five percent for each month that the member is out of compliance. The proposal also eliminates a program termination penalty that applies under current law whenever someone fails to attend a scheduled employment services assessment interview or appointment related to the establishment of an employment services plan, or commits any employment services violation during an extension of TFA benefits.

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?

(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?

(3) Have certain constituencies called for this action?

(4) What would happen if this was not enacted in law this session?

Click here to enter text.

◊ **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**

1. No.
2. The requirement that DSS grant TFA assistance within ten days of receiving the application if an employment services assessment interview is not scheduled is unique to Connecticut. An adjustment to this requirement is necessary to facilitate a transition away from scheduled face-to-face application interviews in TFA (the only DSS-administered program that still requires them), to a more client-friendly on-demand telephone interview approach, whereby the applicant is provided a window of time during which he or she may call DSS to complete an eligibility interview. DSS has already begun conducting phone-based application interviews for TFA during the public health emergency (which allowed for relaxed rules to limit face-to-face contact) and, based on the positive reception and the operational benefits of a remote process option, would like to continue to do so after the emergency ends. After the public health emergency ends, DSS will need this change to facilitate the continued use of on-demand phone application interviews while staying within statutory timing requirements. The application interview is needed to determine if the applicant will be required to participate in the Jobs First Employment Services Program or will qualify for an exemption. An applicant that qualifies for an exemption does not need to be scheduled for an employment services assessment interview. The current statutory framework requiring DSS to schedule the employment services assessment within 10 business days of receiving the application will not work with an on-demand application interview model, whereby the applicant is given several days to call DSS to complete the application interview. The proposed statutory change will also reduce the number of denials that occur shortly after application in cases where the applicant misses a scheduled interview or needs to reschedule it, because, under the proposal, the 10-day clock for scheduling the employment services assessment interview will not begin to run until the application interview is completed.

Regarding the changes concerning sanction penalties, other states have implemented similar changes to sanctions as are being proposed here. Seven states, including Maine and Rhode Island, have sanction policies in place that reduce benefits by excluding the noncompliant family member from the benefit calculation rather than imposing a full family benefit reduction that penalizes innocent family members (generally needy children). Vermont and California are states that allow a family to continue to receive a reduced benefit amount while sanctioned for not participating in employment services (rather than eventually leading to discontinued assistance) to provide aid to the family to meet basic needs.

3. Yes. Many advocates, including Connecticut Legal Services agencies and the state 2Gen Advisory Board, have sought to streamline eligibility processes and implement policies that are less punitive and more supportive in helping low-income families meet their basic needs.

4. If this proposal is not enacted in this legislative session, the agency will likely need to continue with its pre-pandemic process, which requires face-to-face interviews that often result in procedural application denials for families that may be otherwise eligible. Applicants who apply online or by mail have a small window of time to complete their initial interview before their application is denied because of the department's need to meet the compressed statutory timeline for scheduling the employment services assessment interview within ten business days of the application. Further, it will force DSS to revert to a process that has been proven less efficient than the current model. The department would continue to apply the current framework with regards to sanctions. The current structure arguably does not align with several of our neighbors in New England. The statutory change would ease the difficulty these families face when providing for their children.

PROPOSAL IMPACT

◊

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: DSS operates the JFES program in conjunction with DOL. However, these changes would not have any material effect on DOL. They would continue to get the same referrals in the same volume, just at a slightly later point in the client's eligibility review (doesn't change anything about DOL's work). Sanctions are implemented by DSS staff; no effect on DOL. **Agency Contact (*name, title, phone*):** Marisa Morello **Date Contacted:** 10/7/21 Approve of Proposal ☒ **YES** ☐ **NO** ☐ **Talks Ongoing**
Summary of Affected Agency's Comments Click here to enter text.
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)* Click here to enter text.
State There could be a very minor fiscal impact as the sanction levels are slightly reduced from the current level. This could result in households receiving more of their TFA benefit than under current sanction policies.
Federal Click here to enter text.
Additional notes on fiscal impact Click here to enter text.

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◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

A comparison of the benefit provided to a sanctioned client before and after this proposed change follows.

Region A

Family EDG Size	Payment standard	Current 1st Sanction Benefit reduced 25%	Current 2nd Sanction Benefit reduced 35%	Current 3rd Sanction Benefit reduced 100%	Proposed benefit excluding noncompliant participant
1	450	0	0	0	338
2	572	429	372	0	450
3	709	532	461	0	572
4	827	620	538	0	709
5	932	699	606	0	827
6	1043	782	678	0	932
7	1160	870	754	0	1043
8	1275	956	829	0	1160

Region B

Family EDG Size	Payment standard	Current 1st Sanction Benefit reduced 25%	Current 2nd Sanction Benefit reduced 35%	Current 3rd Sanction Benefit reduced 100%	Proposed benefit excluding noncompliant participant
1	372	0	0	0	279
2	495	371	322	0	372
3	606	455	394	0	495
4	712	534	463	0	606
5	815	611	530	0	712
6	922	692	599	0	815
7	1041	781	677	0	922
8	1150	863	748	0	1041

Region C

Family EDG Size	Payment standard	Current 1st Sanction Benefit reduced 25%	Current 2nd Sanction Benefit reduced 35%	Current 3rd Sanction Benefit reduced 100%	Proposed benefit excluding noncompliant participant
1	372	0	0	0	279
2	495	371	322	0	372
3	606	455	394	0	495
4	712	534	463	0	606

5	815	611	530	0	712
6	922	692	599	0	815
7	1041	781	677	0	922
8	1150	863	748	0	1041

◊ EVIDENCE BASE

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.

Click here to enter text.

Insert fully drafted bill here

Subsection (b) of section 17b-688c of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

(b) In no event shall temporary family assistance be granted to an applicant for such assistance, who is not exempt from participation in the employment services program, prior to the applicant's attendance at an initial scheduled employment services assessment interview and participation in the development of an employment services plan. The Department of Social Services shall promptly conduct an application interview with an applicant for temporary family assistance to determine whether such applicant is exempt from participation in the employment services program. If the department determines that such applicant is not exempt, it shall schedule the initial employment services assessment interview not later than ten business days after the application interview. In cases where the department does not schedule **[**not delay temporary family assistance to an applicant in cases where the department schedules**]** the initial employment services assessment interview **[**more than**]** within ten business days **[**after**]** of the date on which the application **[**for assistance is made**]** interview was completed, or **[**in cases**]** where the Labor Department does not complete an employment services plan for the benefit of the applicant within ten business days of the date on which the applicant attends an employment services assessment interview, the department shall not delay granting temporary family assistance to an applicant who is otherwise eligible for such assistance. The Commissioner of Social Services shall refer any applicant denied temporary family assistance, who may need emergency benefits, to other services offered by the Department of Social Services or community services that may be available to such applicant. The Department of Social Services shall reduce the benefits awarded to a family under the temporary family assistance program when a member of the family who is required to participate in employment services fails to comply with an employment services requirement without good cause. The department shall impose this reduction by excluding the noncompliant family member from the household

when calculating the family's monthly benefit. Such exclusion shall continue until the noncompliant family member begins to comply with employment services requirements, becomes exempt from such requirements, or demonstrates good cause for his or her failure to comply with such requirements. **[**The first instance of noncompliance with an employment services requirement shall result in a twenty-five per cent reduction of such benefits for three consecutive months. The second instance of noncompliance with such requirement shall result in a thirty-five per cent reduction of such benefits for three consecutive months. A third or subsequent instance of noncompliance with such requirement shall result in the termination of such benefits for three consecutive months.**]** If only one member of a family is eligible for temporary family assistance and such member fails to comply with an employment services requirement without good cause, the department shall **[**terminate all benefits of such family for three consecutive months**]** reduce such family's benefit by twenty-five per cent for each month such member fails to comply. **[**Notwithstanding the provisions of this subsection, the department shall terminate the benefits awarded to a family under the temporary family assistance program if a member of the family who is not exempt from the twenty-one-month time limit specified in subsection (a) of section 17b-112 fails, without good cause, to: (1) Attend any scheduled assessment appointment or interview relating to the establishment of an employment services plan, except that such individual's benefits shall be reinstated if the individual attends a subsequently scheduled appointment or interview within thirty days of the date on which the department has issued notification to the individual that benefits have been terminated, or (2) comply with an employment services requirement during a six-month extension of benefits. Any individual who fails to comply with the provisions of subdivision (1) of this subsection may submit a new application for such benefits at any time after termination of benefits.**]**

Agency Legislative Proposal - 2022 Session

Document Name: An Act Concerning Outdated Language in Section 17b-245b of the General Statutes and Payment for Nonemergency Periodic Dental Services.

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Social Services
Liaison: : Alvin Wilson / David Seifel **Phone: : 860-424-5105 / 860-424-5612** **E-mail:** alvin.wilson@ct.gov / david.seifel@ct.gov
Lead agency division requesting this proposal: Division of Health Services
Agency Analyst/Drafter of Proposal: Melanie Dillon, Donna Balaski, Matt Antonetti

Title of Proposal: An Act Concerning Outdated Language in Section 17b-245b of the General Statutes and Payment for Nonemergency Periodic Dental Services.
Statutory Reference: 17b-245b
Proposal Summary: The Department proposes deleting outdated language in Section 17b-245b of the General Statutes as FQHCs are no longer reimbursed based on costs. Since 2001, the Department reimburses FQHCs an all-inclusive encounter rate based on a prospective payment system (PPS) pursuant to 42 U.S.C. § 1396a (bb). Pursuant to the Medicaid State Plan Amendment 16-015 and section 17b-262-1002 (a) of the Regulations of Connecticut State Agencies, "Each FQHC shall bill for FQHC services per encounter. Claims are limited to one all-inclusive encounter per day to include all services received by a client on the same day unless the client suffers an illness or injury subsequent to the first encounter that requires additional diagnosis or treatment or if the client has different types of visits on the same day such as medical and dental or medical and behavioral health. Medicaid pays for one medical, one dental, and one behavioral health encounter per day." The Department also proposes language to delineate that nonemergency periodic dental services be included in a single periodic dental visit unless there is a medical reason for providing the services on separate dates. If such dental services are provided on separate dates due to medical necessity in accordance with Section 17b-259b, the FQHC shall document those reasons in the patient's dental record. To further discourage FQHCs from requiring multiple visits for services that would typically be provided in one day, the Department also proposes to include language expressly stating that FQHCs are prohibited from providing the following services on separate dates for purposes of billing multiple dental encounters (absent medical necessity): screening or examination, prophylaxis and radiographs.

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?
(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
(3) Have certain constituencies called for this action?
(4) What would happen if this was not enacted in law this session?

Separating services (screening, prophylaxis and radiographs) that would normally be included in one periodic dental visit unfairly requires the patient to come back for a second visit when it would not normally be required. This is a hardship for Medicaid clients who may have difficulty finding transportation to and from visits, obtaining time off from work without pay or finding care for dependents. In addition, analysis by the Office of the Attorney General and Office of Policy and Management indicates that, over the past five years, multiple nonemergency periodic exams and services that did not take place during a single dental cleaning may have resulted in excess of $13.7 million dollars in payments to FQHCs during the past five years that otherwise could have been avoided. Limitations on the "unbundling" of certain nonemergency periodic dental services by FQHCs has been established in a number of states, including: Florida, Oregon, New York, Pennsylvania and Louisiana.

◊ **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?

As a result of an August 2021 restitution settlement with an FQHC resolving allegations of overbilling the Medicaid program for certain dental services on multiple encounter dates ($350,000), the Office of the Attorney General and OPM approached the Department to suggest clarification of potential ambiguity in state statute or regulation that is being utilized by FQHCs to engage in multiple dental visits, on multiple days, for periodic services that are otherwise typically performed during a single visit – thereby exploiting a billing/reimbursement "loophole" in the FQHC encounter rate structure.

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: Click here to enter text. **Agency Contact (*name, title, phone*):** Click here to enter text. **Date Contacted:** Click here to enter text. Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**
Summary of Affected Agency's Comments Click here to enter text.
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)* Click here to enter text.
State The Office of the Attorney General and OPM analysis of FQHC billing for periodic dental exams on multiple dates indicates a five-year expenditure of Medicaid dollars from 2016-2021 of approximately $13.7 million. In other words, an annual State savings (at 50% federal/State share for Medicaid spending) of approximately $1.4 million may result upon enactment of this proposal.
Federal The Office of the Attorney General and OPM analysis of FQHC billing for periodic dental exams on multiple dates indicates a five-year expenditure of Medicaid dollars from 2016-2021 of approximately $13.7 million. In other words, an annual Federal savings (at 50% federal/State share for Medicaid spending) of approximately $1.4 million may result upon enactment of this proposal.
Additional notes on fiscal impact Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Elimination of this apparent billing 'loophole' in the FQHC encounter rate structure will result in significant Medicaid savings and reduce potential burdens on Medicaid clients who are required to unnecessarily return to FQHC providers for nonemergency periodic dental services on multiple days.

◊ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.

DSS will monitor FQHC dental claims data for anticipated reductions in exams not performed on the same visit as a dental cleaning, thereby tracking Medicaid savings as a result of implementation of this proposal.

Insert fully drafted bill here

Sec. 1. Section 17b-245b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022)*:

(a) The Commissioner of Social Services shall, consistent with federal law, [make changes to the cost-based reimbursement methodology in the Medicaid program for federally qualified health centers. To the extent permitted by federal law, the commissioner may reimburse a federally qualified health center under the Medicaid program for multiple medical, behavioral health or dental services provided to an individual during the course of a calendar day, irrespective of the type of service provided. On or before January 1, 2008, the commissioner shall report to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and human services on the status of the changes to the cost-based reimbursement methodology.] reimburse federally qualified health centers an all-inclusive encounter rate per client encounter based on the prospective payment system as required by 42 USC 1396a (bb). Encounters with more than one health professional for the same type of service and multiple interactions with the same health professional that take place on the same day shall constitute a single encounter except when the patient, after the first interaction, suffers illness or injury requiring additional diagnosis and treatment, and shall be reimbursed in accordance with section 17b-262-1002 of the Regulations of Connecticut State Agencies.

(b) Nonemergency periodic dental services, including an examination, prophylaxis, and radiographs, including bitewings, complete series and periapical imaging, if warranted, shall be completed in one visit. Federally qualified health centers shall not provide nonemergency periodic dental services on different dates of service for the purpose of billing for separate encounters. A second visit to complete any service normally included during the course of a nonemergency periodic dental visit shall not

be permitted unless medically necessary and clearly documented in the patient's dental record.