



## Agency Legislative Proposal - 2013 Session

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

**10-1-12 DDS DDS Councils with revisions 12-7-12**

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

State Agency:

**Department of Developmental Services (DDS)**

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**Lead agency division requesting this proposal:** Commissioner's Office, Birth to Three

**Agency Analyst/Drafter of Proposal:** Rod O'Connor, Linda Goodman

### Title of Proposal

An Act Concerning Revisions to Various Councils by the Department of Developmental Services

**Statutory Reference:** Sections 17a-215c, 17a-217a, 17a-248, and 17a-248b CGS

### Proposal Summary

This legislative proposal revises an appointment to the Camp Harkness Advisory Committee, sets term limits and revises appointments for the Birth to Three Interagency Coordinating Council and creates a new Autism Spectrum Disorder Advisory Council as a successor to the independent council created by Public Act 06-188 and the Autism Feasibility Study Workgroup created by Public Act 11-6.

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

## PROPOSAL BACKGROUND

- **Reason for Proposal**

*Please consider the following, if applicable:*

(1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*

*Yes, the federal IDEA, Part C has revised the appointments it requires for the states' federally mandated Interagency Coordinating Council. The state statute for the Autism Pilot Program (17a-215b) where the Independent council for the Autism Pilot Program was established has been repealed.*

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

*No*

(3) *Have certain constituencies called for this action?*

*No*

(4) *What would happen if this was not enacted in law this session? The Birth to Three Interagency*



*Coordinating Council would continue but out of compliance with federal IDEA, Part C. The Camp Harkness Advisory Committee would continue to be short one Family Support Council member. There would continue to be two entities with oversight responsibilities for autism services. One of these entities has no statutory charge or mechanism for appointment.*

- **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:<br>Agency Contact (name, title, phone):<br>Date Contacted:<br><br>Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing |
| <b>Summary of Affected Agency's Comments</b><br><br><br>   |
| Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO  |

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

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



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

Sections 1 and 2 would create an Autism Spectrum Disorder Advisory Council in succession to the Independent Council set up for the Autism Pilot Program. The Independent Council currently has no statutory charge and has no statutory mechanism for appointments. The new Autism Council would also incorporate the mission and responsibilities of the Autism Feasibility Study Workgroup and the workgroup's recommendation for an on-going ASD Implementation Advisory Committee. Section 3 would allow the Family Support Council to be represented on the Camp Harkness Advisory Committee. Sections 4 and 5 would align Connecticut's Interagency Coordinating Council (ICC) with the federal IDEA, Part C requirements for membership to the Council and would impose term limits for certain appointments to the ICC

*An Act Concerning Revisions to Various Councils by the Department of Developmental Services.*

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

**Section 1. Section 17a-215c of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof:**

Sec. **17a-215c.** Division of Autism Spectrum Disorder Services. Services and programs for state residents diagnosed with autism spectrum disorder. (a) There is established a Division of Autism Spectrum Disorder Services within the Department of Developmental Services.

(b) The Department of Developmental Services shall adopt regulations, in accordance with chapter 54, to define the term "autism spectrum disorder", establish eligibility standards and criteria for the receipt of services by any resident of the state diagnosed with autism spectrum disorder, regardless of age, and data collection, maintenance and reporting processes. The commissioner may implement policies and procedures necessary to administer the provisions of this section prior to adoption of such regulations, provided the commissioner shall publish notice of intent to adopt such regulations not later than twenty days after implementation of such policies and procedures. Any such policies and procedures shall be valid until such regulations are adopted.

(c) The Division of Autism Spectrum Disorder Services may, within available appropriations, research, design and implement the delivery of appropriate and necessary services and programs for all residents of the state with autism spectrum disorder. Such services and programs may include the creation of: (1) Autism-specific early intervention services for any child under the age of three diagnosed with autism spectrum disorder; (2) education, recreation, habilitation, vocational and transition services for individuals age three to twenty-one, inclusive, diagnosed with autism spectrum disorder; (3) services for adults over the age of twenty-one diagnosed with autism spectrum disorder; and (4) related autism spectrum disorder services deemed necessary by the Commissioner of Developmental Services.



(d) The Department of Developmental Services shall serve as the lead state agency for the purpose of the federal Combating Autism Act, P.L. 109-416 and for applying for and receiving funds and performing any related responsibilities concerning autism spectrum disorder which are authorized pursuant to any state or federal law.

(e) On or before February 1, 2009, and annually thereafter, the Department of Developmental Services may make recommendations to the Governor and the joint standing committee of the General Assembly having cognizance of matters relating to public health concerning legislation and funding required to provide necessary services to persons diagnosed with autism spectrum disorder.

(f) The Division of Autism Spectrum Disorder Services shall research and locate possible funding streams for the continued development and implementation of services for persons diagnosed with autism spectrum disorder but not with intellectual disability. The division shall take all necessary action, in coordination with the Department of Social Services, to secure Medicaid reimbursement for home and community-based individualized support services for adults diagnosed with autism spectrum disorder but not with intellectual disability. Such action may include applying for a Medicaid waiver pursuant to Section 1915(c) of the Social Security Act, in order to secure the funding for such services.

(g) The Division of Autism Spectrum Disorder Services shall, within available appropriations: (1) Design and implement a training initiative that shall include training to develop a workforce; and (2) develop a curriculum specific to autism spectrum disorder in coordination with the Board of Regents for Higher Education.

(h) The case records of the Division of Autism Spectrum Disorder Services maintained by the division for any purpose authorized pursuant to subsections (b) to (g), inclusive, of this section shall be subject to the same confidentiality requirements, under state and federal law, that govern all client records maintained by the Department of Developmental Services.

(i) The Commissioner of Social Services, in consultation with the Commissioner of Developmental Services, may seek approval of an amendment to the state Medicaid plan or a waiver from federal law, whichever is sufficient and most expeditious, to establish and implement a Medicaid-financed home and community-based program to provide community-based services and, if necessary, housing assistance, to adults diagnosed with autism spectrum disorder but not with intellectual disability.

(j) On or before January 1, 2008, and annually thereafter, the Commissioner of Social Services, in consultation with the Commissioner of Developmental Services, and in accordance with the provisions of section 11-4a, shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to public health, on the status of any amendment to the state Medicaid plan or waiver from federal law as described in subsection (i) of this section and on the establishment and implementation of the program authorized pursuant to subsection (i) of this section.



(k) [The independent council established in connection with the autism spectrum disorder pilot program previously operated by the Department of Developmental Services shall continue to] The Autism Spectrum Disorder Advisory Council shall advise the Commissioner of Developmental Services on all matters relating to autism.

**Section 2. NEW Section:**

(NEW) (*Effective July 1, 2013*) Autism Spectrum Disorder Advisory Council. (a) There is established an Autism Spectrum Disorder Advisory Council which shall be a successor to the independent council created by Public Act 06-188 and the Autism Feasibility Study Workgroup created by Public Act 11-6. The council shall consist of twenty-three voting members including the Commissioners of Children and Families, Developmental Services, Education, Mental Health and Addiction Services, Public Health, Rehabilitation Services, and Social Services; the Secretary of the Office of Policy and Management; and the executive director of the Office of Protection and Advocacy for Persons with Disabilities, or their designees; and individuals with Autism Spectrum Disorder, family members of, persons who advocate for, licensed professionals who work with, organizations which provide services for, and representatives of higher education institutions with expertise in individuals with autism spectrum disorder. Members, other than the Commissioners, the Secretary, and the executive director, or their designees, shall be appointed as follows: Six shall be appointed by the Governor, one of whom shall be a person with autism spectrum disorder, one of whom shall be a parent or guardian of a child with autism spectrum disorder, one of whom shall be an advocate for persons with autism spectrum disorder, one of whom shall be a licensed professional in the field of autism spectrum disorder, one of whom shall provide services for persons with autism spectrum disorder and one of whom shall be a representative of a Connecticut higher education institution with an expertise in the field of autism spectrum disorder; eight shall be appointed by members of the General Assembly, two of whom shall be a parent or a guardian of an adult with autism spectrum disorder, one appointed by the president pro tempore of the Senate, and one appointed by the majority leader of the House; one of whom shall be a parent or a guardian of a child with autism spectrum disorder, appointed by the minority leader of the Senate; one of whom shall be a representative of a Connecticut higher education institution with an expertise in the field of autism spectrum disorder, appointed by the president pro tempore of the Senate; one of whom shall be a person with autism spectrum disorder, appointed by the speaker of the House; one of whom shall be an advocate for persons with autism spectrum disorder, appointed by the speaker of the House; one of whom shall be a licensed professional in the field of autism spectrum disorder, appointed by the majority leader of the Senate; and one of whom shall provide services for persons with autism spectrum disorder, appointed by the minority leader of the House. The council shall have two co-chairpersons, one of whom shall be the Commissioner of Developmental Services, or his designee, and one shall be selected by the gubernatorial and legislative appointees to the Council from among their members. The council may make rules for the conduct of its affairs. The council shall meet at least four times a year and at other times upon the call of the co-chairpersons.



(b) The council shall advise the Commissioner of Developmental Services on policies and programs for persons with autism spectrum disorder. The council shall consult with the Commissioner on the administration of the Division of Autism Spectrum Disorder Services and the implementation of the recommendations of the autism feasibility study. The council may make recommendations to the Commissioner of Developmental Services for policy and program changes to improve the supports and services for persons with autism spectrum disorder.

(c) The Autism Spectrum Disorder Advisory Council shall terminate on June 30, 2018.

**Section 3. Section 17a-217a of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof:**

Sec. 17a-217a. Camp Harkness Advisory Committee. (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 Arc 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] member of 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 a private nonprofit corporation that is: (A) Tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent internal revenue code of the United States, as amended from time to time, 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.

(b) The advisory committee shall promote communication regarding camp services and develop recommendations for the commissioner regarding the use of Camp Harkness.

**Section 4. Section 17a-248 of the 2012 supplement to the general statutes as amended by Public Act 12-1 of the June 12 Special Session is repealed and the following is substituted in lieu thereof:**



Sec. **17a-248**. Birth-to-three program. Definitions. 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,] 34 CFR Part 303.13, 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 (A) a biological, adoptive or foster parent of a child; (B) a guardian, except for the Commissioner of Children and Families; (C) an individual acting in the place of a biological or adoptive parent, including, but not limited to, 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 Bureau of Education and Services for the Blind and the Commission on the Deaf



and Hearing Impaired within the Department of Rehabilitation Services 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),] 34 CFR Part 303.31, 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) "Service coordinator" means a person carrying out service coordination, as defined in [34 CFR Part 303.22,] 34 CFR Part 303.34, as from time to time amended.

(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.

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

**Sec. 17a-248b. State Interagency Birth-to-Three Coordinating Council.** (a) The lead agency shall establish a State Interagency Birth-to-Three Coordinating Council and shall provide staff assistance and other resources to the council. The council shall consist of the following members, appointed by the Governor: (1) Parents, including minority parents, of children with disabilities twelve years of age or younger, with knowledge of, or experience with, programs for children with disabilities from birth to thirty-six months of age, the total number of whom shall equal not less than twenty per cent of the total membership of the council, and at least one of whom shall be a parent of a child six years of age or younger, with a disability; (2) two members of the General Assembly at the time of their appointment, one of whom shall be designated by the speaker of the House of Representatives and one of whom shall be designated by the president pro tempore of the Senate; (3) one person involved in the training of personnel who provide early intervention services; (4) one person who is a member or a representative of the American Academy of Pediatrics; (5) one person from each of the participating agencies, including the State Coordinator of Education for Homeless Children and Youth and the State Coordinator for Early Childhood Special Education, who shall be designated by the commissioner or executive director of the participating agency and who have authority to engage in policy planning and implementation on behalf of the participating agency; (6) public or private providers of early intervention services, the total number of whom shall equal not



less than twenty per cent of the total membership of the council; and (7) a representative of a Head Start program or agency. The Governor shall designate the chairperson of the council who shall not be the designee of the lead agency.

(b) The Governor shall appoint all members of the council for terms of three years. Except for persons appointed from participating agencies, no member of the council may serve more than two consecutive terms, except that a member may continue to serve until a successor is appointed. Any appointed member serving on October 1, 2013, and having served two or more consecutive terms shall not be eligible for reappointment within a three year period upon the completion of such member's current term.

(c) The council shall meet at least quarterly and shall provide public notice of its meetings, which shall be open and accessible to the general public. Special meetings may be called by the chairperson and shall be called at the request of the commissioner.

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

(e) The council shall: (1) Assist the lead agency in the effective performance of the lead agency's responsibilities under section 17a-248, this section and sections 17a-248c to 17a-248g, inclusive, 38a-490a and 38a-516a, including identifying the sources of fiscal support for early intervention services and programs, assignment of financial responsibility to the appropriate agency, promotion of interagency agreements and preparing applications and amendments required pursuant to federal law; (2) advise and assist the commissioner and other participating agencies in the development of standards and procedures pursuant to said sections; (3) advise and assist the commissioner and the Commissioner of Education regarding the transition of children with disabilities to services provided under sections 10-76a to 10-76h, inclusive; (4) advise and assist the commissioner in identifying barriers that impede timely and effective service delivery, including advice and assistance with regard to interagency disputes; and (5) prepare and submit an annual report in accordance with section 11-4a to the Governor and the General Assembly on the status of the birth-to-three system. At least thirty days prior to the commissioner's final approval of rules and regulations pursuant to section 17a-248, this section, sections 17a-248c to 17a-248g, inclusive, 38a-490a and 38a-516a, other than emergency rules and regulations, the commissioner shall submit proposed rules and regulations to the council for its review. The council shall review all proposed rules and regulations and report its recommendations thereon to the commissioner within thirty days. The commissioner shall not act in a manner inconsistent with the recommendations of the council without first providing the reasons for such action. The council, upon a majority vote of its members, may require that an alternative approach to the proposed rules and regulations be published with a notice of the



proposed rules and regulations pursuant to chapter 54. When an alternative approach is published pursuant to this section, the commissioner shall state the reasons for not selecting such alternative approach.