

DDS Legislative Update – February 4, 2010

The **2010 Connecticut General Assembly session** began Wednesday, February 3, 2010 and runs until midnight Wednesday, May 5, 2010. This year's legislative session is considered a "**short session**" and is designed to deal with **midterm adjustments to the biennial budget** for fiscal years 2010 and 2011 (FY10 and FY11).

Below you will find the **Department of Developmental Services (DDS) legislative proposals for the 2010 session**. The first three proposed concepts for bills have been presented to the Public Health Committee (DDS's legislative committee of cognizance) for their consideration. It is our hope that the Public Health Committee will raise these concepts as bills. The Public Health Committee has allowed DDS to ask the Judiciary Committee to raise the fourth bill concept which fits within the Judiciary Committee's area of cognizance.

Two of these DDS legislative proposals are based on previous year's bills, (**An Act Concerning the Administration of the Department of Developmental Services** and **An Act Concerning the Sexual Assault of Persons Placed or Treated under the Direction of the Commissioner of Developmental Services**); one is a new proposal (**An Act Concerning the Membership of Regional Advisory and Planning Councils of the Department on Developmental Services**) and one is an adjustment to a DDS bill that was passed in the 2009 session (**An Act Concerning the Sharing of Information between the Department of Children and Families and the Department of Developmental Services**). DDS believes each of these proposals would enhance the department's ability to provide quality supports and services. All of these legislative proposals are expected to have little or no fiscal impact.

As soon as the Department of Developmental Services proposed legislation is drafted by the Legislative Commissioners' Office (LCO) and has bill numbers, **we will track these bills in the first section of our regular legislative updates**. We also will provide you with information on Public Hearing dates and times and any committee actions concerning this legislation. A budget update will be posted as soon as DDS staff has analyzed the impact on the department of the Governor's midterm budget adjustments.

DDS Legislative Proposal 1

AN ACT CONCERNING THE ADMINISTRATION OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES

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

Section 1. Section 17a-248 of the general statutes is repealed and the following is substituted in lieu thereof:

As used in this section and sections 17a-248b to 17a-248g, inclusive, 38a-490a and 38a-516a, unless the context otherwise requires:

- (1) "Commissioner" means the Commissioner of Developmental Services.
- (2) "Council" means the State Interagency Birth-to-Three Coordinating Council established pursuant to section 17a-248b.

(3) "Early intervention services" means early intervention services, as defined in 34 CFR Part 303.12, as from time to time amended.

(4) "Eligible children" means children from birth to thirty-six months of age, who are not eligible for special education and related services pursuant to sections 10-76a to 10-76h, inclusive, and who need early intervention services because such children are:

(A) Experiencing a significant developmental delay as measured by standardized diagnostic instruments and procedures, including informed clinical opinion, in one or more of the following areas: (i) Cognitive development; (ii) physical development, including vision or hearing; (iii) communication development; (iv) social or emotional development; or (v) adaptive skills; or

(B) Diagnosed as having a physical or mental condition that has a high probability of resulting in developmental delay.

(5) "Evaluation" means a multidisciplinary professional, objective assessment conducted by appropriately qualified personnel in order to determine a child's eligibility for early intervention services.

(6) "Individualized family service plan" means a written plan for providing early intervention services to an eligible child and the child's family.

(7) "Lead agency" means the Department of Developmental Services, the public agency responsible for the administration of the birth-to-three system in collaboration with the participating agencies.

(8) ["Parent" means the child's parent or a person in a parental relationship to the child. With respect to a child who has no parent or person in a parental relationship, "parent" means the person designated to serve in a parental relationship for the purposes of this section and sections 17a-248b to 17a-248g, inclusive, 38a-490a and 38a-516a, pursuant to regulations of the Department of Developmental Services, adopted in accordance with chapter 54 in consultation with the Department of Children and Families, for children in foster care.] "Parent" means (A) a natural, adoptive or foster parent of a child; (B) a guardian, other than the Commissioner of Children and Families; (C) an individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, (D) an individual who is legally responsible for the child's welfare; or (E) an individual appointed to be a surrogate parent.

(9) "Participating agencies" includes, but is not limited to, the Departments of Education, Social Services, Public Health, Children and Families and Developmental Services, the Insurance Department, the Board of Education and Services for the Blind, the Commission on the Deaf and Hearing Impaired and the Office of Protection and Advocacy for Persons with Disabilities.

(10) "Qualified personnel" means persons who meet the standards specified in 34 CFR Part 303.12(e), as from time to time amended, and who are licensed physicians or psychologists or persons holding a state-approved or recognized license, certificate or registration in one or more of the following fields: (A) Special education, including teaching of the blind and the deaf; (B) speech and language pathology and audiology; (C) occupational therapy; (D) physical therapy; (E) social work; (F) nursing; (G) dietary or nutritional counseling; and (H) other fields designated by the commissioner that meet requirements that apply to the area in which the person is providing early intervention services, provided there is no conflict with existing professional licensing, certification and registration requirements.

[(11) "Region" means a region within the Department of Developmental Services.]

[(12)] (11) "Service coordinator" means a person carrying out service coordination, as defined in 34 CFR Part 303.22, as from time to time amended.

[(13)] (12) "Primary care provider" means physicians and advanced practice registered nurses, licensed by the Department of Public Health, who are responsible for performing

or directly supervising the primary care services for children enrolled in the birth-to-three program.

Sec. 2. Section 17a-248c of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The commissioner [shall] may establish [at least] one local interagency coordinating council in each region of the state. Each council shall consist of five or more individuals interested in the welfare of children ages birth to three years with disabilities or developmental delays.

(b) Each local interagency coordinating council established pursuant to subsection (a) of this section shall meet at least four times a year and shall advise and assist the [regional birth-to-three managers] lead agency regarding any matter relating to early intervention policies and procedures within the towns served by that council that is brought to its attention by parents, providers, public agencies or others, including the transition from early intervention services to services and programs under sections 10-76a to 10-76g, inclusive, and other early childhood programs.

(c) Council members who are parents of children with disabilities shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

Sec. 3. Subsection (a) of section 17a-248d of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The lead agency, in coordination with the participating agencies and in consultation with the council, shall establish and maintain a state-wide birth-to-three system of early intervention services pursuant to Part [H] C of the Individuals with Disabilities Education Act, 20 USC [1471] 1431 et seq., for eligible children and families of such children.

Sec. 4. Section 17a-248e of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Each eligible child and his family shall receive (1) a multidisciplinary assessment of the child's unique needs and the identification of services appropriate to meet such needs, (2) a written individualized family service plan developed by a multidisciplinary team, including the parent, within forty-five days after the referral, and (3) review of the individualized family service plan with the family at least every six months, with evaluation of the individualized family service plan at least annually.

(b) The individualized family service plan shall be in writing and contain: (1) A statement of the child's present level of physical development, cognitive development, language and speech development and self-help skills, based on acceptable objective criteria; (2) a statement of the family's priority, resources and concerns relating to enhancing the development of the eligible child; (3) a statement of the major outcomes expected to be achieved for the child and the family and the criteria, procedures and timelines used to determine the degree to which progress toward achieving the outcomes are being made, and whether modifications or revisions of the outcomes are necessary; (4) a statement of specific early intervention services necessary to meet the unique needs of the eligible child and the family, including the frequency, intensity and the method of delivering services; (5) a statement of the natural environments in which the services shall be provided; (6) the projected dates for initiation of services and the anticipated duration of such services; (7) the name of the approved comprehensive service provider that will provide or procure the services specified in the individualized family service plan; (8) the

name of the individual service coordinator from the profession most immediately relevant to the eligible child's or the family's needs who will be responsible for the implementation of the plan and coordination with the other agencies and providers or an otherwise qualified provider selected by a parent; and (9) the steps to be taken to support the transition of the child who is eligible for participation in preschool programs under Part B of the Individuals with Disabilities Act, 20 USC 1471 et seq., as appropriate.

(c) The individualized family service plan shall be developed in consultation with the child's pediatrician or primary care physician.

[(d) On and after July 1, 1996, the parent of any child who received early intervention services, other than service coordination, from a provider prior to said date and remains eligible for such services may choose to have his child continue to receive the services from such provider.]

[(e)] (d) The lead agency may provide early intervention services or contract with providers to deliver early intervention services to eligible children and the families of such children. [, provided during the period from July 1, 1996, to June 30, 1997, inclusive, the agency shall, in cases where substantially equivalent proposals are submitted, give preferential consideration to contracting with regional educational service centers and local and regional boards of education that provided such services, including service coordination, prior to July 1, 1996.] The lead agency in providing, contracting or arranging with other state agencies for early intervention services shall monitor all Birth to Three providers for quality and accountability pursuant to section 616 of the Individuals with Disabilities Education Act, 20 USC 1416 [the expenditures for administrative services, excluding evaluation assessments, and shall justify in writing, on or before September 1, 1997, and annually thereafter, to the Secretary of the Office of Policy and Management and the committees of the General Assembly having cognizance of matters relating to appropriations and to public health, if such expenditure levels exceed twenty per cent of the contracted amount] and establish state-wide rates for such services.

Sec. 5. Section 17a-248f of the general statutes is repealed and the following is substituted in lieu thereof:

Procedural safeguards shall be the same as required under Part [H] C of the Individuals with Disabilities Education Act, 20 USC [1471] 1431 et seq.

Sec. 6. Subsection (a) of section 17a-248g of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Subject to the provisions of this section, funds appropriated to the lead agency for purposes of section 17a-248, as amended by this act, sections 17a-248b to 17a-248f, inclusive, as amended by this act, this section and sections 38a-490a and 38a-516a shall not be used to satisfy a financial commitment for services that would have been paid from another public or private source but for the enactment of said sections, except for federal funds available pursuant to Part [H] C of the Individuals with Disabilities Education Act, 20 USC [1471] 1431 et seq., except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the eligible child or family in a timely fashion, funds provided under said sections may be used to pay the service provider pending reimbursement from the public or private source that has ultimate responsibility for the payment.

Sec. 7. Subsection (a) of section 17a-270 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There is established a Council on Developmental Services which shall consist of thirteen members appointed as follows: Eight shall be appointed by the Governor, one of whom shall be a doctor of medicine, one of whom shall be a person with mental retardation who is receiving services from the Department of Developmental Services and at least two of whom shall be parents or guardians of persons with mental retardation, to serve for terms of two years each; four shall be appointed by members of the General Assembly for two-year terms, one who shall be a parent or guardian of a person with mental retardation, appointed by the speaker of the House, one appointed by the minority leader of the House, one appointed by the president pro tempore of the Senate and one who shall be a parent or guardian of a person with mental retardation, appointed by the minority leader of the Senate; and one who shall be a member of the board of trustees of the Southbury Training School, appointed by said board for a term of one year. [No] A member may serve [more than] for a maximum term of up to six consecutive years or until the member's successor is chosen, whichever is later. The members of the council shall serve without compensation except for necessary expenses incurred in performing their duties. The Commissioner of Developmental Services or the commissioner's designee shall be an ex-officio member of the Council on Developmental Services without vote and shall attend its meetings. No employee of any state agency or institution engaged in the care or training of persons with mental retardation shall be eligible for appointment to the council. The council shall appoint annually, from among its members, a chairperson, vice chairperson and secretary. The council may make rules for the conduct of its affairs. The council shall meet at least bimonthly and at other times upon the call of the chair or the written request of any two members.

Sec. 8. Subsection (a) of section 17a-217a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There shall be a Camp Harkness Advisory Committee to advise the Commissioner of Developmental Services with respect to issues concerning the health and safety of persons who attend and utilize the facilities at Camp Harkness. The advisory committee shall be composed of twelve members as follows: (1) The director of Camp Harkness, who shall serve ex-officio, one member representing the Southeastern Connecticut Association for Developmental Disabilities, one member representing the Southbury Training School, one member representing the Association for Retarded Citizens of New London County, one consumer representing persons who use the camp on a residential basis and one member representing parents or guardians of persons who use the camp, all of whom shall be appointed by the Governor; (2) one member representing parents or guardians of persons who use the camp, who shall be appointed by the president pro tempore of the Senate; (3) one consumer from the Family Support Council established pursuant to section 17a-219c representing persons who use the camp on a day basis, who shall be appointed by the speaker of the House of Representatives; (4) one member representing the board of selectmen of the town of Waterford, who shall be appointed by the majority leader of the House of Representatives; (5) one member representing [the Camp Harkness Booster Club] a private nonprofit corporation that is: (A) Tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and (B) established to promote and support Camp Harkness and its camping programs, who shall be appointed by the majority leader of the Senate; (6) one member representing

the Connecticut Institute for the Blind and the Oak Hill School, who shall be appointed by the minority leader of the House of Representatives; and (7) one member representing the United Cerebral Palsy Association, who shall be appointed by the minority leader of the Senate.

Sec. 9. Subsection (a) of section 17a-219c of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There is established a Family Support Council to assist the Department of Developmental Services and other state agencies that administer or fund family support services to act in concert and, within available appropriations, to (1) establish a comprehensive, coordinated system of family support services, (2) use existing state and other resources efficiently and effectively as appropriate for such services, (3) identify and address services that are needed for families of children with disabilities, and (4) promote state-wide availability of such services. The council shall consist of twenty-seven voting members including the Commissioners of Public Health, Developmental Services, Children and Families, Education and Social Services, or their designees, the Child Advocate or the Child Advocate's designee, the executive director of the Office of Protection and Advocacy for Persons with Disabilities, or the executive director's designee, the chairperson of the State Interagency Birth-to-Three Coordinating Council, as established pursuant to section 17a-248b, or the chairperson's designee, the executive director of the Commission on Children, or the executive director's designee, and family members of, or individuals who advocate for, children with disabilities. The family members or individuals who advocate for children with disabilities shall comprise two-thirds of the council and shall be appointed as follows: Six by the Governor, three by the president pro tempore of the Senate, two by the majority leader of the Senate, one by the minority leader of the Senate, three by the speaker of the House of Representatives, two by the majority leader of the House of Representatives and one by the minority leader of the House of Representatives. Members shall be appointed for a term of four years. All appointed members serving on or after the effective date of this section, including members appointed prior to the effective date of this section, shall serve in accordance with the provisions of section 4-1a. Members serving on or after the effective date of this section, including members appointed prior to the effective date of this section, shall serve no more than eight consecutive years on the council. The council shall meet at least quarterly and shall select its own chairperson. Council members shall serve without compensation but shall be reimbursed for necessary expenses incurred. The costs of administering the council shall be within available appropriations in accordance with this section and sections 17a-219a to 17a-219b, inclusive.

Sec. 10. Subdivision (31) of subsection (a) of section 2c-2b is repealed.

Summary of Proposal

This bill is a compilation of multiple proposals that moved forward last session and was slated to go on the consent calendar in the Senate but got caught up the last night. (Sec 1-6): Related to Birth to Three, this proposal would correct several references to federal law that are incorrect and acknowledge that we establish rates for services. In addition, DDS would no longer be held responsible for ensuring that there is at least one LICC in each region (although they would still be allowed). Currently, only 2 regions have a LICC. DDS will continue to support the LICCs (financially, up to \$1500 annually). There is one change on the Birth to Three section: Section 4 of this bill has been reworded to alleviate concerns from last session that resulted in the section being deleted from the

bill. Changes include clarifying that nothing prohibits DDS from providing the early intervention services and that “otherwise arranging” is actually arranging with other state agencies (this reflects B23’s relationship with BESB). (Sec 7): Currently, there is a 6-year maximum on the number of consecutive years a member of the Council on Developmental Services may serve. If a successor is not picked, there is oftentimes a lag between when a member stops serving and a new member is appointed. This proposal would allow the member to serve until a successor is appointed even if the member has served for more than 6 years. (Sec. 8): replaces a specific member of the Camp Harkness Advisory Committee with 501(c)(3). (Sec. 9): clarifies the option of agency designees to serve on the Family Support Council. (Sec. 10): removes DDS's abuse and neglect registry from the sunset review process under which it is scheduled to terminate on July 1, 2012 unless reestablished.

DDS Legislative Proposal 2

AN ACT CONCERNING THE SHARING OF INFORMATION BETWEEN THE DEPARTMENT OF CHILDREN AND FAMILIES AND THE DEPARTMENT OF DEVELOPMENTAL SERVICES

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

Section 1. Subsection (g) of section 17a-28 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(g) When the commissioner or his designee determines it to be in a person's best interest, the commissioner or his designee may disclose records, whether or not created by the department and not otherwise privileged or confidential communications under state or federal law, without the consent of a person to:

(1) Multidisciplinary teams which are formed to assist the department in investigation, evaluation or treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services under contract with the department for a child referred to the provider;

(2) Any agency in another state which is responsible for investigating or protecting against child abuse or neglect for the purpose of investigating a child abuse case;

(3) An individual, including a physician, authorized pursuant to section 17a-101f to place a child in protective custody if such individual has before him a child whom he reasonably suspects may be a victim of abuse or neglect and such individual requires the information in a record in order to determine whether to place the child in protective custody;

(4) An individual or public or private agency responsible for a person's care or custody and authorized by the department to diagnose, care for, treat or supervise a child who is the subject of a record of child abuse or neglect or a public or private agency responsible for a person's education for a purpose related to the individual's or agency's responsibilities;

(5) The Attorney General or any assistant attorney general providing legal counsel for the department;

(6) Individuals or public or private agencies engaged in medical, psychological or psychiatric diagnosis or treatment of a person perpetrating the abuse or who is unwilling or unable to protect the child from abuse or neglect when the commissioner or his

designee determines that the disclosure is needed to accomplish the objectives of diagnosis or treatment;

(7) A person who reports child abuse pursuant to sections 17a-101a to 17a-101c, inclusive, and section 17a-103, who made a report of abuse involving the subject child, provided the information disclosed is limited to (A) the status of the investigation and (B) in general terms, any action taken by the department;

(8) An individual conducting bona fide research, provided no information identifying the subjects of records shall be disclosed unless (A) such information is essential to the purpose of the research; (B) each person identified in a record or his authorized representative has authorized such disclosure in writing; and (C) the department has given written approval;

(9) The Auditors of Public Accounts or their representative, provided no information identifying the subjects of the records shall be disclosed unless such information is essential to an audit conducted pursuant to section 2-90;

(10) The Department of Social Services, provided the information disclosed is necessary to promote the health, safety and welfare of the child;

(11) A judge of the Superior Court for purposes of determining the appropriate disposition of a child convicted as delinquent or a child who is a member of a family with service needs;

(12) The superintendents, or their designees, of state-operated facilities within the department; and

(13) The Department of Developmental Services, to allow said department to determine eligibility, facilitate enrollment and plan for the provision of services to a child, who is a client of said department [but] who is not yet participating in said department's voluntary services program or is already enrolled in said department's voluntary services program. Records provided pursuant to this subdivision shall be limited to a written summary of any investigation conducted by the Department of Children and Families pursuant to section 17a-101g. At the time that a parent or guardian completes an application for enrollment of a child in the Department of Developmental Services voluntary services program, or at the time that the child's annual individual plan is updated, said department shall notify such parent or guardian that records specified in this subdivision may be provided by the Department of Children and Families to the Department of Developmental Services without the consent of such parent or guardian.

Summary of Proposal

This proposal would allow DCF to share specific information with DDS related to DCF investigations, without the consent of the subject, for the purposes of eligibility, enrollment and service planning for clients in the DDS Voluntary Services Program (VSP) Program. DDS has full responsibility for voluntary services for children who have mental retardation and are otherwise eligible for VSP. Access to DCF's investigations summary is vital to ensure the development of a plan that addresses both the child's needs and the family's with the goal of keeping children at home with the appropriate behavioral and in-home family supports. Information regarding previous DCF services or investigations is important to DDS in order to develop appropriate supports that will address any important family dynamics that might otherwise preclude the child being able to stay home.

DDS Legislative Proposal 3

An Act Concerning the Membership of Regional Advisory and Planning Councils of the Department on Developmental Services

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

Section 1. Section 17a-273 (Formerly Sec. 19a-468). of the general statutes is repealed and the following is substituted in lieu thereof:

Advisory and planning councils for state developmental services regions. (a) The Commissioner of Developmental Services shall appoint at least one advisory and planning council for each state developmental services region operated by the Department of Developmental Services, which council shall have the responsibility of consulting with and advising the director of the region on the needs of persons with mental retardation in the region, the annual plan and budget of the region and other matters deemed appropriate by the council.

(b) Each such council shall consist of at least ten members appointed from the state developmental services region. No employee of any state agency [or institution] engaged in the care or training of persons with mental retardation shall be eligible for appointment. At least one member shall be designated by a local chapter of the Arc of Connecticut, Incorporated [the incorporated local association for mentally retarded citizens] in the region. [In cases where a state developmental services region serves an area with more than one such association, at least two members of the council shall be designated by such associations. At least one member of each council shall be an attorney practicing law in the state of Connecticut who is familiar with issues in the field of mental retardation.] At least one member shall be an individual who is eligible for, and receives services from, the Department of Developmental Services. At least two members shall be parents of persons with mental retardation. Members shall be appointed for terms of three years. No member may serve more than two consecutive terms. Each council shall appoint annually, from among its members, a chairperson, vice-chairperson and secretary. The council may make rules for the conduct of its affairs. The director of the region shall be an ex-officio member of the council without vote and shall attend its meetings.

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

Summary of Proposal

This proposal makes technical changes to the statutory language to update current terminology and clarify membership requirements. The regions have had difficulty recruiting attorneys with a background in the field of intellectual disabilities and are not sure what purpose it was meant to serve. The regions believe that families and consumers are the most important members on the committees and therefore the proposal adds a consumer of DDS as a member. Regional Advisory Committees are well established in each of DDS's three regions and provide important opportunities for family involvement in regional DDS activities.

DDS Legislative Proposal 4

AN ACT CONCERNING THE SEXUAL ASSAULT OF PERSONS PLACED OR TREATED UNDER THE DIRECTION OF THE COMMISSIONER OF DEVELOPMENTAL SERVICES.

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

Section 1. Section 53a-71 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or (2) such other person is mentally defective to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or (11) such other person is placed or treated under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

Sec. 2. Section 53a-73a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person intentionally subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen

years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) mentally defective or mentally incapacitated to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or (9) such person subjects another person to sexual contact who is placed or treated under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is under sixteen years of age, a class D felony.

Summary of Proposal

This proposal would make a person guilty of sexual assault in the second degree when that person has supervisory or disciplinary authority over a person who is placed or treated under the direction of the Commissioner of Developmental Services in any public or private facility or program and engages in sexual intercourse with the DDS consumer. Second-degree sexual assault is a class C felony unless the victim is under age 16 in which case it is a class B felony.

This proposal also would make a person guilty of sexual assault in the fourth degree when that person has supervisory or disciplinary authority over a person who is placed or treated under the direction of the Commissioner of Developmental Services in any public or private facility or program and intentionally subjects the DDS consumer to sexual contact. Fourth-degree sexual assault is a class A misdemeanor unless the victim is under age 16 in which case it is a class D felony.