Summary of
2005 Public and Special Acts

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EXPLANATION OF ABBREVIATIONS

Three principal abbreviations are used in this publication. "P.A." stands for "Public Act." "Sp.A." stands for "Special Act." A public act is one of general applicability and is eventually codified in the Connecticut General Statutes. A special act is one of limited applicability (such as one authorizing a study commission) and is not codified. "JSS" stands for "June Special Session." This special session was convened after the regular 2005 legislative session ended.

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C I V I L R I G H T S

P.A. 05-201 SUPERVISION OF CHRO ATTORNEYS (eff. July 6, 2005).

Sections 1 and 2 of this act require that one member of CHRO's legal staff be designated as supervising attorney and makes that person, rather than CHRO's executive director, the direct supervisor of the rest of the legal staff and the person in charge of assigning counsel to represent the Commission.

See also: Civil unions (P.A. 05-10), p. 18.
State lien on discrimination awards (P.A. 05-280), p. 50.
Processing of complaints by the Commission on Human Rights and Opportunities (P.A. 05-201), p. 50.

C O N S U M E R

LENDING AND OTHER BANKING PRACTICES

P.A. 05-107 INCOME TAX REFUND ANTICIPATION LOANS (eff. October 1, 2005).

This act caps the interest rate on income tax refund anticipation loans (also known as RALs) at 60% per year for the first 21 days and 20% per year thereafter. Such loans are often offered by income tax preparation services, such as H&R Block, in anticipation of the borrower's receiving an income tax refund, and they are repaid out of the proceeds of the refund. Since income tax refunds are commonly received within two weeks of the electronic filing of a return, RALs are very short-term loans. The act also prohibits RALs from being made at any location other than one at which the principal business is tax preparation, thereby preventing car dealerships or other businesses from offering RALs in connection with the sale of a product.

P.A. 05-23 MISLEADING ADVERTISING AND BANK IMPERSONATION (eff. October 1, 2005).

This act specifically prohibits the use of the names or trademarks of Connecticut financial institutions in commercial advertising or solicitation in a way that might mislead consumers to believe that the advertiser or solicitor is affiliated with or is endorsed by the financial institution. It explicitly includes direct mail and Internet communications. The Banking Commissioner is authorized to enforce the act both administratively by cease and desist order and civil penalty of up to $10,000 and judicially by a request for injunctive relief. The act also gives an affected bank or credit union its own judicial cause

of action, including statutory damages of $10,000 per violation, plus attorney's fees.

P.A. 05-192 CHECK CASHING SERVICES (eff. October 1, 2005).

This act increases from $2,500 to $6,000 the maximum personal check which can be cashed by a check cashing service. It requires such services to report quarterly to the Banking Commissioner on the number of checks cashed in this new $2,500 to $6,000 range. The act also eliminates the cap on the dollar amount of a check which can be cashed if the payee is not an individual. In addition, the act allows services to charge a minimum check cashing fee of $1. Under existing Department of Banking regulations, a service can charge up to 2% of the amount of the check. The $1 minimum therefore affects only the cashing of checks for less than $50.

P.A. 05-46 BANKING COMMISSIONER AUTHORITY OVER CONSUMER CREDIT, CHECK CASHING, AND MONEY TRANSMISSION (eff. October 1, 2005).

This act expands the Banking Commissioner's enforcement powers in regard to several areas within his jurisdiction. In particular:

(a) It extends to "registrants" the existing prohibitions against fraud, deceptive statements, and similar conduct by "licensees." For example, first and second mortgage lenders and brokers are licensed while their employees are registered as loan originators.

(b) It expands the types of conduct for which the Banking Commissioner can seek civil penalties and cease-and-desist orders against first and second mortgage lenders and debt adjusters to explicitly include fraud, misappropriation of funds, misrepresentation, and non-disclosure.

(c) It allows the Commissioner to act against the owners, directors, officers, or employees of a check cashing service, a debt adjuster, or a consumer collection agency, and not just against the company itself, for their fraud, dishonest activities, or misrepresentation.

P.A. 05-46 BANKING DEPARTMENT PROTECTION OF HOME OWNERS (eff. October 1, 2005).

Several sections of this act modify statutory provisions which affect the ability of the Banking Commissioner to protect home owners:

- Discrimination: Section 13 of the act extends the anti-discrimination provisions of C.G.S. 36a-737 of the state Home Mortgage Disclosure Act

to federal credit unions. Other financial institutions are already covered. Those provisions prohibit lenders from discriminating against the owner-occupants of one- to four-family houses solely because they are located in a low or moderate income neighborhood.

- Unemployed and Underemployed Homeowners Protection Act (UUHPA): Section 18 requires the Banking Commissioner to adopt regulations establishing a form that lenders may use to notify homeowners of the availability of the protections of the UUHPA (C.G.S. 49-31d to 49-31i).

- Interest on escrow deposits: Existing law requires the Commissioner to "furnish forms" to mortgagees to report to mortgagors the interest due on their escrow deposits. Section 17 of this act requires instead that the Commissioner "specify the form" which mortgagees may use.

DEBT COLLECTION

P.A. 05-148 CREDIT BUREAU SECURITY FREEZES (eff. January 1, 2006).

This act allows a consumer to place a freeze on his or her credit report so that it cannot be released by the credit bureau without the consumer's express consent. The purpose of such freezes is to provide protection against identity theft and related unauthorized extensions of credit. The credit freeze can be released for specific creditors or specific periods of time or can be terminated by the consumer upon proper authorization, including the use of a PIN number or password. The act allows a third party to treat an applicant's credit report as incomplete if it cannot obtain credit information because of the consumer's failure to release a freeze. It similarly allows an insurance company to deny an application for insurance if an applicant fails to lift a freeze. The act permits credit bureaus to charge a fee of up to $10 to place a security freeze or to remove a freeze temporarily or permanently and a fee of up to $12 to lift a freeze temporarily for a specific third party.

The act also requires a business that has suffered a security breach involving personal information to disclose it to affected consumers without unreasonable delay. Failure to do so is made an unfair trade practice.

See also: Minimum wage increase (P.A. 05-32), p. 16.
Service of process by marshals (P.A. 05-135), p. 61.

MOTOR VEHICLE PRACTICES

P.A. 05-218 TOWING OF MOTOR VEHICLES FROM PRIVATE PROPERTY (eff.

October 1, 2005).

Under existing law, a person whose motor vehicle is towed from private property can get it back by either paying the cost of towing and storage or signing a declaratory statement that the vehicle was removed illegally. Existing law also prohibits the towing company from conditioning release of a vehicle on the owner's signing a waiver of liability "for damages." Section 27 of this act eliminates the option of signing a declaratory statement, thereby requiring the owner of the motor vehicle to pay in order to reclaim the vehicle. However, it also prohibits the towing company from requiring the owner to waive the company's potential liability for a vehicle towed without justification.

P.A. 05-218 RENTAL OF MOTOR VEHICLES (eff. July 1, 2005).

Under existing law, motor vehicle rental companies cannot refuse to rent to a person solely because he or she does not have a credit card but may require a reasonable cash deposit and suitable identification. Section 36 of this act allows such companies to require customers seeking to rent without a credit card to apply for approval up to three business days in advance.

OTHER CONSUMER PROTECTION

P.A. 05-273 DORMANCY CHARGES ON GIFT CERTIFICATES (eff. July 13, 2005).

This act prohibits retailers and others who issue gift certificates from imposing dormancy, inactivity, or similar charges on gift certificates.

P.A. 05-241 CELL PHONE COMPANY REGULATION (eff. October 1, 2005).

This act makes cell phone companies subject to DPUC jurisdiction. It also authorizes the DPUC to receive customer inquiries and complaints about cell phone companies, but only if the consumer has first presented the complaint to the company. By January 1, 2006, the DPUC is to provide a toll-free number and Internet web site through which such inquiries and complaints can be submitted. Between January 1, 2006, and January 1, 2008, cell phone companies must disclose to all new customers the DPUC's toll-free complaint number, web site address, and actual address. On March 1, 2007 and March 1, 2008, the DPUC is to prepare a report on the types of inquiries and complaints received, including activations, disputed bills, collections, deactivations, equipment problems, and network trouble, and may make recommendations on how these problems should be addressed. The report must be made available to the general public, including on the DPUC Internet web site.

In addition, the act prohibits cell phone companies (eff. July 11, 2005) from disclosing the telephone number, name, or address of a customer for use in a directory assistance database or for listing in a phone number directory without the customer's consent. That consent can be obtained orally, in writing, or electronically; and no company can charge a fee for not consenting. If a customer revokes consent, the company must un-list the customer within 60 days of receiving the revocation of consent. Violation of these provisions is made an unfair trade practice. The act also prohibits any person from distributing a cell phone directory which contains the name or cell phone number of a person who has not consented to the release of such information.

P.A. 05-229 PREPAID HOME HEATING OIL CONTRACTS (eff. July 8, 2005).

Sections 2 through 4 of this act prohibit a home heating oil dealer from entering into a prepaid home heating oil contract unless the dealer has either (a) obtained and maintained heating oil futures contracts that allow it to purchase, at a fixed price, at least 75% of the oil it is committed to delivering under prepaid consumer contracts or (b) obtained and maintained a surety bond equal to at least 50% of the amount paid by consumers under prepaid contracts. As the oil is delivered to consumers, the dealer may reduce the amount of the futures contracts or surety bond proportionally to the amount of oil deliveries remaining. The act also prohibits prepaid home heating oil contracts from containing a consumer purchase commitment of more than 18 months. In addition, the act requires home heating oil contracts to state (a) the amount of funds paid to the dealer, (b) the maximum number of gallons committed to the consumer, (c) that performance is secured by futures contracts or a surety bond, and (d) that the contract price of any undelivered oil prepaid but not used by the consumer will be reimbursed to the consumer within 30 days of the end of the contract.

The act makes non-compliance with the act both an unfair trade practice and a ground for suspension or revocation of a home heating dealer's state registration and makes knowing violation of the futures and surety portion of the act into a Class A misdemeanor.

P.A. 05-158 HEALTH CLUB CONTRACTS (eff. July 1, 2005).

This act makes a number of minor changes to the Health Club Act. The most important is that it permits automatic renewal clauses, as long as the renewal period does not exceed one month. Such renewals are effective only upon payment of the renewal price, and each contract must permit the buyer to cancel on no more than one month's notice. Renewal must be at the same price as the original price, unless the contract discloses the amount or the formula for determining the price change or the buyer is given at least 30 days' written notice of the change in price. Renewal options may be accepted by the

buyer by fax or electronically.

In addition, the act (a) allows a health club to have consumers direct cancellation notices to their agent, rather than to the health club itself; (b) makes clear that the prohibition on collecting more than 50% of the contract payment in advance applies both to cash and to equivalent non-cash advances; (c) allows a new health club which sells membership contracts before it opens to disclose a generic list of equipment it will have, rather than a list of every individual piece of equipment as is presently required; and (d) allows the Commissioner of Consumer Protection to impose a civil penalty of up to $300 on health clubs which fail to renew their licenses on time.

P.A. 05-162 LATE FEES ON INSURANCE POLICIES (eff. January 1, 2006).

Section 1 of this act requires insurers that assess a fee for late payment of premiums to disclose the amount and applicability of the fee in a conspicuous manner on bills sent to customers. The act applies to automobile, homeowners, renters, and other similar "personal risk insurance" policies.

P.A. 05-138 RETURN POLICY OF RETAIL STORES (eff. January 1, 2006).

This act requires any store that uses an electronic system to monitor and limit the number or total dollar value of returns made by a customer to clearly indicate in the refund and exchange policy it is required to post on the premises the fact that such a monitoring system is being used. It also requires the store, before terminating an individual consumer's right to return purchased goods, to notify the consumer in writing that the right to return goods is being terminated. The store may then refuse to accept returns from that consumer, but only in regard to goods purchased after the date of the notice.

P.A. 05-109 ARTICLE 1 OF THE UNIFORM COMMERCIAL CODE (eff. October 1, 2005).

This act adopts Revised Article 1 of the Uniform Commercial Code, which contains the UCC's general provisions applicable to all Code articles. The principal divergence from the uniform version of the act is in Section 13, which retains from Connecticut's existing Article 1 the rule that a contract may be governed only by the law of Connecticut or, if the transaction also bears a reasonable relation to another jurisdiction and the parties agree, by the law of that jurisdiction. The "choice of law" provision of the uniform Revised Article 1 would have allowed the parties to have the contract be governed by the law of any jurisdiction, without regard to its connection to the transaction.

See also: Protection of seniors in annuity transactions (P.A. 05-57), p. 15.
Funeral service contracts (P.A. 05-248), p. 15.

D I S A B I L I T Y

MENTAL RETARDATION

P.A. 05-256 REVISIONS TO THE DMR STATUTES.

Under existing law, DMR has a hearing process by which a person with mental retardation or the person's representative can challenge a transfer from one DMR facility to another or a denial of services. Under the settlement in ARC/Connecticut v. O'Meara, DMR is required to classify applicants for services in one of four priority levels, based on the immediacy of the need for services, and to give priority to those with the most immediate needs. Effective October 1, 2005, Section 9 of this act establishes a hearing process under the Uniform Administrative Procedure Act for contesting the priority assignment made by DMR for persons seeking residential placement, services, or support.

The act also makes a number of other unrelated changes concerning DMR programs, services, and employees, which are effective on June 30 or July 1, 2005:

- DMR/P&A interagency agreement: The act requires DMR and the Office of Protection and Advocacy, by October 1, 2005, to develop and implement an interagency agreement on how they will investigate allegations of abuse or neglect involving persons served by the two agencies and how they will provide such persons with protective services. The agreement, which is to be submitted to the General Assembly by January 1, 2006, must include a statement of common goals and principles, communications guidelines, guidelines identifying the investigative responsibilities of each agency, documentation and reporting procedures, privacy safeguards, dispute resolution procedures, and standards for reviewing and evaluating third-party investigations.

- Local Birth-to-Three coordinating councils: The act revises the membership and duties of the local interagency coordinating councils that advise DMR Birth-to-Three program managers. In particular, it eliminates categorical membership on the councils (e.g., parents of eligible children, child care provider, medical representative), substituting a

general rule that the councils are to be comprised of five or more persons "interested in the welfare of children ages birth to three years with disabilities or developmental delays." It similarly eliminates the statutory itemization of the subject areas on which the councils advise, stating instead that they can advise on "any matter relating to early intervention policies and procedures," including the transition from early intervention services and programs to special education and other early childhood programs.

- Statewide Birth-to-Three Coordinating Council: The act revises the membership of the statewide Birth-to-Three Coordinating Council to provide that at least 20% of the Council be parents of children receiving early intervention services and that at least 20% be providers of such services. Existing law requires six parents and five providers.

- Group home rate-setting: The act requires the Commissioner of Mental Retardation, when setting rates for services in community living arrangements (such as group homes), to consider the actual, inflation-adjusted wage and benefit costs for services and service providers for each facility and prohibits him from establishing a single fixed rate for wages and benefits that is applicable to all facilities.

P.A. 05-280 BIRTH-TO-THREE STUDY (eff. July 13, 2005).

Section 35 of this act requires DMR, within available appropriation, to contract for a unit cost study of the Birth-to-Three Early Intervention Program to examine operational costs both for contracted services and for services provided by state employees. The study must provide for input from representatives of current private providers. The Commissioner is to complete the study and report to the General Assembly by February 1, 2006.

P.A. 05-280 APPLICATIONS TO FEDERAL PROGRAMS (eff. July 1, 2005).

Section 31 of this act requires that any person who is seeking a DMR community residential placement or receiving any support or service from DMR that is eligible for any federal program administered by DMR and DSS shall enroll in the federal program in order to continue in or remain eligible for the related DMR placement or services. DMR will continue to cover those not eligible for federal programs, but, if eligibility can be obtained after a spenddown period, the application requirement will be activated once the spenddown has occurred. The Commissioner can make exceptions to these requirements for persons whom it is legally required to serve by state or federal law or court order.

P.A. 05-70 MORATORIUM ON TRANSFER OF STATE PROPERTY USED TO

HOUSE PERSONS WITH MENTAL RETARDATION (eff. June 2, 2005).

This act imposes a two-year moratorium -- from July 1, 2005, to June 30, 2007 -- on the sale, lease, or transfer of any state-owned real estate that is being used for residential purposes by persons with mental retardation but does not apply to agreements that were already entered into before the effective date of the act.

See also: Changes to medical assistance programs/Medicaid for Employed disabled (MED) program (P.A. 05-280), p. 32.
Nursing home provider tax and service provider rate increases (P.A. 05-251), p. 40.
Administration of medication to persons receiving individual and family support services from certain agencies (P.A. 05-150), p. 46.

MENTAL HEALTH

P.A. 05-280 CHANGES TO MENTAL HEALTH LEGISLATION (eff. July 1, 2005).

- Single-resource web site: Section 83 of this act requires DMHAS, by July 1, 2006, to develop and maintain a single-resource web site to provide timely access to mental health care information and assistance for children, adolescents, and adults. The web site is at least to include directory information on available federal, state, regional, and community assistance programs; current mental health diagnoses and treatment options; links to national and state advocacy organizations, including legal assistance; summary information on federal and state mental health law, including private insurance coverage; and an optional secure personal folder for web site users to manage information concerning the individual mental health care and assistance.

- Services for young adults (Sec. 86): The act requires DMHAS to expand young adult services, on or before January 1, 2006, to cover additional catchment areas and to identify additional services not being provided to young adults with psychiatric disabilities. DMHAS is to report to the General Assembly by January 1, 2007, on the need for such expanded services.

- Services for children (Sec. 87): The act requires DCF, in consultation with DMHAS and the Community Mental Health Strategy Board, to maintain the availability of flexible emergency funding for children with psychiatric disabilities who are not under DCF supervision. The DCF budget includes $1 million in 2005-2006 and $1.5 million in 2006-2007 for this purpose.

- Supported housing for adults (Sec. 88): The act requires DMHAS to

provide additional supported or supervised housing for adults with severe and persistent psychiatric disabilities.

- Communication among health care providers (Sec. 89): The act requires the Managed Care Ombudsman, in consultation with the Community Mental Health Strategy Board, to establish a process to provide on-going communication among health care providers, patients, business organizations, managed care companies, and other health care insurers. The purpose is to assure best practices in mental health treatment and recovery, compliance with applicable insurance laws, and the most cost-effective ways to provide mental health care coverage to employees and their families. The Managed Care Ombudsman is to report to the General Assembly by January 1, 2006, on the implementation of this law.

- Psychiatric hospital bed capacity for children (Sec. 91): The act requires the Office of Health Care Access (OHCA) to establish a committee to examine whether licensed hospital psychiatric inpatient bed capacity for children is sufficient and what steps are necessary to expand capacity, with a particular emphasis on Mental Health Region #5 (northwest Connecticut). OHCA is required to report to the General Assembly by January 1, 2006.

See also: Settlement of Emily J. case (P.A. 05-280), p. 23.
Sharing of information by DCF and DMHAS (P.A. 05-92), p. 27.
Juvenile court records (P.A. 05-152), p. 27.
Changes to medical assistance programs (P.A. 05-280), p. 28.
- SAGA recipient pilot program, p. 31.
- Assertive Community Treatment, p. 32
- Medicaid waiver for adults with severe psychiatric disabilities, p. 32.
- Enhanced care clinics for adults, p. 33.

Nursing home provider tax (P.A. 05-251), p. 40.
Administration of medication to persons receiving individual and family support services from certain agencies (P.A. 05-150), p. 46.
State Elderly/Disabled Housing (P.A. 05-239), p. 48.
Resident Service Coordinators (P.A. 05-206), p. 49.
Next Steps supportive housing initiative (P.A. 05-280), p. 51.
Discrimination against DMHAS group homes and service provider rate increases (P.A. 05-280), p. 58.

OTHER DISABILITY

P.A. 05-6 CONTINUATION OF HEALTH INSURANCE FOR PERSONS FORMERLY EMPLOYED IN BLIND WORKSHOPS (eff. April 6, 2005).

In January, 2003, the Board of Education and Services for the Blind (BESB) closed its Industries Division, which provided jobs and job training for 92 blind people. The BESB contracted instead with private providers (e.g., Goodwill Industries) to provide employment. BESB has continued to provide health insurance for those employees. This act codifies the practice by requiring BESB to provide health insurance for the persons who were employed in its workshops as of December 31, 2002.

P.A. 05-9 ACQUIRED OR TRAUMATIC BRAIN INJURY GROUP HOME PILOT PROGRAM (eff. October 1, 2005).

DMHAS operates a pilot community-based group home program for persons with acquired brain injury. The pilot, which was scheduled to end on October 1, 2005, supports three group homes. This act makes the pilot program permanent.

See also: Changes to medical assistance programs/AIDS-HIV (P.A. 05-280), p. 31.

EDUCATION

JSS P.A. 05-2 NO CHILD LEFT BEHIND ACT (eff. July 1, 2005).

This act authorizes the Attorney General to bring a court action on behalf of the State of Connecticut against the federal government "to enforce the provisions of the No Child Left Behind Act" (NCLB). The suit, which was filed on August 22, focuses on three areas in which the state sought, but was denied, federal waivers: (a) to continue to test students biennially (NCLB requires annual testing); (b) to phase in the testing of bilingual students over three years (NCLB allows only one year); and (c) to test special education students at their instructional level (NCLB requires testing at grade level). The state's primary claim is that these NCLB provisions, if enforced without federal funding, impose costs on state and local government in conflict with 20 USC 7907(a), which provides that "Nothing in this chapter [the NCLB Act] shall be construed to...mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter."

P.A. 05-141 AUTHORIZATION OF SPECIAL EDUCATION-RELATED MEDICAID EXPENSES (eff. June 24, 2005).

Under the state's School-Based Child Health program, the state uses federal Medicaid funds to partially offset costs it incurs for providing health services to special education students. DSS will not make payments, however, unless a substantiation form is signed by a physician. Section 3 of this act allows any "practitioner of the healing arts" to sign the form if the services

(including diagnostic and evaluation services) are (a) recommended by the student's planning and placement team, (b) specified in the student's individualized education program (IEP), and (c) eligible for reimbursement under Medicaid. The practitioner of the healing arts must be appropriately licensed or certified and the recommendations must be within the practitioner's scope of practice. Such practitioners include chiropractors, podiatrists, naturopaths, and optometrists.

P.A. 05-245 SCHOOL READINESS PROGRAMS (eff. July 1, 2005).

Sections 1 through 12 of this act make a number of changes in the school readiness program. Among them are (a) the creation of an Early Childhood Education Cabinet, comprised of representatives of seven state agencies, four legislators, a representative of a regional school readiness council, and a representative of the Connecticut Head Start Association, to advise on and study the effectiveness of school readiness programs; (b) a requirement that the State Department of Education develop a statewide assessment of kindergarten readiness; and (c) an increase in the minimum qualifications for school readiness staff.

P.A. 05-257 LOAN BY SCHOOL BOARDS OF ASSISTIVE DEVICES (eff. July 1, 2005).

Section 1 of this act makes clear that local and regional boards of education that lend assistive devices to public school students must do so without charge, subject to rules and regulations for the care and use of the devices. The same requirements for free loans already apply to books, supplies, material, and equipment for school instructional needs. An "assistive device" is a customized, modified, or off-the-shelf piece of equipment that persons with disabilities can use to increase, maintain, or improve their functional capabilities.

P.A. 05-244 COMMUNITY COLLEGE SCHOLARSHIPS (eff. July 11, 2005).

Section 3 of this act authorizes the Board of Trustees for Community-Technical Colleges to establish up to three pilot programs to provide for household and family expenses of students with dependents who are eligible for a federal Pell grant.

See also: Demonstration truancy prevention initiative (JSS P.A. 05-3), p. 27.

E L D E R L Y

GOVERNMENT STRUCTURE

P.A. 05-280 REESTABLISHMENT OF THE DEPARTMENT ON AGING (eff. January 1, 2007).

Sections 53 and 54 of this act reestablish the Department on Aging, effective January 1, 2007. The state budget includes $450,000 to operate the Department in 2007. When the act takes effect, the functions and personnel of the Division of Elderly Services within the Department of Social Services will be transferred to the new Department on Aging, and all applicable DSS regulations will continue in force until changed by the new department. The act also creates a transitional task force to make recommendations as to what statutory changes are necessary to reestablish the department. The task force, which will be staffed by the staff of the General Assembly's Select Committee on Aging, will consist of representatives of six state agencies, the leadership of the Committee on Aging, and seven persons (who may be legislators) appointed by legislative leaders. The chairpersons of the task force are to be chosen jointly by the Governor, the Speaker of the House, and the President pro Tempore of the Senate. The task force report is due on February 15, 2006.

P.A. 05-77 COMMISSION ON AGING (eff. July 1, 2005).

This act moves the Commission on Aging, for administrative purposes, from DSS to the Legislative Branch; expands the Commission from 11 to 17 members by giving one additional appointment each to the President Pro Tempore and the majority leader of the Senate, the Speaker and the majority leader of the House, and the minority leaders of the Senate and the House; adds the co-chairs and ranking members of the legislature's Committee on Aging as ex officio members; and allows the Commission to elect its own chairperson. It also substitutes a requirement that the Commission meet regularly with "representatives of state agencies" for the existing requirement that it meet monthly with the Commissioner of Social Services and the head of DSS's Division of Elderly Services.

CONSERVATORS

P.A. 05-154 STANDARDS FOR TEMPORARY CONSERVATORS (eff. June 24, 2005).

This act restricts the powers of temporary conservators, limits the power of the probate court to appoint them, and requires additional court oversight of their activities. Under existing law, temporary conservators of incapable

persons are to be appointed only to prevent "irreparable injury" to the mental or physical health, finances, or legal affairs of a respondent. This act:

- Makes clear that the potential injury must be "immediate" and not merely irreparable;
- Requires the probate court to limit the powers of a temporary conservator to the circumstances that gave rise to the application, requires it to make specific findings justifying the limitation, and explicitly authorizes the court to terminate the conservatorship when those circumstances no longer exist;
- Requires the court to consider the present and previously expressed wishes of the respondent, the abilities of the respondent, any prior appointment of a health care agent or fiduciary for the respondent, and support services otherwise available to the respondent;
- Allows a court to appoint a temporary conservator ex parte and without notice only upon a determination, supported by specific findings, that the delay resulting from giving notice and appointing an attorney for the respondent would cause immediate and irreparable injury to the respondent;
- Requires that a hearing be held on an ex parte order within 72 hours, excluding Saturdays, Sundays, and holidays, thereby eliminating the present discretion of the court not to schedule a hearing unless one is requested; and
- Requires the court after the hearing to either confirm or revoke the appointment or modify the conservator's powers.

P.A. 05-154 and P.A. 05-155

NURSING HOME PLACEMENT OF WARDS BY CONSERVATORS.

These two acts deal with the placement of wards in nursing homes or other institutionalized settings by conservators. P.A. 05-154 (eff. June 24, 2005) involves placements by temporary conservators, whom it explicitly prohibits from institutionalizing or otherwise changing a ward's residence unless the court, after hearing, determines such a change is necessary. P.A. 05-155 (eff. October 1, 2005) concerns placements by permanent conservators.

These acts require that, before a conservator can place a ward in a nursing home, the conservator must file a report with the probate court explaining why the placement cannot be in a less restrictive environment. In particular, the report must state the basis for the change of residence, what community resources (including those provided by area agencies on aging, DSS, P&A, DMHAS, DMR, independent living centers, residential care homes, and congregate and subsidized housing) have been considered so as to avoid nursing home placement, and the reasons why the respondent's needs cannot be met in a less restrictive and more integrated setting. If the need for

placement results from a hospital discharge or if irreparable injury to the ward's health, financial affairs, or legal affairs would occur without immediate placement, the conservator may place the ward first and file the report (including a description of the emergency that prevented the filing of the report before placement) within five days. The conservator must give notice of the placement and a copy of the report to the ward and to any other interested party designated by the court. The probate court may hold a hearing on its own motion and must hold a hearing within 30 days if requested by the respondent or an interested party. If the court determines that the respondent's needs can be met in a less restrictive and more integrated setting within the resources available to the respondent (including private or public assistance), then the court must order placement in such a setting.

P.A. 05-26 TRANSFER OF PROBATE COURT RECORDS (eff. October 1, 2005).

Under existing law, if a person under conservatorship moves to a different probate court district, the conservator, spouse, or relative of that person can move to transfer the conservatorship file to that probate court district. This act allows the motion also to be made by the person under conservatorship.

CONSUMER PROTECTION

P.A. 05-57 PROTECTION OF SENIORS IN ANNUITY TRANSACTIONS (eff. June 2, 2005).

This act requires the Insurance Commissioner to adopt regulations to establish (a) standards for the sale or exchange of annuities to persons at least 65 years old and (b) procedures for making recommendations to such seniors regarding the sale or exchange of annuities.

P.A. 05-248 FUNERAL SERVICE CONTRACTS (eff. October 1, 2005).

Sections 3 through 6 of this act impose criminal penalties on persons who violate the laws concerning funeral service contracts. In particular, the act makes it a Class A misdemeanor for a person other than an embalmer or funeral service director to promote or sell funeral service contracts and makes it a Class D felony to sell such contracts with the intent to defraud or to deprive the beneficiary, the estate, or the heirs of the benefits of the contract.

OTHER

P.A. 05-280 ITN AMERICA REGIONAL TRANSPORTATION SYSTEMS FOR THE ELDERLY (eff. July 13, 2005).

Section 55 of this act allows DSS to make up to four $25,000 grants in 2005-2006 to non-profit organizations or municipalities with a population of at least 25,000 to develop and plan financially self-sustaining community-based regional transportation networks to provide transportation services for seniors. Plans are to be based on the ITNAmerica model, and grantees must work cooperatively with regional planning agencies to develop the plans. For a municipality to be eligible for a state grant under this program, it must match state funds with an equal amount raised from private sources. " ITN" stands for "Independent Transportation Network," and its model involves door-to-door transportation for seniors in private vehicles, using a mixture of volunteer and paid drivers, through a membership organization into which seniors prepay into transportation accounts, against which the costs of their rides are credited. The model was developed in Portland, Maine.

P.A. 05-197 CUSTODY OF REMAINS OF DECEASED PERSONS (eff. October 1, 2005).

This act modifies existing statutory requirements determining the custody of the remains of deceased persons. In particular, the act creates a statutory form by which an individual can designate a particular person to take custody of his or her remains after death and the intended form of disposition (e.g., burial or cremation). If the person designated is not the next of kin, the act allows the funeral director to proceed in accordance with the designation, without notifying the next of kin, and prohibits any challenge to the funeral director's carrying out of such a designation, as long as his or her decision and conduct in reliance on the document were reasonable and warranted under the circumstances.

See also: Changes to medical assistance programs/Medicaid transfers of assets (P.A. 05-280, p. 31.
NURSING HOMES AND NURSING HOME CARE, pp. 39-41.

E M P L O Y M E N T

MINIMUM WAGE

P.A. 05-32 MINIMUM WAGE INCREASE (eff. October 1, 2005).

This act increases the state minimum wage from $7.10 per hour to $7.40 per hour on January 1, 2006, and to $7.65 per hour on January 1, 2007. Under C.G.S. 52-361(f), this change will also result in an increase in the amount of weekly wages exempt from execution from the current $284 to $296 on January 1, 2006, and to $306 on January 1, 2007.

UNEMPLOYMENT COMPENSATION

P.A. 05-34 EXTENSION OF ALTERNATIVE UNEMPLOYMENT COMPENSATION BASE PERIOD (eff. October 1, 2005).

Effective January 1, 2003, the General Assembly established a three-year pilot under which persons ineligible for unemployment compensation because of insufficient earnings during the standard base period could use an alternative base period for purposes of qualifying. The pilot ends on December 31, 2005. The alternative base period is the four most recently completed quarters prior to the quarter in which the unemployment compensation claim is filed. The purpose of the alternative base period is to make it easier for persons relatively new to the labor market (e.g., persons moving from welfare to work) to be eligible for unemployment compensation if they are laid off.

This act extends the pilot by two years until December 31, 2007.

P.A. 05-85 INTEGRITY OF THE EXPERIENCE RATING SYSTEM (eff. October 1, 2005).

This act prohibits the acquisition of one business by another solely or primarily to obtain a lower contribution rate to the Unemployment Fund. In determining the purpose of an acquisition, the Unemployment Compensation Administrator is directed to consider the cost of acquiring the business, whether the person continued the business activity of the acquired business, and whether a substantial number of new employees were hired to perform duties unrelated to the business activity of the acquired business. The Administrator must, by regulation, establish procedures and guidelines for identifying transfers and acquisitions of businesses subject to this act. The act does not apply to the transfer of one business to another with whom it shares substantially common ownership. It applies to unemployment compensation tax years which begin on or after January 1, 2006.

Any business which violates the act is prohibited from benefitting from an improper acquisition by obtaining a lower unemployment compensation contribution rate. Instead such a business is to be charged the higher of its old contribution rate or the rate charged new employers who do not have an established rate. In addition, for four years it is to be surcharged an extra 2% of wages on payments into the Unemployment Fund. A person who violates the act is also subject to a fine of up to $2,000 and imprisonment for up to one year.

REENTRY INTO THE EMPLOYMENT MARKET FROM PRISON

P.A. 05-267 EXPEDITED CRIMINAL HISTORY RECORDS CHECKS (eff. October 1, 2005).

This act authorizes the Department of Public Safety to establish an expedited service for persons requesting criminal history records checks, for which it is to charge an extra $25 fee. The expedited service must include provision for making records checks available through the Internet. DPS is authorized to contract out the creation and management of this expedited service.

F A M I L Y

MARRIAGE, DIVORCE, CUSTODY, VISITATION, AND SUPPORT

P.A. 05-10 CIVIL UNIONS (eff. October 1, 2005).

This act defines "marriage" as the union of one man and one woman; but it also authorizes same sex couples to enter into civil unions. It guarantees to the parties to a civil union the same legal benefits, protections, and responsibilities as married couples. In addition, it provides that, throughout the General Statutes, terms denoting spousal relationship, such as "spouse," "family," "dependent," and "next of kin," shall be interpreted to include the parties to a civil union.

P.A. 05-258 CUSTODY, VISITATION, AND PARENTING PLANS (eff. October 1, 2005).

Sections 3 through 5 of this act adopt, in modified form, some of the recommendations of the Governor's Commission on Custody, Divorce and Children. In particular, the act requires a court issuing custody and visitation orders to consider the rights and responsibilities of both parents and to provide the child with the active and consistent involvement of both parents commensurate with their abilities and interests. Such orders may include:

- Approval of an agreed-upon parental responsibility plan pursuant to the joint custody provisions of C.G.S. 46a-56a, as amended by this act. The act requires the court to approve any plan mutually agreed-upon by the parents, unless the court finds that the plan is not in the best interests of the child.
- The award of joint parental responsibility to both parents, which must include provisions for residential arrangements with each parent in

accordance with the needs of the child and the parents, provisions for consultation between the parents, and provisions for making major decisions regarding the child's health, education, and religious upbringing;
- The award of sole custody to one parent with appropriate parenting time for the non-custodial parent; or
- Any other custody arrangements that are in the best interest of the child.

The act requires that custody and visitation orders consider the best interest of the child. It requires the court, in making or modifying such orders, to consider the following 16 non-exclusive factors:

- The temperament and developmental needs of the child;
- The capacity and disposition of the parents to understand and meet the needs of the child;
- Any relevant and material information obtained from the child, including the informed preferences of the child;
- The wishes of the parents as to custody;
- The past and current interaction and relationship of the child with each parent, the child's siblings, and any other person who may significantly affect the best interests of the child;
- The willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship with the other parent as is appropriate, including compliance with court orders;
- Any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute;
- The ability of each parent to be actively involved in the life of the child;
- The child's adjustment to his or her home, school, and community environments;
- The length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided that the court may consider favorably a parent who voluntarily leaves the child's family home pendente lite to alleviate stress in the household. The act also provides that, in any judicial custody or visitation proceeding, if one of the parents leaves the family home voluntarily without court order and the court finds that such leaving served the child's best interest, the court may consider the voluntary leaving as a factor in making or modifying an order;
- The stability of the child's existing or proposed residences;
- The mental and physical health of all individuals involved, except that a disability of a party shall not in and of itself be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child;
- The child's cultural background;
- The effect on the child of the actions of an abuser in cases in which any domestic violence has occurred between the parents or between a parent

and another individual or the child;
- Whether the child or a sibling has been abused or neglected; and
- Whether the party satisfactorily completed participation in a parenting education program.

The act explicitly leaves to the court's discretion what weight, if any, is to be assigned to the factors that it considers.

The act also requires that, in any proceeding before the Superior Court involving a dispute between the parents over the custody, care, education, or upbringing of a child, the parents must file a proposed parenting plan. The objectives of such a plan are (a) to provide for the child's physical care and emotional stability, (b) to provide for the child's changing needs as the child grows, and (c) to set forth the authority and responsibility of each parent with respect to the child. Any such proposed plan must include:

- A schedule of the physical residence of the child during the year;
- Provisions allocating decision-making authority to one or both parents regarding the child's health, education, and religious upbringing;
- Provisions for the resolution of future disputes, including where appropriate the involvement of mental health professionals or other parties to assist the parents in reaching a developmentally appropriate resolution of their dispute;
- Provisions for dealing with the parents' failure to honor their responsibilities under the plan;
- Provisions for dealing with the child's changing needs as the child grows and matures; and
- Provisions for minimizing the child's exposure to harmful parental conflict, encouraging the parents in appropriate circumstances to meet their responsibilities through agreements, and protecting the best interests of the child.

See also: Representation of children in juvenile proceedings (JSS P.A. 05-3), p. 22.

P.A. 05-258 ARBITRATION IN DISSOLUTION OF MARRIAGES (eff. October 1, 2005).

Sections 1 and 2 of this act explicitly apply the Connecticut Arbitration Act (C.G.S. 52-408 et seq.) to written agreements to arbitrate a dissolution of marriage, other than to issues involving child support, custody, or visitation. The act provides specifically that such arbitration agreements are valid, irrevocable, and enforceable and that an arbitration award under such an agreement will be confirmed, modified, or vacated by the court in accordance with the provisions of the Arbitration Act, subject to the requirement that the court makes a thorough inquiry and is satisfied that (a) each party entered into

the agreement voluntarily and without coercion and (b) the agreement is fair and equitable under the circumstances.

See also: Service of process by marshals (P.A. 05-135), p. 61.

DOMESTIC VIOLENCE

P.A. 05-147 RESTRAINING AND PROTECTIVE ORDERS (eff. October 1, 2005).

This act makes a number of small changes in the law concerning restraining and protective orders:

- Criminal violation of a restraining order: It increases the penalty for criminal violation of a restraining order under C.G.S. 46b-15 from a Class A misdemeanor to a Class D felony. This makes the penalty the same as that for violation of a protective order or a standing criminal restraining order.

- Standing criminal restraining order: It permits a court to issue a standing criminal restraining order when a person is convicted of criminal violation of a protective order.

- Harassment: It permits a court to issue a protective order when someone is arrested for first or second degree harassment, if it finds that the victim is in reasonable fear for his or her safety.

- Notice of issuance of foreign orders of protection: It repeals the provision that a defendant is not guilty of certain crimes that apply to persons subject to a foreign order of protection unless the defendant had notice and an opportunity for a hearing before the foreign order of protection was issued. The particular crimes affected are first-degree criminal trespass, criminal possession of a firearm, and criminal violation of a restraining order.

- Protective order notice to defendant: It updates the language of the notice contained on protective orders to correctly state the criminal sanctions for violation of an order.

P.A. 05-152 SERVICE OF RESTRAINING ORDERS (eff. October 1, 2005).

Under existing law, the clerk of the court issuing a restraining order, whether ex parte or after hearing, is required within 48 hours to fax or otherwise send a copy of the order to the police departments of the towns where the applicant and the respondent reside and the town where the applicant is employed. In the case of ex parte orders only, as soon as the

respondent is served, the marshal is also required to send a copy of the order, including the applicant's supporting affidavit, to the police departments of the towns in which the applicant and the respondent reside. Section 3 of this act leaves the clerk's duties unchanged but makes minor changes in the duties of the marshal. In particular, it (a) requires that notice of service of the restraining order be sent to the police department of the town where the applicant works, as well as the towns where the parties reside; (b) requires the marshal to give such notice upon service of any restraining order and not only upon service of an ex parte order; (c) makes clear that the marshal's notice to police departments can be sent by fax; and (d) requires the notice to include only the application for relief and the date and time of service, thereby eliminating the need for the marshal to include the order itself or the applicant's supporting affidavit.

CHILD PROTECTION

JSS P.A. 05-3 REPRESENTATION OF CHILDREN IN JUVENILE PROCEEDINGS (eff. October 1, 2005).

Sections 44 through 47 of this act create a new system for appointing attorneys in child protection cases. The system removes the appointment power from the Judicial Department, so as to eliminate the conflict of interest inherent in the Judicial Department's administering contracts for the attorneys who appear before it. More specifically, the act establishes an 11-member Commission on Child Protection, the primary responsibility of which it is to appoint and oversee a Chief Child Protection Attorney (CCPA) who will create and administer the new system. By July 1, 2006, when the system begins to operate, the CCPA must (a) establish a system to provide legal services and guardians ad litem to children and indigent parents in non-delinquency matters in the juvenile courts and to provide legal services to indigent respondents in family contempt and paternity matters; (b) ensure that attorneys providing legal service will be assigned so as to avoid conflicts of interest; and (c) provide initial and in-service training for such attorneys and establish training, practice, and caseload standards for representation so as to ensure a high quality of representation. The training must be designed to ensure proficiency in both procedural and substantive law and must include training in family violence, child development, behavioral health, educational disabilities, and cultural competence. The CCPA may contract with non-profit legal services organizations or individual lawyers to provide representation. The Commission will be placed administratively in the Division of Public Defender Services (DPDS), and the act therefore moves its funding from the Judicial Department to DPDS. The juvenile court will continue to determine eligibility for appointed counsel. Upon a finding that a party cannot afford counsel, the court will appoint the CCPA as counsel. The CCPA will assign the case to counsel hired by the Commission on Child Protection. Counsel appointed by

the juvenile court before July 1, 2006, will continue to serve but will be paid through the Commission at the rate that was in effect at the time of his or her appointment.

P.A. 05-250 PROTECTION OF FWSN CHILDREN (eff. October 1, 2007).

A family with service needs (FWSN) is one which includes a child under the age of 16 who is beyond the control of his or her parents or has run away, been truant, or has engaged in immoral or indecent conduct or sexual intercourse with a person no more than two years older. These are "status" offenses, because they would not be illegal if engaged in by an adult. This act prohibits such FWSN children from being treated as delinquents solely because they have violated a juvenile court order regulating their future conduct and specifically prohibits their being processed or convicted as delinquents or incarcerated in a juvenile detention center. It also prohibits a judge from entering any order that directs or authorizes out-of-home placement or commitment to DCF of a FWSN child unless the court has made a determination that "there is no less restrictive alternative appropriate to the needs of such child and the community."

P.A. 05-280 SETTLEMENT OF EMILY J. CASE (eff. July 13, 2005).

Section 37 of this act approves the $8.5 million settlement agreement between the Attorney General and the plaintiffs in the class action lawsuit of Emily J. v. Rell. The agreement, which was negotiated on behalf of the class by the Center for Children's Advocacy with the assistance of the Center of Public Representation, requires the provision of an array of new services for children in the juvenile justice system with mental health needs aimed at diverting them to community-based alternatives to placement in a residential treatment facility. Services will include planning, "wrap-around" home-based behavioral health treatment services, multi-dimensional treatment foster care as an alternative for children who cannot return home, and staff training. Implementation of the agreement is to begin in October, 2005, in Hartford and to be expanded statewide a year later. The suit was brought in 1993 to challenge the conditions of confinement in the Hartford, New Haven, and Bridgeport Juvenile Detention Centers. The Fiscal Note states that the settlement agreement will result in the expenditure of an additional $3. 5 million in state funds in fiscal year 2006-2007 to expand mental health services for juveniles.

See also: Behavioral health service system for children (P.A. 05-280), p. 34.
Medical assistance for children under DCF supervision (P.A. 05-24), p. 35.

P.A. 05-225 REGIONAL CHILDREN'S PROBATE COURTS (eff. October 1, 2005).

Under existing law, the Probate Court Administrator is required to established a pilot regional children's probate court in the New Haven region. This act makes the New Haven regional court permanent and authorizes the Probate Court Administrator to establish up to six additional regional children's probate courts. Under the act, the new courts will follow the model of the pilot regional court. For example, consultation with the probate court judges in the region is required. Cases in the regional court will be heard by those probate court judges in the region who choose to participate, and no judge is required to be a participating judge. The act allows the Probate Court Administrator to draw on the Probate Court Administration Fund to make improvements to facilities to be used by regional children's courts, to pay rent, and to meet operating expenses.

P.A. 05-207 RIGHTS OF PERSONS ACCUSED OF ABUSE OR NEGLECT (eff. October 1, 2005).

This act establishes notice, hearing, and appeals procedures for persons accused of child abuse or neglect and in particular prevents their being listed on DCF's Child Abuse and Neglect Registry until their administrative appeals have been exhausted. In contrast, under existing law, if DCF conducts an investigation that substantiates an abuse or neglect complaint, the person accused of the conduct is listed on the registry immediately and related information is disclosed upon request, e.g., to employers. The act contains the following provisions:

- Listing on Registry before expiration of right to appeal: The act prevents listing a person on the Child Abuse and Neglect Registry or the disclosure of related information while an investigation is pending or prior to the exhaustion or waiver of all administrative appeals within the agency. This prohibition does not apply, however, to child abuse or neglect cases which involve death, serious physical harm, the risk of serious physical injury or emotional harm, or sexual abuse or to cases in which DCF initiates a judicial neglect or termination of parental rights proceeding or in which the person charged with abuse or neglect is arrested. The statute does not prevent listing while the case is on appeal to the courts after all administrative appeals are exhausted, unless listing is stayed by the court.

- Determination of abuse or neglect: The act requires that, upon completion of an abuse or neglect investigation, DCF is first to determine, based upon a reasonable cause standard, whether abuse or neglect has occurred. If so, before any person can be listed on the Child Abuse and Neglect Registry, DCF must also find (a) that there is an identifiable person who was responsible for the abuse or neglect, and (b) that the identifiable person poses a risk to the health, safety, or well-being of children and the Commissioner should therefore recommend that the person be listed on

the Registry.

- Notice: The act requires DCF to give written notice to the person found responsible within five business days of the finding. The notice must inform the person that he or she will be listed on the Registry, describe the potential adverse consequences of such a listing (including the potential impact on employment), provide information about the right to appeal, and include a mail-in form by which the individual can initiate an appeal.

- Pre-hearing review: Upon request for an appeal, DCF must give the individual access to all relevant documents in DCF possession and complete an internal pre-hearing review of the finding within 30 days. The accused individual may submit documentation, and the Commissioner may permit the individual to participate in a telephone conference or face-to-face meeting to gather additional information. If, as a result of the review, the Commissioner does not reverse the decision, then she must give the individual notice of the right to request a hearing. The individual has 30 days in which to request a hearing, in which case a hearing must be held within 30 days after receipt of the request, except for good cause.

- Hearing: The hearing is to be conducted as a contested case under the UAPA, with the burden on the Commissioner to prove abuse or neglect by a fair preponderance of the evidence submitted at the hearing. The individual may be represented by counsel and may appeal to the courts under the UAPA.

- Pre-2000 findings: Any person against whom a DCF finding of child abuse or neglect was made before May 1, 2000, who has not previously appealed may appeal under the new act.

- Unsubstantiated complaints: Records of unsubstantiated findings must remain confidential and sealed for five years after the completion of the investigation, after which they must be expunged if no further abuse or neglect reports are made against the individual. If subsequent reports are made but are also unsubstantiated, the expunging of earlier reports is delayed until five years after the end of the most recent investigation.

- Regulations: The Commissioner is required to promulgate regulations to implement the act by July 1, 2006.

P.A. 05-35 COMPLETION OF CHILD ABUSE INVESTIGATIONS BY DCF (eff. October 1, 2005).

Existing law requires DCF to complete investigations of child abuse or neglect within 30 days of receiving a complaint. This act gives DCF 45 days to

complete such investigations.

P.A. 05-246 and P.A. 05-280

AMENDMENTS TO DCF STATUTES (eff. July 8, 2005).

P.A. 05-246 makes a number of minor changes to DCF's structure, procedures, and policies. Many of them merely conform the statutes to changes which have already occurred.

- It repeals the requirement that DCF have six statutory regions, each headed by a non-civil service regional administrator. It instead codifies DCF's existing structure of area offices, each of which is headed by an area director who is protected by civil service (DCF presently has 14 area offices). It requires DCF to make a good faith effort to ensure that members of the Area (formerly Regional) Advisory Councils are qualified and closely reflect the Council area's gender and racial diversity. It also prohibits anyone from serving on two area councils at the same time.
- It makes clear that DCF can have its own attorneys under direct DCF supervision, separate from the Assistant Attorney Generals who represent DCF in abuse and neglect proceedings. It also adds protection of the safety of children as a separate goal in such prosecutions.
- It transfers responsibility for the Nurturing Families Network (formerly known as Healthy Families Connecticut) from DCF to the Children's Trust Fund Council.
- Effective October 1, 2005, it requires a case service plan, rather than a permanency plan, for children in DCF's voluntary services program who are living at home. This has the effect of exempting case service plans from the requirements for permanency plans, such as automatic annual review.
- It allows DCF to place children in facilities licensed by DMR and homes approved by licensed child placement agencies.
- It allows the administration of medication to children by trained persons other than nurses in facilities dually licensed by DCF and DPH.
- It bars DCF from notifying a school about a substantiated finding of abuse or neglect involving a school employee unless the Commissioner specifically recommends that the employee be placed on the Child Abuse and Neglect Registry.
- Effective July 1, 2005, it requires DCF to seek accreditation from the Council on Accreditation.
- It makes minor changes concerning child placement facilities.
- It eliminates the Family Violence Coordinating Council and the Out-of-Home Placements Advisory Council.

In addition, Section 43 of P.A. 05-280 (eff. July 1, 2005) makes clear that DCF-licensed group homes and congregate child-caring facilities can continue to house children after they turn 18 (until they are 21) if they are in full-time

attendance at a secondary school, technical school, college or accredited job training program.

JSS P.A. 05-3 DEMONSTRATION TRUANCY PREVENTION INITIATIVE (eff. July 8, 2005).

Section 117 of this act repeals C.G.S. 46b-149d, a 1998 law which authorized a demonstration project to establish a school- and community-based truancy prevention initiative for public school children with patterns of truancy. According to the Budget-in-Detail, the project in 2004 served 146 children and youths at a cost of about $330,000. The children were in Families with Service Needs (FWSN) or were youths in crisis (YICs).

P.A. 05-92 SHARING OF INFORMATION BY DCF AND DMHAS (eff. October 1, 2005).

This act allows DCF and DMHAS to share information, without the consent of the subject of the information, in the event of serious injury or unexpected death involving a person served by both agencies. The information must be necessary to allow each agency to assist the other in investigating the occurrence and in identifying risk factors so as to prevent recurrences. The act makes the result of the investigation exempt from disclosure under the Freedom of Information Act and not subject to discovery or introduction in a civil action arising from the injury or death, unless otherwise required by law. Persons who participated in the investigation are also protected from having to testify in a civil action. This provision, however, does not preclude (a) in a civil action, the use of writings created independently from the investigation, testimony as to the facts that formed the basis for the civil action, or disclosure of the fact that staff members were terminated or restricted, or (b) in a health care provider proceeding concerning the termination or restriction of staff privileges, the use of data developed in a joint investigation.

P.A. 05-152 JUVENILE COURT RECORDS (eff. October 1, 2005).

Section 9 of this act makes two changes in the rules for disclosure of juvenile court records. First, it provides that information concerning a child obtained during a mental health screening or assessment must be used solely for planning and treatment purposes and may be further disclosed only for a court-ordered evaluation or treatment of the child or the provision of services to the child, for making a child abuse or neglect report, or in other limited circumstances. Second, it makes clear that the juvenile court can release to the Department of Motor Vehicles otherwise confidential records of a youth-in-crisis (YIC) in regard to whom the juvenile court has issued an order directing the suspension of the youth's driver's license, so that the court's order can be implemented.

P.A. 05-254 SUBSIDIZED FOSTER CARE BY RELATIVES (eff. October 1, 2005).

Under existing law, a relative who is caring for a child as a foster parent can become eligible for DCF's subsidized guardianship program after the child has been in foster care with the family for 12 months. This act allows DCF to make the relative caregiver eligible for the subsidized guardianship program after six months. The practical effect is to make the caregiver eligible for a higher DCF payment rate six months sooner.

P.A. 05-287 OFFICE OF CHILD ADVOCATE (eff. July 1, 2005).

Section 3 of this act moves the Office of Child Advocate from the Freedom of Information Commission to the Department of Administrative Services for administrative purposes only.

See also: Changes to mental health legislation (P.A. 05-280), p. 9.
Changes to medical assistance programs/Optional rehabilitation services, p. 33.
Behavioral health service system for children (P.A. 05-280), p. 34.
Medical assistance for children under DCF supervision (P.A. 05-24), p. 35.
Next Steps supportive housing initiative (P.A. 05-280), p. 51.

HEALTH CARE, HEALTH INSURANCE, AND MEDICAL ASSISTANCE

MEDICAID, HUSKY, SAGA MEDICAL, AND OTHER STATE MEDICAL ASSISTANCE

P.A. 05-280 and P.A. 05-43 and P.A. 05-44 and P.A. 05-120 and P.A. 05-209 and JSS P.A. 05-3 CHANGES TO MEDICAL ASSISTANCE PROGRAMS (eff. July 1, 2005).

These acts make numerous changes to the Medicaid program. They include:

- Expansion of Medicaid eligibility for adult caretaker relatives: Under existing law, children in households with incomes below 185% of federal poverty level (FPL) are eligible for Medicaid. Prior to 2003, parents and other adult caretaker relatives of such children were also eligible for Medicaid but only if their income was less than 150% of FPL. In 2003, the General Assembly reduced caretaker relative eligibility to 100% of FPL. Section 1 of P.A. 05-280 returns Medicaid eligibility for caretaker

relatives to150% of FPL but directs the Commissioner of Social Services, to the extent permitted by federal law or pursuant to a federal waiver, to impose a $25 per month premium payment and a $1 per visit outpatient co-payment under Medicaid on all parent and caretaker relatives with incomes exceeding 100% of FPL. The Commissioner is allowed to implement the act while in the process of adopting regulations.

- Transitional medical assistance: Under existing law, if a family receiving Medicaid would lose its Medicaid eligibility because of excess income from employment or child support, the eligibility continues for "transitional" medical assistance (TMA) for an additional two years. Section 1 of P.A. 05-280 reduces the period of transitional eligibility to one year. Families already receiving TMA on the effective date of P.A. 05-280 will be continued on TMA until their two-year eligibility period ends or until June 30, 2006, whichever comes first. In addition, P.A. 05-43 makes a technical change in eligibility for TMA to conform to federal rules.

  P.A. 05-1 (eff. March 10, 2005) also affected eligibility for TMA. When the income maximum for the receipt of Medicaid by caretaker relatives was reduced from 150% of FPL to 100% of FPL in 2003, the state refused to consider the adults who lost their Medicaid eligibility to be eligible for TMA. A federal injunction in Rabin v. Wilson-Coker, however, required the state to place those caretaker relatives on TMA. Their two-year period of TMA eligibility would have run out on March 31, 2005. P.A. 05-1 extended that eligibility until June 30, 2005, when P.A. 05-280 raised the Medicaid income limit for caretaker relatives to 150% of FPL.

- Medicaid waiver for family planning services: P.A. 05-120 requires the Commissioner of Social Services to apply for a Medicaid waiver under Section 1115 of the Social Security Act to provide coverage for family planning services to adults not otherwise eligible for Medicaid in households with incomes of up to 185% of federal poverty level. Those services are eligible for 90% federal reimbursement, rather than the usual 50% Medicaid reimbursement.

- Cost-sharing in HUSKY B: P.A. 05-280 increases the cost sharing requirements under the HUSKY B program but repeals a provision requiring HUSKY B cost-sharing and services to be substantially similar to those of the largest commercially available managed care health plan. Under existing law, the Commissioner is allowed to impose premiums on families with children in the HUSKY B program if their income is above 185% of FPL, but in fact the Commissioner has not imposed premiums on families with incomes between 185% and 235% of FPL (Band 1).

Families with incomes between 235% and 300% FPL (Band 2) are charged a $30 monthly premium, with a family cap of $50. Sections 7 and 9 of P.A. 280 require the Commissioner to impose premiums on families in Band 1 and requires her to increase the premiums on families in Band 2. The state budget anticipates that the current $30 monthly premium requirement will be applied to Band 1 families and that the premium for Band 2 families will be increased to $50 per child per month with a $75 family cap.

- Presumptive eligibility for Medicaid: Sections 8 and 9 of P.A. 05-280 restore presumptive eligibility for children applying for Medicaid, a provision which was eliminated in 2003. The Commissioner is also allowed to establish standards and procedures for the designation of organizations to grant presumptive eligibility. In establishing those standards and procedures, the Commissioner must ensure the representation of statewide and local organizations that provide services to children of all ages in each region of the state. In regard to applications for Medicaid by pregnant women, however, for whom the statutes presently provide presumptive eligibility, the act replaces presumptive eligibility with an expedited eligibility process requiring that emergency applications for assistance be processed no later than 24 hours after receipt of all necessary information from the applicant and that non-emergency applications be processed within five calendar days. The act requires the Commissioner to report every two years to the General Assembly on the Department's compliance with these processing requirements.

- Self-declaration of income: Existing law provides that, to the extent permitted by federal law, the Commissioner in determining Medicaid eligibility is required to rely on financial information provided by HUSKY A and B applicants on a mail-in application form, unless there is reason to believe it to be inaccurate or incomplete. Section 5 of P.A. 05-180 repeals that provision, thereby presumably requiring the Commissioner to verify the information.

- Point-of-entry servicer contract for HUSKY: Section 9 of P.A. 05-280 requires DSS to develop a new contract for its single point-of-entry and managed care enrollment services when the current contract expires. The contract, which may be for a period of up to seven years, must have performance measures, including time limits for the processing of applications, and a mechanism for identifying, correcting, and sanctioning continued non-compliance with performance measures.

- HUSKY enrollment: Section of P.A. 05-280 bars HUSKY enrollees from changing their managed care provider for 12 months after enrollment,

except for good cause.

- SAGA recipient pilot program: Section 11 of P.A. 05-280 requires DSS to develop a two-year pilot program for up to 100 19- to 21-year-olds who live with a parent or relative caregiver and are ineligible for SAGA because of parent income. To be eligible for the pilot, applicants must have a diagnosed psychiatric disorder, a significant chronic health condition, and a substantial functional impairment because of their mental or physical condition. An individual who is eligible for benefits under the pilot must cooperate in establishing eligibility for Medicaid based on disability. The budget includes $500,000 per year for the pilot.

- Medicaid transfers of assets: Section 4 of P.A. 05-209 (eff. July 6, 2005) repeals a 2001 law requiring the Commissioner of DSS to apply for a Medicaid waiver to increase the period of ineligibility for a person who has transferred assets for less than fair market value. Under existing law, the ineligibility period is measured from the date of the transfer. Under the waiver, ineligibility would have been measured from the date of application for Medicaid. Section 4 also repeals parts of existing law which were based on the assumption that the proposed waiver would be approved, including provisions giving relief to nursing homes who would be unpaid because of the ineligibility of a resident and extending the look-back period for transfers of real property from three years to five years. Section 40 of P.A. 05-280 allows DSS to waive the imposition of a penalty period under Medicaid for an improper transfer of assets if the transferor suffers from dementia or was exploited into making the transfer due to dementia.

- AIDS/HIV: Section 42 of P.A. 05-280 requires DSS to report to the General Assembly on the feasibility and costs of establishing a program to purchase and continue health insurance policies for people with HIV or AIDS that would operate under the same eligibility criteria as are utilized to make eligibility determinations for the Connecticut AIDS Drug Assistance Program.

- Prior authorization of services: Section 2 of P.A. 05-209 requires the Commissioner of DSS to establish prior authorization procedures under Medicaid for admission to and continued stay in chronic disease hospitals. The Commissioner is authorized to expand the existing contract with the entity providing utilization review services or with another entity. Section 46 of P.A. 05-280 requires DSS to establish prior authorization procedures for a Medicaid client to receive more than two skilled nursing home visits per week. An authorization must be good for at least one month's skilled nursing visits before reauthorization is required.

- Assertive Community Treatment: Section 84 of P.A. 05-280 requires DSS, in consultation with DMHAS and the Community Mental Health Strategy Board, to amend the state Medicaid plan to include assertive community treatment (ACT) teams and community support services within the definition of optional adult rehabilitation services. ACT teams are to provide intensive, integrated, multi-disciplinary services to adults with severe psychiatric disabilities, including persons who are homeless, diverted or discharged from in-patient programs or nursing homes, discharged from correctional facilities, or at risk of incarceration. The act requires DSS and DMHAS to enter into a memorandum of understanding to delegate responsibility to DMHAS for the clinical management of rehabilitation services for adults who are otherwise receiving mental health services from DMHAS. DSS is authorized to implement regulations and clinical management policies during the regulation-writing process.

- Medicaid waiver for adults with severe psychiatric disabilities: Section 85 of P.A. 05-280 requires DSS and DMHAS to convene a task force to study the feasibility of obtaining a waiver to establish a Medicaid-financed home and community-based pilot program to provide community-based services and housing assistance to adults with severe and persistent psychiatric disabilities being discharged or diverted from nursing homes.

- Disease management initiative: Section 1 of P.A. 05-209 repeals the mandate that DSS design and implement a "care enhancement and disease management initiative" to manage the health cost needs of high-cost Medicaid recipients and instead permits the Commissioner to implement such a program at her discretion if she determines that it would be cost-effective. The mandate was adopted by the General Assembly in 2003 but has not been implemented.

- Medicaid for Employed Disabled (MED) program: Section 3 of P.A. 05-44 allows the Commissioner of Social Services to amend existing federal waivers concerning home and community-based services (HCBS) for persons with mental retardation or acquired brain injury, so that persons already receiving Medicaid under the Medicaid for Employed Disabled (MED) coverage group will also be eligible for programs covered by the waivers. The financial eligibility limits for MED are more liberal than those for the HCBS waivers, and some persons with MED Medicaid coverage, although needing home and community-based services, are thus not financially eligible for the services available through the waivers. Section 3 would permit DSS to amend the waivers so as to include these persons.

- Enhanced care clinics for adults: Section 90 of P.A. 05-280 requires DSS,

in consultation with DMHAS and OPM, to study the feasibility of implementing under the Medicaid program enhanced care clinics, including those based at hospitals, for adults.

- Optional rehabilitation services: Section 98 of June Special Session P.A. 05-3 requires DMHAS, in consultation with DCF and DSS, to report to the General Assembly by February 1, 2006, on any moneys received by the state as federal Medicaid reimbursement for providing coverage of optional rehabilitation services for children and adults.

- HUSKY technical change: Sections 1 and 2 of P.A. 05-44 make clear that adult caretaker relatives and pregnant women receiving medical assistance under HUSKY do so under HUSKY Part A. The change makes the statute consistent with existing practice.

See also: Changes to mental health legislation (P.A. 05-280), p. 9.
Changes to Medicaid and ConnPACE (P.A. 05-280), p. 36.
Home care for the elderly (P.A. 05-209 and P.A. 05-280), p. 39.

P.A. 05-128 NOTICE OF HOSPITAL PATIENTS' RIGHTS UNDER MEDICARE (eff. October 1, 2005).

This act requires hospitals to notify each patient of the rights he or she has under the hospital's conditions of participation in Medicare. Notification must be made upon the patient's admission and can be made to his or her guardian or representative as allowed by state and federal law. The notice must (a) be written; (b) specifically identify the rights in the Medicare conditions of participation; and (c) provide information on how the patient can make a complaint, including contact information for the Department of Public Health.

P.A. 05-151 OFFICE OF HEALTH CARE ACCESS (eff. October 1, 2005).

This bill makes several changes in the laws concerning applications and data that hospitals and other health care providers must submit to the Office of Health Care Access (OHCA). It extends penalties for failure to file to a wider range of health care entities. It revises OHCA's authority concerning hospital funds and eliminates a report it must make on graduate medical education. It also eliminates obsolete language concerning school-based health centers and repeals several obsolete statutes.

P.A. 05-15 MANAGED CARE OMBUDSMEN REPORTS (eff. October 1, 2005).

Under existing law, the state's Managed Care Ombudsman must submit a report each January 1 and the Advisory Committee to the Office of Managed Care Ombudsman must submit a report each February 1. This act pushes the

reporting date for each of these reports back by two months, to March 1 and April 1, respectively.

See also: Changes to mental health legislation (P.A. 05-280), p. 9.

CHILDREN'S HEALTH SERVICES

P.A. 05-280 BEHAVIORAL HEALTH SERVICE SYSTEM FOR CHILDREN (eff. July 1, 2005).

Sections 92 through 102 of this act require DSS and DCF to develop and implement an integrated behavioral health service system, to be known as the Behavioral Health Partnership (BHP). The program is for children enrolled in HUSKY Parts A and B, children enrolled in the DCF voluntary services program, and such other children served by DCF as the agencies may choose to include. The BHP is to seek to increase access to quality behavioral health services through (a) expansion of individualized, family-centered, community-based services, (b) maximization of federal revenue, (c) reduction in the unnecessary use of institutional and residential services and diversion of the resulting financial savings into community-based services, (d) improved administrative oversight, and (e) monitoring of individual outcomes, provider performance, and overall program performance. The act requires DSS and DCF to hire an administrative services organization to administer the program and to direct the administrator to develop a community system of care which reduces hospital emergency room usage, reduces stays in hospitals and residential treatment facilities, and increases the availability of outpatient services. DCF and DSS are to conduct annual evaluations of the BHP, beginning October 1, 2006, and to report annually to the General Assembly on the status of the program, the number of persons served, and program outcomes.

The act also creates a Behavioral Health Partnership Oversight Council to advise DCF and DSS on the BHP. Sixteen members of the Council, appointed by the chairpersons of the Advisory Council on Medicaid Managed Care, are to be representatives of and advocates for consumers and providers of behavioral health services. The Council is to review and make specific recommendations related to implementation of the BHP on (a) the contract between DCF and DSS with the administrator of the program, to assure that its decisions are based solely on clinical management criteria, as expressed in guidelines developed by a Clinical Management Committee created by the act (the act prohibits any contract under which the administrator has financial incentives to approve, deny, or reduce services), (b) the behavioral health services provided by the BHP to assure that federal financial assistance is being maximized, and (c) the periodic reports by DCF and DSS on achievement of service delivery goals. The Council is also authorized to conduct or arrange

for an external, independent evaluation of the BHP. The Council is to submit annual reports to the General Assembly, beginning March 1, 2006.

The act requires DCF and DSS to develop consumer grievance procedures, with time frames for appealing decisions made by the administrator, including an expedited review in emergency situations. Appeals must be heard within 30 days after filing and decided within 45 days after filing.

The act, as amended by Section 103 of June Special Session P.A. 05-3, also allows DCF to certify providers of behavioral health Medicaid Early Periodic Screening, Diagnostic and Treatment Services (EPSDT) and rehabilitation services for HUSKY Plan Part A for the purpose of obtaining Medicaid coverage.

Section 104 of the act repeals C.G.S. 17a-22e, which requires DCF and DSS to submit quarterly reports to the General Assembly on the implementation of the Connecticut Community KidCare behavior health program. Those reports required detailed analyses of the number and demographic characteristics of children treated, the length of stays, and the amount of money spent, broken out by non-residential, in-state residential, and out-of-state residential placements.

P.A. 05-24 MEDICAL ASSISTANCE FOR CHILDREN UNDER DCF SUPERVISION (eff. July 1, 2005).

This act codifies an existing DSS/DCF program. Under C.G.S. 17a-6(e), DCF is required to ensure that all children under its supervision have adequate medical, dental, and psychiatric care. DSS currently runs a medical assistance program for DCF-supervised children who are not receiving Medicaid, but there is no statute which authorizes the program. This act codifies the program in the state medical assistance statute (C.G.S. 17b-261). The act also requires DCF, to the extent practicable, to assist such children in applying and qualifying for Medicaid.

See also: Authorization of special education-related Medicaid expenses (P.A. 05-141), p. 11.
Settlement of Emily J. case (P.A. 05-280), p. 23.

PRESCRIPTION DRUGS

P.A. 05-280 CHANGES TO MEDICAID AND CONNPACE (eff. July 1, 2005).

This act makes a number of changes to the prescription drug provisions of Medicaid and to the ConnPACE program:

- Medicare Part D wrap-around coverage under Medicaid and ConnPACE (Secs. 19-30 and 104): Effective January 1, 2006, when the Medicare Part D prescription drug benefit becomes available, the act makes Medicare Part D the primary source for paying for prescription drugs for ConnPACE participants and persons who are eligible for both Medicare and Medicaid ("dually eligibles"). For dually eligibles (mostly seniors and persons with disabilities), the enactment of Medicare Part D will eliminate prescription drug coverage from Medicaid for nearly all prescription drugs. In regard to ConnPACE, the state will pay the monthly Medicare Part D premiums and, within certain limits, will make participants' co-payments in excess of the $16.25 ConnPACE co-payment standard. The act, however, allows the state to refuse to pay more than the cost of the least expensive equivalent drug in the participant's Medicare plan, in which case the ConnPACE participant will have to cover the difference. With narrow exceptions, dually eligibles and ConnPACE participants will be limited to the lists of covered drugs in the Medicare formularies included in their particular Medicare plans. The state will pay only for necessary drugs which are not available under any Medicare Part D plan. Low-income Medicare Part D participants will be subject to co-payment requirements of $1 or $2 per generic drug and $3 or $5 for brand-name drugs, depending upon household income. This is a significant change for dually eligibles, who previously had no co-payments. Other Medicare Part D participants will have higher co-payment requirements.

  To implement the new primary role of Medicare, the act makes enrollment in Medicare Part D a condition of eligibility for ConnPACE participants, who must provide DSS with sufficient financial information to determine their eligibility for the Medicare Part D low-income subsidy benefit. DSS will function as their agent for filing applications for that benefit and for taking an appeal if the benefit is denied. ConnPACE participants can choose their own Medicare Part D plan, but DSS will make the choice for those who fail to do so. The act also makes DMR and DMHAS the agent for applying for the Medicare Part D low-income subsidy benefit for their clients. The Commissioner of Social Services is to submit an interim status report on implementation of the Medicare Part D program to the General Assembly by January 1, 2007.

  The act also makes several other minor changes to ConnPACE and Medicaid. Section 22 repeals the prohibition on requiring ConnPACE participants to make a co-payment on replacement prescriptions for drugs lost or stolen. Section 104 repeals a restriction on dispensing more than a ten-day supply of a maintenance drug on a first-time prescription.

- Importation of Canadian drugs (Sec. 68): The act, as amended by Section 81 of June Special Session P.A. 05-3, requires DPH, in conjunction with

the chairpersons of the Public Health Committee, to convene a working group to study whether the state should contract for the development of a program or enter into an existing program to allow Connecticut residents to purchase prescription drugs through pharmacies in Canada or other foreign countries. The working group is to include representatives of OPM, the Attorney General, DCP, and DSS. The working group is to assess whether the program makes drugs more affordable without sacrificing current levels of quality and safety and whether Connecticut residents would be required to compromise any legal rights as a condition of participating in a drug importation program. The Commissioner of Public Health is to report to the General Assembly on the working group's findings by January 1, 2006.

- DSS approval of prescription drugs (Secs. 16-18): Existing law requires DSS prior authorization for the initial prescription of a brand name drug but not for renewals of the prescription and permits prior authorization for generic drugs costing more than $500 for a 30-day supply. This act allows prior authorization to be required for all generic drugs, without regard to price, and requires new authorization for brand-name and non-preferred drugs after one year. The act also authorizes DSS to negotiate supplemental rebate agreements with drug manufacturers that are in addition to those required under Medicaid.

- Erectile dysfunction drugs (Sec. 13-15): The act requires prior authorization for drugs for the treatment of erectile disfunction in SAGA and Medicaid and allows the state to limit or exclude such coverage in SAGA, Medicaid, and ConnPACE for persons convicted of a sexual offense who are required to register as sex offenders with the Commissioner of Public Safety.

- State discount for drug purchases (Sec. 4): The act reduces the reimbursement paid to pharmacies under the Medicaid and ConnPACE programs from Average Wholesale Cost (AWP) minus 12% to AWP minus 14%. The act also provides that no dispensing fee will be paid for drugs received by a Medicaid or ConnPACE recipient who is also a Medicare Part D beneficiary.

- Pharmaceutical Purchasing Initiative (Sec. 104): Section 104 of the act repeals the DSS Pharmaceutical Purchasing Initiative, which was adopted in 2002. The Initiative allowed DSS to contract with an established entity for the purchase of drugs for Medicaid, SAGA, ConnPACE, and the Connecticut AIDS Drug Assistance Program through the lowest pricing available.

P.A. 05-269 MANUFACTURER-ADMINISTERED DISCOUNT DRUG OUTREACH

PROGRAM (eff. July 13, 2005).

This act creates a Pharmacy Outreach Program (POP), to be administered by participating drug manufacturers though a toll-free telephone number, for the purpose of helping Connecticut consumers obtain reduced-cost or no-cost prescription and non-prescription medications and educating consumers about all available programs in Connecticut relating to such discounted-price medications. The program is to be overseen within available appropriations by DSS, which is to report on the program annually to the legislature, if requested by the Human Services and General Law Committees.

POP is to assist Connecticut residents in procuring free or low-cost medications by evaluating applicant eligibility for manufacturer discount programs, helping eligible persons obtain such medications, and helping doctors meet manufacturer documentation requirements so that patients can receive the medications. To accomplish this, POP is to create and maintain a statewide toll-free hotline staffed by qualified individuals, sponsor and organize appropriate materials and information, and offer and provide information on medications, including information on drug interactions and drug abuse.

P.A. 05-233 MAIL ORDER PRESCRIPTION DRUGS (eff. July 1, 2005).

This act prohibits individual health insurance policies which cover prescription drugs from requiring that the drugs be purchased from a mail order pharmacy.

P.A. 05-212 ADMINISTRATION OF MEDICATIONS IN PRISONS (eff. July 6, 2005).

Section 2 of this act requires the University of Connecticut Health Center to submit a report to the Legislative Program Review and Investigations Committee that identifies deficiencies in the administration of drugs in correctional facilities within the previous calendar year. The initial report is due on January 1, 2006, with updates on January 1 of each of the two subsequent years.

NURSING HOMES AND LONG-TERM CARE

P.A. 05-14 LONG-TERM CARE POLICY (eff. October 1, 2005).

This act provides explicitly that state long-term care policy and the state's long-term care plan, as developed by the Long-Term Care Planning Committee, must provide that individuals with long-term care needs have the option to choose and receive long-term care and support in the least restrictive appropriate setting. The state plan, which was most recently updated in 2004, addresses the long-term needs of both seniors and persons with disabilities. It

is required to integrate the three components of a long-term care system – home and community-based services, supportive housing arrangements, and nursing facilities.

P.A. 05-187 FIRE SPRINKLERS IN NURSING HOMES (eff. July 1, 2005).

This act delays but expands the requirement that nursing homes and rest homes with nursing supervision install automatic sprinkler systems, requires progress reports, and creates a loan fund to help nursing homes meet the cost of installing the new systems. In particular, the act:

- Extends by 13 months (until July 31, 2006) the deadline by which nursing and rest homes must install automatic sprinkler systems but adds that those systems must be "complete" and be installed "throughout" the nursing home and not merely "on each floor." During this extension period, nursing and rest homes must report quarterly to the local fire marshal on the status of installation, including a risk analysis of the existing fire safety status in the building. The local fire marshal is authorized to require interim alternative fire safety measures if needed.

- Requires each home to submit a plan to DPH and DPS for employee fire safety training and education.

- Requires the Connecticut Health and Educational Facilities Authority (CHEFA) to develop a loan program to help nursing home owners pay for the required upgraded fire safety systems. CHEFA is required to submit annual reports to the General Assembly. The loan program will end on June 30, 2008, and no new loans may be extended after that date.

P.A. 05-209 and P.A. 05-280 HOME CARE FOR THE ELDERLY.

Under existing law, DSS administers a 100-person personal care assistance (PCA) pilot program for persons eligible for the Connecticut Home-Care Program for the Elderly (CHCPE) but unable to access adequate services and for persons transitioning off the state's Medicaid-funded PCA program for younger adults with disabilities. That pilot program was adopted in 2000. Since 2004, DSS was also required to implement a state-funded 100-person pilot PCA program for CHCPE-eligible seniors for whom PCA is more cost-effective than home health services. This latter program has not yet been implemented. Sections 3 and 5 of P.A. 05-209 (eff. July 6, 2005) increase the authorized size of the 2004 PCA pilot to 150 persons, repeal the 2000 PCA pilot but transfer its participants to the 2004 pilot, repeal the June 30, 2006, sunset date for the 2004 pilot, and repeal the requirement that the Commissioner apply for a Medicaid waiver for the pilot. The due date for an evaluative report on the program is pushed back to January 1, 2007.

Effective April 1, 2007, Section 10 of P.A. 05-280 increases the asset limits under the CHCPE for single persons to 150% of the minimum community spouse-protected amount and for married couples to 200% of that amount.

P.A. 05-251 NURSING HOME PROVIDER TAX AND SERVICE PROVIDER RATE INCREASES (eff. July 1, 2005).

Sections 78 through 85 of this act, as amended by Sections 47 through 52 of P.A. 05-280, impose a 6% "resident day user fee" (also known as a nursing home provider tax) on all nursing homes in the state, based on the number of rooms in the nursing home multiplied by the number of days of occupancy. The fee will not be implemented until all necessary federal approvals are received. The state will also request a limited waiver to exempt continuing care communities from the fee and to assess the fee on larger nursing homes at a lower rate. The purpose of the fee is to leverage additional federal Medicaid revenue, which will allow the state to raise Medicaid payment rates and, on average, reimburse nursing homes for the amount of the tax. About half of the increased state revenues will go for these purposes. The actual reimbursement, however, will vary from nursing home to nursing home, with nursing homes with a high percentage of Medicaid patients recouping more than the provider tax which they paid in and nursing with a low percentage of Medicaid patients recouping less than they paid in. The act prohibits nursing homes which receive a net gain in revenue from using the gain to increase the salary of the home's administrator, assistant administrator, owners, or related employees.

The remainder of the new revenue from the nursing home provider tax will fund a 4% cost-of-living increase, effective no earlier than October 1, 2005, for other state-funded private service providers under Medicaid-eligible residential programs funded through DMHAS, DMR, DCF, and DOC for their clients, such as residential care homes, home health services, intermediate care facilities for persons with mental retardation, and personal care attendants.

P.A. 05-280 HOSPICE CARE SERVICES (eff. July 1, 2005).

Section 41 of this act exempts from the certificate of need process a request for not more than 20 beds associated with a freestanding facility dedicated to providing hospice care services for terminally ill patients.

See also: Nursing home placement of wards by conservators (P.A. 05-154 and P.A. 05-155), p. 14.

PRIVATE HEALTH INSURANCE

P.A. 05-237 MEDICAL DISCOUNT CARDS AND PLANS (eff. July 1, 2005).

This act establishes a framework for the regulation of medical discount cards and plans by the Insurance Department. The act requires medical discount plan organizations to be licensed by the Insurance Commissioner and makes them subject to license suspension or non-renewal for failure to comply with Connecticut laws. The Commissioner is authorized to promulgate implementing regulations. A person who operates a medical discount plan without a license or fails to comply with standards for licensing may be fined up to $2,000. A person who collects fees for membership in a medical discount plan but fails to provide benefits is guilty of larceny. A person who operates a medical discount plan without complying with the requirements for such a plan is subject to a fine of up to $10,000.

The act provides that any medical discount plan sold in Connecticut must (a) provide a clear and conspicuous disclosure that the plan is not insurance and that its discounts apply only to medical providers who participate within the plan; (b) not use terms, such as "insurance," "health plan," "copay," "preexisting conditions," that could reasonably mislead a consumer into thinking that it is insurance; (c) provide the name, address, and telephone number of the administrator of the plan; (d) make available to consumers through a toll-free number a complete and accurate list of participating providers within the local area and a list of services to which the plan's discounts are applicable; (e) make a printed copy of the list of providers and provider networks available to members on request and update the list semi-annually; (f) use plain language to describe plan discounts in a way which is not misleading, deceptive, or fraudulent; (g) give consumers notice of the right to cancel the plan within 30 days after making payment and refund all membership fees paid, less a reasonable one-time processing fee; (h) offer only those discounted services for which it has a contract with a provider; (i) provide for each member as proof of membership at least one discount card, which must prominently display the fact that it is not insurance; (j) maintain an Internet web site, and display its web address prominently on all membership cards and marketing materials, with an up-to-date list of the names and addresses of providers with which it has a contract or who are covered by provider networks with which it has a contract; and (k) prominently display on member discount cards the names, logos, or trademarks of all provider networks with which the plan has a contract.

P.A. 05-94 and P.A. 05-97 and P.A. 05-102

HEALTH CARE GRIEVANCE PROCEDURES AND APPEALS.

These acts make changes in the procedures by which consumers can appeal decisions by managed care organizations (MCOs) and other health insurers.

Existing law requires MCOs to maintain a grievance process for enrollees and to resolve grievances within 60 days. P.A. 05-97 (eff. October 1, 2005)

requires that, when coverage of a service ordered by a provider is denied, the notice of grievance rights also be sent to that provider. In addition, it makes an MCO's failure to establish a grievance procedure, give proper notices, and resolve grievances within the required time frame an unfair and deceptive insurance practice. It also imposes a $25 fine for each failure to complete the resolution of a grievance within the required 60 days, with the fines to be paid to the Insurance Commissioner to be allocated to the Office of Managed Care Ombudsman. Section 1 of P.A. 05-102 (eff. October 1, 2005) provides that, if the Insurance Commissioner receives three or more appeals of determinations by the same MCO or utilization review company regarding the same procedural or diagnostic coding, he may issue an order specifying how such determinations are to be made.

P.A. 05-94 (eff. July 1, 2005) extends to all health insurers the appeal procedures which presently apply to MCOs and also provides for expanded notice of appeal rights. In particular, it requires health insurers to have a grievance process for enrollees to appeal the insurer's actions or inactions, of which it must give notice at the time of initial enrollment, annually thereafter, and at the time it denies a service, admission, or hospital stay extension. It also gives enrollees the same right to appeal a final denial to the Insurance Commissioner that MCO participants already have. The changes made by P.A. 05-97 and P.A. 05-102 will also presumably apply to health insurers. P.A. 05-94 also requires MCOs and health insurers to include in the notice of the denial of an appeal based on medical necessity an explicit statement that all internal appeal mechanisms have been exhausted and an application form for filing an appeal to the Insurance Commissioner. It requires that notice by a utilization review company of a final decision that denies approval of an admission, service, procedure, or extension of stay must include, in addition to the exhaustion statement and a form for appealing to the Commissioner, a statement of the principal reasons for the determination.

P.A. 05-253 HEALTH INSURANCE CONSUMER EDUCATION PROGRAM (eff. October 1, 2005).

This act requires the Insurance Commissioner, in consultation with the Commissioner of Social Services and the Healthcare Advocate, to develop a comprehensive public education outreach program, including use of the Insurance Department's web site, to educate health insurance consumers about the availability of and general eligibility requirements for various health insurance options in Connecticut. The web site must provide information about (a) DSS-administered programs, including Medicaid, HUSKY, and SAGA, (b) health insurance through the Municipal Employee Health Insurance Plan (MEHIP) administered by the State Comptroller, (c) private comprehensive health care plans, and (d) other health insurance coverage offered through local, state, or federal agencies or through entities licensed by

the state. The Commissioner must update the web site at least quarterly.

The act (eff. July 13, 2005) also requires the Comptroller to investigate the feasibility of opening the MEHIP program to a wider range of uninsured persons, including at least persons with no access to employer or government-sponsored health insurance. She is to submit a report to the General Assembly by February 1, 2006.

P.A. 05-280 STUDY OF HEALTH INSURANCE COVERAGE (eff. July 1, 2005).

Section 36 of this act requires the legislature's Insurance and Real Estate Committee to conduct a study on the potential implementation of a public-private partnership, to be called the Nutmeg Health Partnership Insurance Plan. The proposal, which was included in the version of S.B. 1034 approved by the Insurance and Real Estate Committee (but not adopted by the General Assembly), would have allowed persons with no access to employer or government health insurance to buy health insurance from the State Comptroller through the state employee health plan, allowed health insurers to offer health plans with flexible designs, created an earned income tax credit against the state income tax for the cost of health insurance, and established a small business tax credit for the purchase of employee health insurance. The act directs the Committee to investigate ideas to accomplish the goals of increasing the number of residents with health insurance, providing broader access to health care, and making health care more affordable to residents. The Committee is to present a plan with specifics to the General Assembly by February 1, 2006.

P.A. 05-238 NON-PROFIT PARTICIPATION IN STATE HEALTH PLAN (eff. July 11, 2005).

Under existing law, municipalities, non-profit corporations which have a contract with the state, community action agencies, small businesses, and certain other organizations and individuals are allowed to buy into a state-organized health insurance pool, which this act entitles the Municipal Employee Health Insurance Plan. Section 1 of this act allows a wider range of non-profit corporations to participate by including those which receive funding from a municipality, the state, or the federal government. It also allows retired state employees to buy into the plan individually.

P.A. 05-20 MEDICARE SUPPLEMENT PLANS (eff. July 1, 2005).

This act revises Medicare supplement policy requirements in response to changes in federal law that take effect January 1, 2006. Medicare supplement ("Medigap") policies cover some or all medical expenses not covered by Medicare. This act extends to Medicare plans H, I, and J, after January 1,

2006, the prohibition against considering medical condition, previous claims history, age, or gender in granting coverage for a Medicare supplement policy or setting its rates.

P.A. 05-238 REDUCED-BENEFIT FLEXIBLE HEALTH INSURANCE PLANS (eff. October 1, 2005).

Section 7 of this act requires the Insurance Commissioner to approve health insurance policies which offer reduced benefits through "variable networks" or "enrollee cost-sharing," as long as they meet certain standards. In particular, they must offer the consumer (a) choices of among provider networks of different size, (b) different deductibles depending on the type of health care facility used, or (c) prescription drug benefits that use any combination of deductibles, coinsurance of up to 30%, or copayments. The Commissioner must also find that the rate filing reflects a reasonable reduction in premiums as compared with policies that provide more complete coverage.

P.A. 05-271 COVERAGE OF PRE-EXISTING CONDITIONS BY THE HEALTH REINSURANCE ASSOCIATION (eff. October 1, 2005).

The Health Reinsurance Association (HRA) is a health insurance risk pool whose members consist of insurers, HMOs, and self-insurers doing business in Connecticut. It makes individual and group comprehensive health care plans available to people unable to obtain insurance coverage through other means. This act requires comprehensive health care plans issued through the HRA to cover a preexisting condition for a group member or dependant who is newly insured on or after October 1, 2005, if the insured was formerly under a group health, Medicare, Medicaid, or equivalent plan that provided such coverage. If the former plan did not cover the condition, then the insured is entitled to credit toward the preexisting condition exclusion period under the HRA plan for the time the insured was covered by the former plan. To be eligible for this restriction on pre-existing coverage exclusions, the insured must apply for the HRA plan within 30 days of initial eligibility. In addition, his or her former plan must not have terminated more than 120 days before the effective date of the HRA plan (150 days if the termination was due to involuntary loss of employment), excluding any waiting periods.

P.A. 05-102 MANAGED CARE OMBUDSMAN (eff. October 1, 2005).

Sections 2 through 17 of this act change the name of the Managed Care Ombudsman to the Healthcare Advocate and rename the Office of the Managed Care Ombudsman as the Office of the Healthcare Advocate.

See also: Late fees on insurance policies (P.A. 05-162), p. 6.
Changes to mental health legislation/Communication among health care

providers (P.A. 05-280), p. 10.
Protection of seniors in annuity transactions (P.A. 05-57), p. 15.
Changes to Medicaid and ConnPACE/Importation of Canadian drugs (P.A. 05-280), p. 37.
Manufacturer-administered discount drug outreach program (P.A. 05-269), p. 38.
Mail order prescription drugs (P.A. 05-233), p. 38.

OTHER

P.A. 05-80 QUALITY OF CARE IN CHRONIC DISEASE HOSPITALS (eff. October 1, 2005).

This act prohibits the admission of any patient to a chronic disease hospital unless the hospital's medical director determines that the hospital and its medical staff are capable of providing adequate care and treatment to the patient. In making that determination, the director is to have access to the patient's medical records and may examine the patient. The purpose is to permit chronic disease hospitals to screen applicants for appropriateness.

The act also replaces the mandate that the Commissioner of Public Health provide facilities or contract for programs to diagnose and detect chronic illnesses, with an authorization to do so at his discretion. In addition, the act repeals provisions related to the Department of Public Health's former direct operation of chronic disease hospitals. Thus, it repeals the requirement that the Commissioner of Public Health be responsible for the administration and operation of DPH's chronic disease hospitals and that DPH give priority in admission to such hospitals to patients receiving public or general assistance.

P.A. 05-150 ADMINISTRATION OF MEDICATION TO PERSONS RECEIVING INDIVIDUAL AND FAMILY SUPPORT SERVICES FROM CERTAIN AGENCIES (eff. October 1, 2005).

Existing law permits trained non-medical personnel to administer medication to persons attending day programs or residing in residential facilities under the jurisdiction of DMR, DMHAS, DCF, and the Department of Corrections or being detained in juvenile detection. This act expands existing law to allow trained non-medical personnel to administer medications to persons receiving individual or family support services from any of those agencies.

P.A. 05-75 CERTIFICATE OF NEED PUBLIC HEARINGS (eff. October 1, 2005).

Under existing law, a health care facility which wants to expand or contract services, make capital expenditures, or change ownership must obtain

a certificate of need from the Office of Health Care Access (OHCA), which must hold a public hearing if requested by three or more individuals or by one individual representing an entity of five or more people. Sections 2 and 3 of this act provide that OHCA need not hold a public hearing unless the request is received within 21 days after OHCA has deemed the application complete.

H O U S I N G

SUMMARY PROCESS AND LANDLORD-TENANT

P.A. 05-56 RESIDENTIAL HEAT AND UTILITIES SURCHARGE CLAUSES (eff. October 1, 2005).

This act prohibits residential leases in which the landlord provides heat or utilities from requiring the tenant to pay a heat or utilities surcharge. The term "heat or utilities surcharge" is not defined in the act but presumably refers to a clause which makes the tenant liable for extra payments if the landlord's heat or utility bills exceed a base amount.

P.A. 05-280 SECURITY DEPOSIT GUARANTEE PROGRAM (eff. July 1, 2005).

Section 39 of this act, as amended by Section 83 of June Special Session P.A. 05-3, amends the Security Deposit Guarantee Program by (a) allowing DSS to deny eligibility to an applicant on whose behalf the Department has paid more than two claims by landlords during the previous five-year period and (b) broadening the Department's authority to set priorities among classes of applicants. Prior law allowed the Commissioner to set eligibility priorities only "between" those eligible for a security deposit guarantee because of actual or imminent homelessness and those eligible because of their use of a rent subsidy. This act removes the restriction on setting priorities between those two classes of applicants and instead allows the setting of any priorities "in order to administer the program within available appropriations."

P.A. 05-222 MOBILE HOME PARK NOTICES (eff. July 6, 2005).

This act requires the owner of a mobile manufactured home park to notify all residents of the park of any violation or possible violation of a regulation or statute administered by the Department of Environmental Protection (DEP), if the Commissioner of Environmental Protection has notified the park owner in writing that a violation or possible violation (other than a record-keeping or reporting violation) has occurred on the land on which the park is located. The Commissioner must also provide the Commissioner of Consumer Protection

with a copy of the notice. The park owner must notify residents within ten days of receiving written notice from DEP of the existence and nature of the violation, using a method of notice reasonably calculated to apprize all residents. The park owner must also certify to the Commissioner of Environmental Protection within five days of giving notice that the notice has been given. The act states explicitly that the new notice does not substitute for any other notice which park residents may be entitled to receive under other law.

See also: Towing of motor vehicles from private property (P.A. 05-218), p. 3.
Prepaid home heating oil contracts (P.A. 05-229), p. 5.
Identification of landlords (P.A. 05-223), p. 52.
Small claims session maximum jurisdiction (P.A. 05-42), p. 60.

PUBLIC AND SUBSIDIZED HOUSING

JSS Sp.A. 05-1 BONDING FOR PUBLIC HOUSING (eff. July 1, 2005).

Sections 8 through 11, 13(j)(14), 27 through 30, and 32(j) (10) and (14) of this act authorize the issuance of $40,350,000 in bonds for DECD housing programs, of which $16,350,000 is specifically earmarked for improvements to public housing. The public housing funds are allocated as follows:

- State-assisted public housing: $12,350,000 is for the renovation of State Moderate Rental and State Elderly/Disabled Housing, with priority given to health and safety, modernization, and restructuring, as follows:

  - $8 million for Moderate Rental Housing in the five towns with the most Moderate Rental Housing units (Stamford, New Britain, Hartford, New London, and Danbury);
  - $2 million for Moderate Rental Housing in other towns;
  - $2 million for State Elderly/Disabled Housing; and
  - $350,000 for the renovation of an existing building into a community center at Veteran's Terrace in East Hartford.

  All funds except Veterans Terrace are subject to the requirement that the planning requirements imposed in 2003 on the revitalization of Corbin Heights and Pinnacle Heights in New Britain be met. It is believed that this provision will be interpreted to mean that, in regard to municipalities other than New Britain, similar planning requirements must be satisfied. All funds except those for Veterans Terrace will be available in 2005-2006. The Veterans Terrace funds are not available until 2006-2007.

- Federally-assisted public housing: $2 million per year for two years is authorized for a grant to the City of New Haven for the rehabilitation and

renovation of the Quinnipiac Terrace/Riverview project.

P.A. 05-239 STATE ELDERLY/DISABLED HOUSING (eff. July 11, 2005).

This act requires the state agencies charged with providing social services to seniors and to non-elderly persons with disabilities in State Elderly/ Disabled Housing to assist housing authorities in identifying and accessing social services offered by those agencies. DMHAS, DMR, and DSS are each required to develop a plan that details outreach efforts, available services, and crisis intervention and to report a summary of its collaboration efforts with housing authorities to the legislature's Housing Committee and its Program Review and Investigations Committee by October 1, 2005. It requires DECD, in consultation with CHFA, annually to conduct a comprehensive assessment of the current and future need for rental assistance through the state's rental assistance program for residents of State Elderly/Disabled Housing ("Elderly RAP") and to report to the General Assembly each April 1.

In addition, the act requires DECD to report by February 1, 2006, on the progress it has made in improving State Elderly/Disabled Housing in each of the following areas:

- In conjunction with CHFA, revising and updating the operating manual for state-funded elderly and disabled housing programs, including the development of a policy on the documentation of negative incidents; the development of a policy on the creation and maintenance of waiting lists; and the development of guidelines, in consultation with CHRO, for tenant selection and suitability;

- In conjunction with CHFA and in consultation with the housing court housing specialists and ConnNAHRO, developing training seminars or materials on eviction proceedings for housing authorities;

- Reinstating training for local housing authorities regarding state affirmative fair housing requirements, including the use of, maintenance of, and selection from waiting lists;

- Requiring housing authorities to include safety and security plans in their annual management plans and in encouraging housing authorities to establish rapport with local police departments for dealing with negative incidents;

- In consultation with DMHAS, DSS, and DMR, reassessing the job description and qualifications for resident service coordinators to reflect the services needed both by younger disabled residents and by senior residents and in adjusting hours and salary scales to reflect the skills

needed;

- Enlisting professionals from mental health and other service agencies to train resident service coordinators and housing authority staff to better understand the needs of both elderly residents and younger residents with disabilities; and

- In consultation with DSS, DMHAS, and CHFA, establishing a plan to create and fund the position of state-wide manager of the Resident Service Coordinator Program, with duties that include coordination and liaison, training, evaluation, technical assistance, and publication of materials.

P.A. 05-206 RESIDENT SERVICE COORDINATORS (eff. July 1, 2005).

Under existing law, DECD administers a program of grants to housing authorities to hire resident service coordinators in State Elderly/Disabled Housing. This act revises the statutory duties of those coordinators to make clear that the conflict resolution services they are supposed to provide include the facilitation of conflict resolution between seniors and younger residents and to add the following additional duties: (a) to establish and maintain relationships with community service providers and link residents to appropriate community services, (b) to act as liaison in problem-solving, (c) to provide orientation services to new residents, and (d) to organize resident activities and meetings that promote socialization among all residents.

The act also authorizes DECD to convene monthly meetings of resident service coordinators for in-service training and information sharing. Training topics are to include the health care needs of seniors and persons with disabilities, mediation and conflict resolution, and local and regional service resources.

P.A. 05-279 VALIDATION OF SALE OF RIDGELAND ROAD APARTMENTS IN WALLINGFORD (eff. July 13, 2005).

Section 13 of this act validates the sale by the Wallingford Housing Authority of the Ridgeland Road Apartments, even though the sale was not approved by DECD in accordance with C.G.S. 8-64a.

HOUSING DISCRIMINATION

P.A. 05-280 STATE LIEN ON DISCRIMINATION AWARDS (eff. July 1, 2005).

Under existing law, the state has a statutory lien in the amount of 50% of awards and settlements received by persons liable for repayment of assistance

to the state. Sections 44 and 45 of this act, as amended by Section 80 of June Special Session P.A. 05-3, eliminate the state lien for moneys received as a settlement or award in a housing or employment discrimination case. They also provide that payments received as a result of discrimination awards or settlements shall not count as income, resources, or assets in the month of receipt or for three months afterwards for purposes of TFA, Medicaid, SAGA, or State Supplement. After that period, any remaining funds are subject to regular eligibility rules, including mechanisms, such as individual development accounts, by which assets can be retained without losing eligibility for welfare programs.

P.A. 05-201 PROCESSING OF COMPLAINTS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES (eff. July 6, 2005).

Under existing law, if a CHRO investigator makes a finding of reasonable cause in a housing discrimination case, either party can, within 20 days of the finding, have the case heard in court rather than through the CHRO administrative process. If a party makes such a request, CHRO must initiate a civil action in court within 45 days. This act extends CHRO's time to initiate the civil action to 90 days and allows CHRO's counsel to decline to bring the action if he or she determines that the investigator's reasonable cause finding is based on "a material mistake of law or fact," in which case the matter is to be remanded to the investigator, who has 90 days to complete further action. The act also makes explicit that the civil action brought by CHRO is limited to claims, counterclaims, and defenses which would have been available in a CHRO administrative proceeding. It allows CHRO's counsel to seek injunctive relief, punitive damages, or a civil penalty but only with the concurrence of at least one CHRO commissioner.

The act also makes minor changes in the circumstances under which the Commission can obtain temporary injunctive relief for a complainant in housing and public accommodations discrimination cases. Existing law appears to limit such relief to cases involving the sale or rental of real property and to require the recommendation of an investigator before relief can be applied for, and it is ambiguous as to whether the statute applies to permanent as well as temporary injunctive relief. This act expands the applicability of C.G.S. 46a-89 to authorize injunctive relief for any violation of the housing and public accommodations discrimination statutes. It also eliminates the requirement of a recommendation by an investigator and makes clear that injunctive orders can be either temporary or permanent in nature.

See also: Banking Department protection of home owners (P.A. 05-46), p. 2.

SUPPORTIVE HOUSING

P.A. 05-280 NEXT STEPS SUPPORTIVE HOUSING INITIATIVE (eff. July 1, 2005).

Sections 32 through 34 of this act, as amended by Sections 101 and 102 of June Special Session P.A. 05-3, characterize the existing 650-unit Supportive Housing Pilots Initiative as the first phase of the Supportive Housing Initiative (SHI) and create a second phase to be known as the Next Steps Initiative to create an additional 500 units of supportive housing. Next Steps, which is to include the participation of DCF in addition to DSS, DMHAS, DECD, and CHFA, is to serve persons who are homeless or at risk of homelessness who (a) have psychiatric or drug disabilities, (b) are TFA recipients, (c) are 18- to 23-year-olds who are transitioning from foster care or other DCF residential programs, or (d) are community-supervised ex-convicts with serious mental health needs. The housing is to be permanent supportive housing for such persons but may also include other low-income households, so as not to be occupied solely by those with priority service needs.

The act requires OPM and the five state agencies to enter into a memorandum of understanding by October 1, 2005, to provide for a collaborative plan with specific timetables in which DSS will provide rent subsidies; DMHAS, DSS, and DCF will provide grants for supportive services; CHFA and DECD will provide grants, loans, and tax credits; and, with the approval of the State Bond Commission, OPM and the State Treasurer will underwrite the cost of debt service on CHFA's bonds, not to exceed $70 million. There must also be a plan to generate financing from private and federal sources, including Section 8 project-based rent subsidies. CHFA is to underwrite SHI projects and is to issue a request for proposals by January 1, 2006. Priority is to be given to applications that include organizations deemed qualified DMHAS, DSS, and DCF to provide supportive services. The act amends the RAP program statute to provide that, to the extent practicable, RAP certificates issued for supportive housing are to calculate the tenant's share of the rent based on the Section 8 formula, rather than the RAP formula.

See also: Changes to mental health legislation/Supported housing for adults (P.A. 05-280), p. 10.

CODE ENFORCEMENT

P.A. 05-223 IDENTIFICATION OF LANDLORDS (eff. October 1, 2005).

This act allows municipalities to require absentee landlords (i.e., landlords who do not live in the building which they rent) to maintain on file with the municipality the actual street address of their place of residence. If the landlord is a corporation or other entity, then the home address provided must be that of the person who manages the property. The municipality must designate which municipal office is to receive the information. If the landlord's

address changes, the municipality is to be notified within 21 days. The act provides explicitly that the service of state or municipal orders relating to maintenance of the property or compliance with real property codes at the address filed by the landlord will constitute sufficient proof of notice of those orders in any subsequent criminal or civil action against the owner for non-compliance. If the landlord has not filed an address, then the address to which the municipality sends property tax bills is deemed to be the landlord's address and service of orders at that address is deemed legally sufficient.

In municipalities which adopt this act, the failure to maintain a current address on file is an infraction. The act also allows the municipality by ordinance to establish a civil penalty of up to $250 for a first violation and $1,000 for a subsequent violation. An owner can appeal a civil penalty to the Superior Court.

P.A. 05-161 CARBON MONOXIDE DETECTORS (eff. July 1, 2005).

This act requires the Fire Safety Code to be amended to require carbon monoxide detection and warning equipment in new one- and two-family houses for which an occupancy permit is issued on or after October 1, 2005. The Code must specify standards for equipment and may exempt buildings that do not pose a risk of carbon monoxide poisoning because they depend solely on systems which do not emit carbon monoxide.

See also: Mobile home park notices (P.A. 05-222), p. 47.

HOUSING PRODUCTION PROGRAMS

JSS P.A. 05-5 HOUSING TRUST FUND (eff. July 1, 2005).

Sections 16 through 22 of this act create a new $100 million Housing Trust Fund, to be capitalized with state general obligation bonds in five annual installments of $20 million each, beginning on July 1, 2005. Private contributions to the Fund can also be accepted. Repayments of loans made by the fund will go directly into the fund. Money in the fund will be spent through the Housing Trust Fund Program, which is to be developed and administered by DECD. Its purposes are to (a) encourage homeownership for low and moderate income households, (b) promote the rehabilitation, preservation, and production of quality, well-designed rental and homeownership housing for low and moderate income households, (c) maximize the leveraging of private-sector investment, (d) encourage housing that maximizes housing choices of residents, (e) enhance economic opportunity for low and moderate income households, (f) promote the application of efficient land use that utilizes existing infrastructure and the conservation of open spaces, and (g) encourage the development of housing which aids the revitalization of communities. DECD is to define "low and moderate income" by regulation. The act specifically permits the Commissioner to establish income levels as high as 120% of area median.

The act also creates a Housing Trust Fund Program Advisory Committee, to advise DECD on the administration, management, and objectives of the HTF Program and the development of regulations, procedures, and rating criteria. The committee is to be appointed by the Commissioner of Economic and Community Development, in consultation with the State Treasurer and the Secretary of OPM. It is to include a representative from the non-profit housing development community, the for-profit development community, a housing authority, a community development financial institution, CHFA, a statewide housing organization, a town of less than 50,000 population, a town of 50,000 to 100,000 population, a town of more than 100,000 population, and a state business and industry association or a regional chamber of commerce. The co-chairs and ranking members of the legislature's Planning and Development and Housing Committees will also be members.

Financial assistance is to be provided from the Fund for the development of "quality rental housing and homeownership for low and moderate income families or persons." Financial assistance can include grants, no interest and low interest loans, appraisal gap financings, and other similar financing to make rents and home prices affordable. Funds are to be awarded on a competitive basis at least twice a year in accordance with Housing Trust Fund Program guidelines and criteria. At least $300,000 per year must be used for matching grants to fund purchases of primary residences by households participating in

the Connecticut IDA (Individual Development Account) Initiative, which allows low and moderate income persons to develop savings for home purchase without affecting eligibility for needs-based programs.

DECD, in consultation with the State Treasurer, OPM, and CHFA and after consideration of the recommendations of the HTF Program Advisory Committee, is to adopt regulations and rating criteria. DECD is to report annually to the Governor and the General Assembly on the activities of the Fund and on the Department's efforts to obtain private support for the Fund.

P.A. 05-228 LAND PROTECTION, AFFORDABLE HOUSING AND HISTORIC PRESERVATION ACCOUNT (eff. October 1, 2005)

Sections 5 and 6 of this act, as amended by Sections 63 and 113 of June Special Session P.A. 05-3, impose a $30 surcharge on each document recorded on the land records of each municipality. The municipality is to retain $4 of the fee ($1 to the town clerk and $3 as general municipal revenue to pay for local capital improvements). The remaining $26 is to be transmitted to the State Treasurer to be placed into a Land Protection, Affordable Housing and Historic Preservation Account. The accumulated funds are to be distributed quarterly as follows:

- Affordable housing: 25% to the Connecticut Housing Finance Authority to supplement new or existing affordable housing programs;

- Historic preservation: 25% to the Connecticut Commission on Culture and Tourism, of which $200,000 per year is to supplement the technical assistance and preservation activities of the Connecticut Trust for Historic Preservation and the remainder is to supplement historic preservation activities under C.G.S. 10-409 through 10-415;

- Open space: 25% to the Department of Environmental Protection for municipal open space grants; and

- Farmland preservation: 25% to the Department of Agriculture, of which $1,175,000 per year is allocated to specific projects and the remainder to farmland preservation programs.

Each agency may use up to 10% of the funds for administration. It is estimated that the act will raise about $6 million per year for each of the four major areas of activity.

JSS Sp.A. 05-1 BONDING FOR HOUSING (eff. July 1, 2005).

Sections 8 through 11, 13(j)(14), 27 through 30, and 32(j)(10) and (14)

of this act authorize the issuance of $40,350,000 in bonds for DECD housing programs, of which $23 million will be available in 2005-2006 and $17,350,000 will be available in 2006-2007. Of these funds, $9 million in 2005-2006 and $15 million in 2006-2007 are unrestricted. Of the allocated funds, $12,350,000 is for improvements to State Moderate Rental and State Elderly/Disabled Housing, $4 million is for the rehabilitation of federal public housing in New Haven, and $800,000 is for renovation to a homeless shelter in New Britain.

See also: Bonding for public housing (JSS Sp.A. 05-1), p. 47.

P.A. 05-132 WINDOW REPAIR AND REPLACEMENT DEMONSTRATION PROGRAM (eff. June 24, 2005).

In 2002, the General Assembly adopted a three-year demonstration program through DECD in which the state would provide landlords of two- to six-family buildings constructed before 1950 with matching grants of up to $100 per window to replace or repair wooden windows. The purpose of the program was to test whether an approach outside the public health system would encourage proactive landlord responses to reduce lead hazards in their buildings. The demonstration program, however, was never implemented by DECD. This act extends the demonstration period three additional years to June 30, 2008.

See also: Energy Conservation Program (P.A. 05-280), p. 63.

P.A. 05-185 DISPOSITION OF STATE-ASSISTED LIMITED EQUITY COOPERATIVES (eff. October 1, 2005).

This act allows the Commissioner of Economic and Community Development, upon a determination that a limited equity cooperative financed under DECD's Limited Equity Cooperative (LEC) Program is "unable to manage" the property, to release the cooperative from the restrictions under the program and transfer the complex to another entity. The Commissioner must impose substitute restrictions in the deed to ensure the property's continued use for the benefit of low or moderate income families. If such a transfer occurs, the act requires that the equity of each resident in the cooperative either (a) be transferred with the property so that the resident does not lose the equity or (b) be paid to the resident, less any debt individually owed by the resident to the cooperative.

The act also repeals a provision which previously required all applicants for funding for a LEC to apply for funds through the state's flexible fund program under C.G.S. 8-433, rather than through the LEC program. The bill thus permits DECD to again accept applications under the LEC program.

P.A. 05-186 LAND BANK AND LAND TRUST PROGRAM (eff. October 1, 2005).

Under existing law, the entity which holds title to a condominium built on land acquired under the state's Land Bank and Land Trust Program is authorized to transfer units, subject to deed restrictions, to very low, low, or moderate income families. This act allows such condominiums instead to be transferred to another eligible non-profit corporation, as determined by the Commissioner of Economic and Community Development.

P.A. 05-239 SUBSIDIZED HOUSING DATABASE (eff. July 11, 2005).

Section 3 of this act requires DECD, by July 1, 2006, to develop and maintain a comprehensive inventory of all assisted housing in the state. The inventory must identify all existing assisted rental units by type and funding source and must include information on: (a) tenant eligibility, (b) rents charged, (c) available subsidies, (d) occupancy and vacancy rates, (e) waiting lists, and (f) accessibility features. In addition, the act requires the owners of assisted housing containing accessible housing units to report those units to the Accessible Housing Database established under C.G.S. 8-119x.

P.A. 05-191 CONSOLIDATION OF DECD REPORTS (eff. October 1, 2005).

This act identifies a number of housing and economic development reports which DECD is, by statute, required to prepare annually and instead consolidates them into a single mandatory annual report, to be filed by February 1, beginning in 2006. These reports include the following:

- The annual list of municipalities exempt from C.G.S. 8-30g;
- The housing production report required by C.G.S. 8-37s;
- The resident demographic report required by C.G.S. 8-37bb; and
- The Energy Conservation Loan Fund report required by C.G.S. 16a-40b.

The act also reorganizes and in some cases expands the information that DECD is required to report, much of it concerning economic development. In regard to housing, the new consolidated report must include:

- An assessment of the housing market;
- As analysis of the progress of the public and private sectors in meeting housing needs, using building permit and demolition data;
- The annual C.G.S. 8-30g list;
- A statement of DECD's housing development objectives, measures of program success, and standards for awarding assistance;
- A presentation of the state-funded housing development portfolio, including the amount of private investment which has been leveraged and a comparison between the number of new dwelling units promised in the

application and the number actually developed;

- An analysis of the state-funded housing development portfolio, including an analysis of the number of units created and preserved, an analysis of income and racial characteristics of the populations served, and a summary of the Department's efforts to promote fair housing and economic integration; and
- An economic impact analysis, including the impact of housing development on employment.

P.A. 05-276 URBAN AND INDUSTRIAL SITES REINVESTMENT PROGRAM (eff. July 13, 2005).

The Urban and Industrial Sites Reinvestment Program is a tax credit program intended to encourage the clean-up and reuse, though private investment, of urban industrial sites. Under prior law, only investments of at least $20 million per project could qualify for tax credits. Sections 2 and 3 of this act lower the threshold to $5 million per project generally but to $2 million per project for projects which include at least four housing units as part of the preservation of a historic facility. They also allow the tax credits to be sold to multiple investors, rather than to a single investor.

P.A. 05-279 TRANSFERS OF STATE LAND (eff. July 13, 2005).

This act, which authorizes the transfer of a number of pieces of state-owned land, includes four sections which affect housing:

- Meriden YMCA: Section 23 of the act allows the Meriden YMCA to convey property to a third party free of a state-imposed deed restriction which would otherwise require that it be used only for the benefit of low and moderate income persons.

- Nutmeg Housing in East Hartford: Section 32 of the act requires DECD to convey to the Nutmeg Housing Development Corp., for the administrative cost of the transfer, the five parcels of land at 208-250 Hills Street in East Hartford for affordable housing purposes under C.G.S. 8-37y.

- Shiloh Baptist Church in Middletown: Section 17 of the act directs DCF to reconvey to the Shiloh Baptist Church, for the administrative cost of the transfer, a parcel of land at the corner of Butternut and West Streets in Middletown. Within five years, the church must convey the land to a non-profit corporation, which must use it for moderate-income housing and educational, recreational, or community facilities open to the public. The act requires the facilities to comply with all federal non-discrimination requirements, prohibits the housing and facilities from being used for the

teaching or practicing of religion, and provides for reversion to the state if the property is not conveyed to a non-profit within five years. The property was previously conveyed to Shiloh Baptist Church for the same purposes in 1995, but it reverted to the state because it was not used.

- Newtown Housing for the Elderly: Section 30 of the act releases state-required deed restrictions which limit the number of dwelling units on the site of property transferred by the state to Newtown Housing for the Elderly, Inc., in 1975.

PLANNING AND ZONING

P.A. 05-280 DISCRIMINATION AGAINST DMHAS GROUP HOMES (eff. July 1, 2005).

Section 56 of this act prohibits municipal zoning regulations from treating in a manner different from a single-family house any DPH-licensed group home that houses six or fewer persons receiving mental health or addiction services or staff through DMHAS. An equivalent requirement already applies to group homes for disabled children and for persons with mental retardation. The act allows any resident of a municipality where a group home covered by the act is located to petition the Commissioner of Mental Health and Addiction Services, with the approval of the municipality's legislative body, to request defunding of the group home if it is not in compliance with all statutory and regulatory requirements.

P.A. 05-205 SMART GROWTH (eff. July 1, 2005).

This act revises the required content of municipal plans of development; requires coordination of municipal, regional, and state plans; and requires the designation of "priority funding areas" for the distribution of state development funding.

- Content of municipal plans: Existing law requires municipal planning commissions to adopt a plan of conservation and development for the municipality every ten years. This act requires that such plans consider the protection and preservation of agriculture; identify and promote areas where it is feasible and prudent to have "compact, transit accessible, pedestrian-oriented mixed use development patterns and land reuse"; and note inconsistencies with certain identified growth management principles. The principles listed in the act include expansion of housing opportunities, concentration of development around transportation nodes and corridors, and integration of planning across all levels of government so as to address issues on a local, regional, and statewide basis. In preparing a plan, commissions are required to consider focusing development and

revitalization in areas with existing or planned physical infrastructure. A municipal plan may also propose priority funding areas. The act also makes changes in the procedure for adopting municipal plans, including specifying that any owner or tenant may submit a plan amendment to the planning commission.

- Vertical consistency of plans: The act requires the regional planning agency (RPA), in commenting on a proposed municipal plan, to include a finding on the consistency of the proposed plan with the regional plan, the State Plan of Conservation and Development, and the plans of other municipalities in the region. Upon adoption of a plan, the local planning commission must notify OPM of any inconsistencies with the State Plan. The act requires that regional plans be rewritten every ten years by the applicable RPA, that they identify areas where it is feasible and prudent to implement specified growth management principles, that OPM review the regional plan for consistency with the State Plan, and that the RPA notify OPM of any ways in which the adopted final regional plan is inconsistent with the State Plan. Each revision of the State Plan, in turn, is required to describe the progress toward achievement of the goals and objectives established in the previous State Plan and to identify areas suitable for compact transit-accessible development, corridor management, and priority state funding. The act requires the State Plan to be revised by March 1, 2009.

- Priority funding areas: The act requires OPM to designate the boundaries of priority funding areas, which must be approved by the General Assembly in conjunction with the State Plan of Conservation and Development. Once approved, no state agency may provide funding for a growth-related project unless the project is located in a priority funding area. Most housing development is covered by the act, since a growth-related project includes any purchase, development, or improvement of real property costing more than $100,000. The act does, however, make provision for exceptions. First, it excludes DECD funding of housing developments which DECD determines promote fair housing choice and racial and economic integration. Second, it allows an agency, with the approval of OPM, to fund a project outside a priority funding area for one of nine reasons, including that the project (a) is located in a distressed municipality, (b) supports existing neighborhoods or communities, (c) is for the reuse or redevelopment of an existing site, (d) creates an extreme inequity, hardship, or disadvantage that clearly outweighs the benefits of locating the project in a priority funding area, or (e) has no reasonable alternative in a priority funding area. The act requires all agencies to modify their regulations "to carry out the purpose of coordinated management of growth-related projects in priority funding areas." It requires OPM to coordinate federal projects to encourage location in

urban areas.

JUDICIAL PROCEDURES

LEGAL SERVICES

JSS P.A. 05-3 STATE FUNDING FOR CIVIL LEGAL SERVICES (eff. July 1, 2005).

The state budget includes an appropriation of $450,000 in 2005-2006 and $1,000,000 in 2006-2007 to the Judicial Department for civil legal services to the poor by non-profit corporations whose principal purpose is the delivery of such services. Section 71 of June Special Session P.A. 05-3 provides that those funds are to be placed in a separate account and paid over to the entity which administers the IOLTA program (the Connecticut Bar Foundation), which is to make grants using the same criteria for the distribution of funds as are used in IOLTA.

P.A. 05-261 APPLICATION OF IOLTA TO NON-ATTORNEY ACCOUNTS (eff. July 1, 2005).

This act applies the Interest on Lawyer Trust Account program (IOLTA), through which legal services for the poor are funded, to any entity establishing an account to receive loan proceeds from first and second mortgage loans made by a mortgage lender. It thus requires such entity to participate in IOLTA. The change is primarily intended to cover title insurance company escrow accounts in real estate transactions in which the title insurance company, rather than the attorney, holds deposits on an interim basis. The fiscal note states that the act is expected to generate less than $100,000 per year in extra income for IOLTA.

OTHER

P.A. 05-42 SMALL CLAIMS SESSION MAXIMUM JURISDICTION (eff. October 1, 2005).

This act increases the maximum small claims jurisdiction from $3,500 to $5,000. It retains the portion of existing law which allows a small claims magistrate to award more than the jurisdictional maximum in residential security deposit cases, including any excess resulting from the statutory doubling of damages.

P.A. 05-105 SERVICE OF PROCESS ON THE STATE (eff. October 1, 2005).

Existing law allows service of process in a civil action against the state by serving the Attorney General at his Hartford office. This act (a) allows the service to be made by certified mail, return receipt requested and (b) makes clear that service must be by a "proper officer" (i.e., a marshal or a constable).

P.A. 05-135 SERVICE OF PROCESS BY MARSHALS (eff. June 24, 2005).

Section 1 of this act allows marshals to serve capiases issued by a court or a family support magistrate anywhere in the state and not just within the marshal's own county. Section 2 retroactively (to July 2, 2003) increases the marshal fees for executing a tax warrant for delinquent municipal taxes from 10% to 15% of the amount collected and increases the minimum fee from $20 to $30. Section 2 conforms the fee increase to the 2003 increase for the collection of civil judgments, which the marshals had erroneously also applied to tax warrants. Failure to make this retroactive adjustment would have required the marshals to return to debtors thousands of dollars in wrongly collected tax warrant fees.

See also: Representation of children in juvenile proceedings (JSS P.A. 05-3), p. 22.
Regional children's probate courts (P.A. 05-225), p. 24.
Juvenile court records (P.A. 05-152), p. 27.

PUBLIC BENEFITS AND SOCIAL SERVICES

P.A. 05-243 UNEARNED INCOME DISREGARD IN THE STATE SUPPLEMENT PROGRAM (eff. July 11, 2005).

This act requires DSS, beginning on January 1, 2006, and continuing annually thereafter, to increase the unearned income disregard for recipients of the State Supplement to SSI by the amount of the federal cost-of-living adjustment for SSI recipients for the corresponding calendar year.

P.A. 05-244 PROMOTION OF EARNED INCOME TAX CREDIT (eff. October 1, 2005).

Section 2 of this act requires DSS, in conjunction with the Child Poverty Council, to (a) promote greater utilization of the federal earned income credit to municipalities, employers, community-based organizations, and other entities that have frequent contact with low-income families and (b) enhance financial literacy and self-sufficiency programs. The act allows DSS to use school, business partnership, and private funds to carry out the act.

P.A. 05-280 CHANGES TO TFA, STATE SUPPLEMENT, AND OTHER CASH PAYMENTS PROGRAMS (eff. July 1, 2005).

- Benefit levels (Sec. 2 and Sec. 38): The act extends for two more years the freeze on TFA, SAGA, and State Supplement cash benefit payment levels. Under C.G.S. 17b-104(b) and 17b-106(a), benefit levels are supposed to be increased annually to reflect inflation, but a freeze has been imposed every year since 1991 for TFA and SAGA and since 1992 for State Supplement.

- Fraud early detection system (Sec. 3): Existing law requires DSS to maintain a statewide fraud early detection system (FRED) to identify fraudulent applications for TFA, Medicaid, and food stamps prior to awarding assistance. This act extends the system to the child care subsidy program and requires the Commissioner to submit quarterly reports to the General Assembly concerning savings realized.

P.A. 05-244 THE CHILD POVERTY COUNCIL (eff. July 11, 2005).

Section 1 of this act (a) adds the executive director of CHRO to the Child Poverty Council, (b) requires the Council's annual report to identify progress made toward meeting the goal of reducing the number of children living in poverty by 50% between 2004 and 2014 and requires the Council to meet at least twice a year to review and coordinate state agency efforts to meet that goal, and (c) requires OPM by July 1, 2006, to develop a protocol requiring state contracts for programs aimed at reducing child and family poverty to include performance-based standards and outcome measures related to the poverty reduction goal and by July 1, 2007, to include such provisions in such state contracts. The act authorizes OPM to consult with the Commission on Children to identify academic, private, and other available funding sources and to accept and use funds from private and public sources to implement these requirements.

JSS P.A. 05-3 BLOCK GRANT HEARINGS (eff. July 5, 2005).

Under existing law, if the state receives federal block grant funds, the Governor must submit her recommended allocation of the funds to the legislature's Appropriations Committee and to the committee of subject-matter cognizance, which must hold a public hearing, after which the committees may approve, reject, or modify the proposed allocation. Section 1 of this act eliminates the requirement that the legislative committees hold a public hearing before making their decision on the Governor's proposed allocation.

P.A. 05-141 UTILITY ALLOWANCES IN THE FOOD STAMP PROGRAM (eff. June 24, 2005).

Section 2 of this act prohibits DSS, in applying a standard utility allowance in calculating food stamp eligibility and benefits, from prorating the

allowance because the food stamp household shares the utility with an individual who is not a member of the assisted household. The prohibition is required by federal law.

See also: Non-profit participation in the state health plan (P.A. 05-238), p. 43.
State lien on discrimination awards (P.A. 05-280), p. 50.

U T I L I T I E S

ENERGY ASSISTANCE

P.A. 05-204 LOW-INCOME ENERGY ADVISORY BOARD (eff. July 6, 2005).

This act creates a Low-Income Energy Advisory Board to (a) advise and assist OPM and DSS in the planning, development, implementation, and coordination of energy assistance and low-income weatherization programs and policies; (b) advise the DPUC on the impact of utility rates and policies; and (c) make recommendations to the General Assembly to ensure affordable access to residential energy services for low-income residents. The board is to be comprised of representatives of five state agencies (OPM, DSS, DPUC, Consumer Counsel, and the Commission on Aging); representatives of energy providers (each gas and electric utility, the Norwich Public Utility, and the Connecticut Petroleum Dealers Association); and representatives of six specifically-named community agencies (Operation Fuel, Infoline, Connecticut Local Administrators of Social Services, LARCC, AARP, and the Connecticut Association for Community Action, which is to designate a representative of community action agencies). The representative of OPM is to chair the board, which is to hold its first meeting by August 1, 2005. OPM will also staff the board.

P.A. 05-123 NON-DISCRIMINATION IN ENERGY ASSISTANCE PLAN BETWEEN OIL AND UTILITY-HEATED HOUSEHOLDS (eff. October 1, 2005).

This act requires DSS, in its annual energy assistance plan under the Low-Income Home Energy Assistance Act of 1981, to design a basic grant for eligible households that does not discriminate based on the type of energy used for heating. In practice, this means that DSS cannot provide lower basic benefits for households with electric or gas heat than for households with oil heat.

P.A. 05-280 ENERGY CONSERVATION PROGRAM (eff. July 1, 2005).

Section 12 of this act extends the sunset date for the Residential Energy

Conservation Service Program by five years from July 1, 2005, to July 1, 2010.

OTHER

P.A. 05-264 HIRING OF OUTSIDE COUNSEL BY OFFICE OF CONSUMER COUNSEL (eff. October 1, 2005).

This act authorizes the Office of Consumer Counsel (OCC) to participate in proceedings before federal agencies and in federal courts on matters affecting Connecticut utility services and, through the Attorney General, to hire outside counsel to represent it in non-lobbying matters before the Federal Energy Regulatory Commission, the U.S. Department of Energy, the U.S. Nuclear Regulatory Commission, the Securities and Exchange Commission, the Federal Trade Commission, and the U.S. Department of Justice. The Department of Public Utilities itself already has these powers. The act limits such OCC expenses to $250,000 per year and provides explicitly that, as with other OCC expenses, they are paid through an apportionment of costs on the utilities regulated by the DPUC.

JSS P.A. 05-1 ELECTRIC ENERGY POLICY.

This act contains numerous provisions affecting energy policy. Some with a particular impact on consumers are:

- Compensation for providing standard service (Sec. 27): When electric deregulation was adopted in Connecticut, electric providers were divided into distribution companies (CL&P and UI), which continued to control the electric grid, and generation companies, which supplied electricity. Distribution companies remained regulated monopolies, while generation companies were deregulated and could compete for customers. To make sure that no one would be left without a supplier of electricity, CL&P and UI were required to be default suppliers for consumers who did not choose a generation company, and they were required to offer "standard service" subject to rate regulation. Most customers have not chosen a supplier, and therefore most continue to receive standard service. Section 27 of this act (eff. July 21, 2005) requires the DPUC to conduct a study to determine what extra amount above their reasonable rate of return, if any, distribution companies should receive for providing standard and default service. In making its recommendation, DPUC is required to consider the costs which the companies will incur, the risks they will sustain, the value to consumers, and the amount that a third-party entity would charge for providing such services. The DPUC is required to submit a report to the General Assembly by February 1, 2006.

- Termination of service for reasons other than non-payment (Sec. 29): The

act (eff. October 1, 2005) explicitly authorizes the DPUC to promulgate regulations regarding the termination of utility service based on reasons other than non-payment of a bill.

- Information about the selection of an electric generation company (Sec. 33): Effective July 1, 2005, this act requires the DPUC to conduct a proceeding to determine whether a practical cost-effective process exists under which an electric customer, when initiating electric service, may receive information regarding the selection of electric generating services. The DPUC is to complete the proceeding by December 1, 2005, and to implement the decision by March 1, 2006, unless the Department considers a later date to be appropriate.

P.A. 05-210 TRANSMISSION RATE ADJUSTMENT CLAUSE (eff. July 6, 2005).

Sections 30 and 31 of this act provide utility companies with automatic rate increases to cover all transmission fees and charges imposed on them by the Federal Energy Regulatory Commission (FERC). These charges are being imposed by FERC because of an insufficiency of generating capacity, particularly in Fairfield County. This act creates a transmission rate adjustment clause, which must be approved by the DPUC through an administrative proceeding. Once approved, however, the clause will allow utility companies to surcharge customer bills automatically in accordance with the federally-mandated charges. The act specifically prohibits the DPUC from reviewing the prudence of costs over which a federal agency has exclusive jurisdiction.

See also: Cell phone company regulation (P.A. 05-241), p. 4.
Prepaid home heating oil contracts (P.A. 05-229), p. 5.
Residential heat and utilities surcharge clauses (P.A. 05-56), p. 46.

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