State of Connecticut
Department of Developmental Services

Ned Lamont
Governor

Jordan A. Scheff
Commissioner

Peter Mason
Deputy Commissioner

DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY
BEFORE THE PUBLIC HEALTH COMMITTEE
February 8, 2021

Senators Abrams, Somers and Hwang, Representatives Steinberg and Petit and members of the Public Health Committee. I am Jordan A. Scheff, Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to testify in support of **S.B. No. 416 AN ACT CONCERNING VARIOUS REVISIONS TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES STATUTES.**

This bill implements numerous recommendations of the Department of Developmental Services that improve and advance the important work of our agency.

As this bill combines five separate department proposals, I would like to take this opportunity to summarize and explain each section of the bill.

Section 1 Current state law outlines which state agencies and other entities DDS may share its abuse and neglect registry information. Specifically, the statute details that the department may make registry information available to the Departments of Children and Families (DCF), Mental Health and Addiction Services (DMHAS), and Social Services (DSS), for the purpose of determining whether an applicant for employment appears on the DDS registry.

As Governor Lamont's Executive Order No. 2 called for the centralization of Human Resources under the Department of Administrative Services (DAS); DAS is now the single state agency overseeing the hiring of all DCF, DMHAS, DSS and DDS employees. For this reason, section 1 of this bill proposes to allow DDS registry information to be made available to DAS for the purposes of determining whether an applicant for employment with the four human services agencies referenced above appears on the DDS registry.

For background, the DDS abuse and neglect registry is a confidential, centralized database that contains the names of former employees of DDS and agencies and programs funded by DDS who have been terminated or separated from employment as a result of substantiated abuse or neglect. This administrative process is separate and distinct from any legal process in which a person could be charged or convicted of such abuse or neglect through the criminal justice system.

After reviewing the drafted language of this section, DDS would like to respectfully request a technical amendment for the committee's consideration for joint substitute language. Specifically, DDS asks that

the brackets around language in lines 8 and 9 be removed and the current language allowing DCF, DMHAS and DSS access to the registry be left in the statute and adding the DAS provision.

Subsection (c) of section 17a-247b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) The department shall make information in the registry available only to: (1) Authorized agencies, for the purpose of protective service determinations; (2) employers who employ employees to provide services to an individual who receives services or funding from the department; (3) the Departments of Children and Families, Mental Health and Addiction Services, and Social Services, for the purpose of determining whether an applicant for employment appears on the registry and the Department of Administrative Services, for the purpose of determining whether an applicant for employment with the Departments of Children and Families, Developmental Services, Mental Health and Addiction Services, and Social Services appears on the registry; or (4) charitable organizations that recruit volunteers to support programs for persons with intellectual disability or autism spectrum disorder, upon application to and approval by the commissioner, for purposes of conducting background checks on such volunteers.

Section 2 This section would allow the DDS Commissioner or a DDS Regional or Training School Director to provide consent for necessary medical treatment of an emergency nature when the individual's legal representative is unavailable or unable to give such consent.

Currently, DDS has the statutory authority to "authorize necessary surgery for such person where, in the opinion of the person's attending physician, the surgery is of an emergency nature and there is insufficient time to obtain the required written consent…" There are circumstances; however, when an individual under the department's care requires emergency treatment, other than emergency surgery, and there is insufficient time to obtain the required consent. In these situations, the department is currently unable to grant consent for such emergency treatments. With advances in medical treatment that require less invasive treatments than surgery, DDS believes that allowing the Commissioner or his designees to consent to emergency medical treatment for an individual, either when (1) a legal representative is not available to give consent or (2) the individual has no legal representative and the individual is unable to give consent, would allow that individual with intellectual disability to have access to appropriate medical care while remaining independent in the community.

The department also would like to take this opportunity to highlight two important provisions in this section that provide additional safeguards to this process. First, the bill's language requires that the designation of what constitutes "emergency treatment" is determined by the individual's attending physician. This means that a clinical professional, not DDS, is making the determination that the treatment is necessary and that the situation is an emergency. In addition, the language requires that the attending physician prepare a report describing the nature of the emergency, which necessitated the treatment, and a copy is filed in the patient's record. These requirements confirm that the decision to treat has been made by the physician and is fully documented and recorded. Both provisions are currently in statute as part of the Commissioner's existing ability to consent for emergency surgery.

Section 3 Statute currently prohibits DDS from notifying and sharing any documents regarding a report of abuse or neglect that warrants an investigation, when an individual's legal representative is the alleged perpetrator of such abuse or neglect, or the legal representative is residing with the alleged perpetrator.

To ensure the ongoing protection of individuals with intellectual disability and those individuals that are reporting suspected cases of abuse or neglect, this section expands the statute to prohibit DDS from

sharing the original report of abuse or neglect and the evaluation report (also known as the final report) with a legal representative who has been found to be the substantiated perpetrator of abuse or neglect or who is residing with the substantiated perpetrator. This provision would not restrict a court from allowing a substantiated perpetrator to have access to the report for purposes of a legal action.

Section 4 This section updates appointments to the Camp Harkness Advisory Committee to reflect changes to the names of the entities appointed and replaces certain appointed entities that have ceased to exist with criteria to appoint new members. This Committee advises the department with respect to the health and safety of the persons who attend and utilize the state-run camp. The proposed appointments in this bill were unanimously approved and supported by the Camp Harkness Advisory Committee.

Sections 5 & 6 The last two sections of the bill would allow DDS to submit a person's DDS denial of eligibility letter, in lieu of a reassessment (also known as the triennial assessment) for appointment of a guardian through Probate Court. Statute currently allows for DDS to submit a person's DDS denial of eligibility letter as part of the original appointment of a guardian through Probate Court, but this process was not extended to the reassessment process. This section simply extends this option to the reassessment for appointment of a guardian through Probate Court.

As background, guardianship of an adult in Connecticut is limited to those adults who have been determined to have intellectual disability as defined in section 1-1g of the general statutes. In section 45a-676 of the Probate Court statutes, it lays out the findings and evidence that must be shown for an adult with intellectual disability to be appointed either a plenary guardian or a limited guardian by the Probate Court. The powers and duties of a guardian are outlined in section 45a-677 of the general statutes. Only an adult with intellectual disability may have a guardian appointed. The Department of Developmental Services is Connecticut's single state agency that determines if a person has intellectual disability as defined in section 1-1g. DDS makes determinations of whether a person has intellectual disability regardless of whether the individual is applying for DDS funding or services. Connecticut's Probate Courts have various options, such as conservatorship, for adults, with or without disabilities, who may need oversight or help on a temporary or ongoing basis.

During the initial Probate Court hearing for the appointment of a guardian, the DDS assessment team is required to evaluate and submit a written report or testimony to the Court regarding the severity of the individual's intellectual disability. Public Act No. 18-32 specified that such written report or testimony by the DDS assessment team is not required for the hearing for appointment of a guardian, when such individual has been determined ineligible for DDS services, provided that such eligibility is based on the determination that the individual does not have intellectual disability. In these situations, DDS is permitted to submit a copy of the eligibility determination letter indicating that the person is ineligible based on the absence of intellectual disability. Along with the original hearing to appoint a guardian, the Probate Court also is required, as defined in section 45a-681 CGS, to hold triennial assessments to continue, modify, or terminate the order for guardianship. Because the language in PA 18-32 only addressed the original hearing to appoint a guardian, the ability to submit a copy of the eligibility determination letter from DDS indicating the individual is ineligible based on the absence of intellectual disability, is not extended to the reassessments.

This means when the Probate Court judge reviews guardianship at least once every three years, the Department's assessment team, is required to evaluate the individual and submit a written report or testimony to the court, even though the individual may have already has been determined ineligible for DDS services based on the absence of intellectual disability. DDS is requesting that the ability to submit a copy of the eligibility determination letter from DDS when an individual has been determined ineligible be extended to the Court's triennial reviews.

This change in the statutes would not limit the ability of an individual or his or her family to appeal or request a redetermination of eligibility from the DDS Eligibility Determination Unit.

Thank you again for the opportunity to testify in support of **S.B. No. 416 AN ACT CONCERNING VARIOUS REVISIONS TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES STATUTES.** Please contact Rod O'Connor, DDS Legislative Liaison, by e-mail at rod.oconnor@ct.gov or by text at 860-883-0727 with any questions.