Summary of
2003 Public and Special Acts

Contents:

[Continued]

CIVIL RIGHTS

P.A. 03-143 CHRO ENFORCEMENT PROCEDURES (eff. October 1, 2003).

This act makes two changes in CHRO enforcement procedures. First, in cases in which the complainant has counsel and the Attorney General determines that the interests of the state will not be adversely affected, it requires complainant's attorney to present the complainant's case. Existing law merely allows the Attorney General to permit the complainant's attorney to present the case. Second, it requires (rather than permits) CHRO to adopt regulations establishing alternate dispute resolution standards and procedures in employment discrimination cases.

JSS P.A. 03-6 CHRO LEGAL COUNSEL (eff. August 20, 2003).

Sections 189 through 195 of this act eliminate the statutory position of "Commission Counsel." The functions of the Commission Counsel are instead to be performed by a member of CHRO's legal staff assigned by CHRO's executive director.

P.A. 03-151 TRAINING AND RESPONSIBILITIES OF STATE AFFIRMATIVE ACTION OFFICERS (eff. October 1, 2003).

This act requires CHRO and the Permanent Commission on the Status of Women to provide at least ten hours of training per year to all state agency affirmative action officers. The training must cover state and federal discrimination laws and internal discrimination investigatory techniques. The act also makes affirmative action officers responsible for mitigating discriminatory conduct in their agencies and for investigating discrimination complaints against their agencies. In addition, the act prohibits affirmative action officers from representing their agencies before CHRO or the federal Equal Employment Opportunity Commission (EEOC). Agency representation in such cases is to be provided by a person designated by the Attorney General, who must have received the same ten hours of legal and investigative training that is mandated for affirmative action officers.

P.A. 03-229 LATINO AND PUERTO RICAN AFFAIRS COMMISSION (eff. October 1, 2003).

This act requires the Latino and Puerto Rican Affairs Commission to (a) maintain an accessible list of members of the Latino and Puerto Rican community who are prospective appointees to state boards and commissions; (b) work with the General Assembly's Legislative Management Committee to establish a plan of short- and long-term initiatives based on the needs of the

Latino and Puerto Rican community; and (c) direct its advice, reports, legislative comments, and recommendations not only to the Governor but also to the General Assembly. The act also requires that the Commission's annual report be submitted by January 1 each year.

C O N S U M E R

DEBT COLLECTION

P.A. 03-266 HOSPITAL BILLING PRACTICES (eff. October 1, 2003).

This act imposes a number of duties on hospitals to assure that uninsured patients have access to free and reduced-cost services for which they are eligible and limit hospital payment recoveries against uninsured patients. In particular:

- Enhancement of patient knowledge of the availability of hospital bed funds: The act requires that notices and signs about the availability of hospital bed funds be posted in Spanish as well as in English. It requires that the existing mandatory one-page summary on bed funds also be bilingual, that it be available in a place and manner that is easy to obtain, that it contain information about other free or reduced-cost policies for the indigent available through the hospital, and that it inform patients that a patient whose bed funds application is rejected may reapply. The summary must be available not only at the hospital but must also be included in all bills and notices sent by hospital collection staff, independent collection agencies, and attorneys handling collection work for the hospital.

- Referrals of uninsured patients for collection: The act prohibits a hospital from referring a bill for collection or initiating an action against a patient unless it has first made a determination that the patient is (a) uninsured and (b) not eligible for the hospital bed fund. If, at any point in the debt collection process, whether before or after judgment, the hospital or its collection agent, including its collection attorney, becomes aware that the debtor is eligible for free or reduced-cost hospital bed funds or other reduced-cost programs, the agent must promptly discontinue collection efforts and refer the file back to the hospital for review. Collection may not be resumed until that review has been made.

- Amount of liability of uninsured patients: Under existing law, a hospital may not charge an uninsured patient whose income is below 200% of poverty more than its actual cost of providing services. This act raises that

threshold to 250% of poverty. It also requires each hospital collection agent to give written notice to the debtor as to whether the debtor is considered to be "uninsured" for purposes of this rule.

- Limitations on hospital collection tools: The act limits pre- and post-judgment interest on hospital bills to 5% per year (it is 10% for other kinds of debts). It increases the homestead exemption to $125,000 against hospital debts (it is $75,000 for other debts). It provides that compliance with an installment payment order on a judgment for a hospital bill stays foreclosure of real property and execution on wages, bank accounts, and other property. In addition, even if the debtor has defaulted on an installment payment order, the act prohibits the levying of a property execution to collect a hospital bill until a court has determined the non-compliance and has decided whether to continue or modify the installment as an alternative to lifting the stay.

- Data gathering: The act requires hospitals annually to report to the OHCA the number of applicants for free and reduced-cost services, the number approved, and the amount of free and reduced-cost care provided. Annually beginning March 1, 2004, each hospital must also file with OHCA a debt collection report which provides the name of any collection agent which it uses, the hospital's processes and policies for assigning a debt to a collection agent and compensating the agent, and the recovery rate on assigned accounts.

P.A. 03-196 BAD CHECK STATUTORY DAMAGES (eff. July 1, 2003).

Under C.G.S. 52-565a, a person who bounces a check and fails to make it good within 30 days after receiving written notice from the payee is liable for statutory damages, if (a) the payee has conspicuously posted notice of the potential liability for statutory damages and (b) the person who wrote the check knew or should have known that the check would bounce. The damages are at the discretion of the court, but not to exceed $750 if no checking account existed or $400 if an account did exist. The written notice must be sent by both certified and first-class mail and must contain the content and be in the form prescribed by Section 52-565a. Section 19 of this act allows the payee to substitute a sworn affidavit of mailing for the certified copy of the notice.

P.A. 03-62 UCC ARTICLE 9 (eff. October 1, 2003).

In 2001, the General Assembly adopted a complete revision of Article 9 of the Uniform Commercial Code, which deals with security interests in personal property. This act makes a number of minor supplemental corrections to that revision. In particular, it amends C.G.S. 52-367a and 52-367b, the bank

account execution statutes, to assure that creditors with a security interest in a bank account will get notice of any execution against the account. In regard to C.G.S. 52-367b, which governs executions on the bank accounts of natural persons, Section 23 of the act requires that notice of the execution be sent to the secured party as well as to the debtor and gives the secured party the right to request a hearing on its claims before the funds are released to the marshal. In practice, however, Section 23 will not affect most individual bank accounts, because existing law unchanged by this act permits a creditor to take a security interest in a personal bank account only to secure a non-consumer debt.

See also: Impact of Bankruptcy on Foreclosure (P.A. 03-202), p. 46.

LENDING AND OTHER BANKING PRACTICES

P.A. 03-105 SALE OF MERCHANDISE ON DEFERRED PAYMENT SCHEDULE (eff. October 1, 2003).

The Retail Installment Sales Financing Act (RISFA) governs the purchase of consumer goods, including automobiles, under contracts in which a security interest is retained by the seller or the lender. This act requires that any retail installment contract for the sale of merchandise on a "deferred payment schedule" contain an explanation of the consequences of the failure of the buyer to make the first or future installment payments on a timely basis. The explanation, which must be in at least ten-point bold type, must state clearly whether or not interest will be charged retroactively for the deferred period of the contract and, if so, at what interest rate. The act makes the deferred payment schedule ineffective unless (a) the contract contains these provisions and (b) the buyer acknowledges in writing on the contract that he or she has been informed of the consequences of failing to make timely future payments.

See also: Home Equity Lending (P.A. 03-61), p. 46.
Mortgage Application Protection for Persons on Active Military Duty (P.A. 03-24), p. 46.

MOTOR VEHICLE PRACTICES

P.A. 03-38 NOTICE TO LIENOR OF SALE OF A MOTOR VEHICLE (eff. May 23, 2003).

Under Connecticut law, a motor vehicle repair shop has a statutory lien under C.G.S. 49-61 for the value of work it has performed on a motor vehicle. If the work is not paid for within 30 days of its completion, the shop is required to notify the Commissioner of Motor Vehicles, who in turn must notify the shop of the name and address of the holder of any security interest or lien recorded

on the certificate of title. There is no requirement, however, that the repair shop do anything with this information, and the vehicle may be sold at auction without notice to the lienholder if it is not redeemed within three months of the completion of the repair work. This act (a) requires that the Commissioner's notice to the repair shop of any liens must be sent within ten days after it receives the shop's notice that it is holding the vehicle and (b) requires the repair shop, within ten days of receiving notice from the Commissioner of the name and address of a lienholder, to mail notice to the lienholder by registered or certified mail stating that the repair shop is holding the motor vehicle for repair and storage charges.

P.A. 03-50 EXTENDED WARRANTY MOTOR VEHICLE CONTRACTS (eff. July 1, 2003).

Existing law sets minimum standards for extended warranties of products other than automobiles. This act applies the existing extended warranty law to extended warranties on automobiles and changes some aspects of its coverage. For example, existing law requires particular disclosures in extended warranties and requires extended warranty providers to be insured or allocate no more than half of their net worth as claims reserves. Under the act, these provisions will now apply to automobile warranties. In addition, P.A. 03-50 expands the definition of "extended warranty." It provides that the extended warranty law will cover indemnification agreements (not only repair service contracts), maintenance and replacement (not only repair), and normal wear and tear (not only product defects). The new act, however, limits existing law so that it will apply only to the entity that is contractually obligated to provide service under the warranty, thereby eliminating the entity which issues or provides the extended warranty.

P.A. 03-245 MOVING-DAY TRUCK RENTALS (eff. October 1, 2003).

This act provides statutory damages against any truck rental company which accepts a reservation secured by a financial instrument (i.e., a credit card, debit card, check, money order, or similar promise to pay) but fails to deliver the truck or a comparable alternative rental truck on time to the proper location as promised. The rental must be to move personal property for a non-business purpose. The consumer may recover damages of up to twice the daily rental rate. The rental company must post in a prominent location a clearly legible sign giving the consumer notice of the right to statutory damages. The act applies only to rental companies that have a rental fleet of five or more trucks with a gross vehicle weight rating of 26,000 pounds or less.

P.A. 03-55 NOTICE OF DENIAL OF CLAIM UNDER AUTOMOBILE INSURANCE POLICIES (eff. January 1, 2004).

This act requires that each denial of a claim under a "personal risk insurance policy" (which includes automobile liability insurance) be accompanied by a notice in at least 12-point type informing the insured of the right to contact the Division of Consumer Affairs within the Insurance Department to contest the denial and providing the Department's address and toll-free telephone number.

OTHER CONSUMER PROTECTION

P.A. 03-156 PROTECTIONS AGAINST IDENTITY THEFT (eff. October 1, 2003).

This act modifies the criminal statutes concerning identity theft, which is defined as intentionally obtaining personal identifying information without consent to obtain money, credit, property, or medical information. In addition, Section 9 of the act requires credit bureaus and other credit rating agencies to stop reporting any information which a consumer claims appears on his or her credit report as a result of identity theft. The consumer must report the identify theft in writing to the credit bureau, submit proof of identity, and provide a copy of a police report showing that the consumer has complained to the police. The credit bureau must, within 30 days of receiving the consumer's request, block reporting of the disputed debt and must inform the business which furnished the information of the claim of identity theft and of the effective date of the block. The credit bureau may refuse to comply only if, in the exercise of good faith and reasonable judgment, it has substantial reason based on specific, verifiable facts to doubt the authenticity of the consumer's documentation. In such a case, it must give notice to the consumer of the specific, verifiable facts on which its refusal to block reporting is based. The consumer may challenge the decision under existing rules for disputing credit reports.

In addition, Sections 12 and 13 of the act, effective January 1, 2005, (a) prohibit anyone who accepts credit or debit cards from printing on an electronically-printed customer receipt the expiration date of the card or more than its last five digits and (b) prohibit anyone from publicly posting or displaying an individual's Social Security number, printing it on a card that is required to access goods or services, requiring its transmittal over a non-secure Internet connection, or requiring its use for Internet access except in conjunction with a password or PIN. The Social Security number protections do not go into effect for health insurance policies until July 1, 2005.

P.A. 03-167 DOOR-TO-DOOR SALES (eff. October 1, 2003).

Under existing law, no agreement of the buyer in a door-to-door sale contract "shall be effective" unless the contract complies with the Home

Solicitation Sales Act. This provision arguably allows the seller to escape his or her own contract by claiming that the seller's non-compliance with the law voided the contract. Section 4 of this act rewords the existing statute to say that no contract which violates the Home Solicitation Sales Act will be effective "against the buyer," thereby permitting the buyer to enforce the contract if he or she wishes.

D I S A B I L I T Y

MENTAL ILLNESS AND THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

P.A. 03-31 TIME LIMIT ON SHOCK THERAPY ORDERS (eff. October 1, 2003).

This act establishes a 45-day maximum on probate court orders authorizing electroshock therapy or psychosurgery for patients unable to give informed consent. Current law limits voluntary consents to 30 days but does not set a maximum on involuntary orders. The act also requires the probate court to find that there is "no other less intrusive beneficial treatment," rather than "no other reasonable alternative procedure."

JSS P.A. 03-3 PILOT PROGRAM FOR COMMUNITY-BASED RESIDENCES FOR PERSONS WITH ACQUIRED BRAIN INJURY (eff. August 20, 2003).

Section 12 of this act allows DMHAS-funded community-based residences which provide rehabilitation and support services for persons with acquired brain injury to operate on a pilot basis until October 1, 2005, without being licensed by DPH or obtaining a certificate of need from the Office of Health Care Access. It also allows trained individuals other than licensed nurses to administer medication to residents under the orders of a doctor, nurse, or physician's assistant. DPH, in consultation with DMHAS, must develop standards for operating such residences and training requirements for persons authorized by this act to administer medication in them.

JSS P.A. 03-3 FUNDING OF COMMUNITY MENTAL HEALTH RESTORATION SUBACCOUNT (eff. August 20, 2003).

Under prior law, federal Medicaid reimbursements received by the state for the provision of optional adult rehabilitation services supplied by mental health providers to DMHAS clients were to be credited to the Community Mental Health Restoration subaccount. However, the state had not adopted adult rehabilitation services as one of its Medicaid services and therefore was not receiving any Medicaid reimbursement for these services. Section 70 of this

act requires that adult rehabilitation services be included in the optional Medicaid services offered by the state and requires that $3 million per year of the reimbursement from Medicaid for those services for the next two years be credited to the Community Mental Health Restoration subaccount.

See also: Gynecological Services for Women with Disabilities (P.A. 03-40), p. 11.
Changes in Medicaid Benefits and Eligibility/Mental Health Services (JSS P.A. 03-3), p. 33.
Changes to SAGA and SAGA Medical/DMHAS behavioral managed care program (JSS P.A. 03-3), p. 52.

MENTAL RETARDATION AND THE DEPARTMENT OF MENTAL RETARDATION

P.A. 03-146 INVESTIGATIVE RESPONSIBILITIES OF DMR AND P&A UPON THE DEATH OF A DMR CLIENT (eff. October 1, 2003).

This act requires the Commissioner of Mental Retardation to ensure that a comprehensive and timely review is conducted by DMR of the death of any person with mental retardation for whom DMR has direct or oversight responsibility for medical care. The review must cover the events, overall care, quality of life, and medical care which preceded the death. In addition, DMR is required to report to the existing Independent Mortality Review Board, for its review, any death (a) which involves an allegation of abuse or neglect, (b) for which a medical examiner has accepted jurisdiction, (c) in which an autopsy was performed, which was sudden and unexpected, or (d) in which the DMR review raises questions about the appropriateness of care. If there are allegations of abuse or neglect, the Office of Protection and Advocacy must also conduct its own investigation, subject to protocols for such investigations established by the director of P&A in consultation with DMR. The act requires DMR to transfer one investigator position to P&A to conduct these reviews.

Effective July 1, 2004, the act also requires DMR to adopt regulations which require that (a) all staff at community residential facilities be certified in CPR, (b) records of staffing be available to DMR for inspection, (c) each residential facility develop and implement emergency plans and staff training to address emergencies which threaten the health or safety of residents, (d) DMR inspectors verify during licensing inspections that staff is adequately trained to respond to an emergency and that a summary of information on each resident be available to emergency medical personnel, and (e) at least half of DMR's periodic inspections be unannounced. The act also provides that each DMR contract with such organizations must require DMR to conduct periodic reviews of contract performance and to take progressive enforcement actions if the department finds poor performance or contract non-compliance, including

(a) a stricter monitoring schedule, (b) a partial-year contract, (c) a reduction of state payments, and (d) termination of the contract.

JSS P.A. 03-3 BIRTH-TO-THREE PROGRAM (eff. Aug. 20, 2003).

Under prior law, individual and group health insurance policies were required to cover at least $5,000 per year of expenditures for medically necessary early intervention services provided as part of an individualized family service plan under the Birth-to-Three program. The program addresses the needs of developmentally disabled children under the age of three. Sections 7 and 8 of this act reduce the required coverage to $3,200 per year, with a maximum of $9,600 over the total three-year period. Section 9 amends DMR's existing sliding-scale fee schedule for families receiving Birth-to-Three services by permitting the imposition of fees on any family, regardless of how low its income may be, and by requiring fees for families with gross income of $45,000 or more. No participation fees may be charged, however, to a family which is eligible for Medicaid.

P.A. 03-203 DMR EMPLOYEE CRIMINAL HISTORY RECORD CHECKS (eff. October 1, 2003).

Sections 1 and 2 of this act require DMR to conduct a state criminal background check on each applicant for employment in a DMR program that provides direct services to persons with mental retardation and permits DMR to require that its private sector residential, day, and support services providers impose the same requirement on applicants for employment who will have direct and on-going contact with persons and families receiving such services. If such checks are required for private sector employees, their cost must be treated by DMR as an allowable administrative cost. No applicant who is required to submit to a criminal history records check may be hired until the check has been completed. In addition, DMR must by January 1, 2004, submit to the General Assembly a report on the legislative, fiscal, and logistical issues regarding a requirement that such employees also submit to a national criminal history records check.

JSS P.A. 03-3 ASSISTED LIVING PILOT FOR PERSONS WITH MENTAL RETARDATION (eff. August 20, 2003).

Section 91 of this act requires DMR, in conjunction with DSS, to prepare a plan for a pilot program to provide residential accommodations with assisted living services to persons on DMR's residential placement or support waiting list. The plan must describe issues concerning coordination of staffing, application for federal HHS demonstration grants, and any necessary Medicaid waivers. DMR is to submit a report containing the plan to the General Assembly by January 1, 2004.

P.A. 03-51 PERSONS WITH MENTAL RETARDATION (eff. October 1, 2003).

This technical act changes the phrase "mentally retarded persons" to "persons with mental retardation" in the guardianship statutes.

See also: Gynecological Services for Women with Disabilities (P.A. 03-40), p. 11.
Abuse Against the Elderly and Persons with Disabilities (P.A. 03-267), p. 15.

OTHER

Sp.A. 03-13 "RED RIBBON" STUDY OF HIV AND AIDS PROGRAMS (eff. June 3, 2003).

This act requires the Commissioner of Public Health to conduct an evaluation of the current system of HIV and AIDS programs and to develop a plan for improvements. The Commissioner must assemble all interested parties, including representatives of DSS, DMHAS, OPM, and the Department of Correction and advocates from a wide range of groups which deal with HIV and AIDS issues. The act specifically requires the inclusion of representatives of (a) a needle exchange program, (b) the Connecticut Positive Action Coalition, (c) the Connecticut AIDS Residence Coalition, (d) the Harm Reduction Coalition, (e) the Connecticut HIV Prevention Community Planning Group, (f) the Center for Interdisciplinary Research on AIDS, (g) the Ryan White Title I Planning Councils, (h) a federally qualified health center, (i) community-based organizations with a focus on Latinos, African-Americans, and youth, and (j) the New Haven Mayor's Task Force on AIDS. Persons living with HIV or AIDS must also be included.

The evaluation is to develop an integrated plan for the delivery of HIV and AIDS prevention services and care by (a) examining state agency programs to assure that there is no duplication of services and that they are using the best service delivery system and the best standard of care; (b) determining how state dollars are allocated to HIV and AIDS; (c) developing cost-effective legislation and regulations to help prevent the spread of HIV and AIDS and help persons who are living with those conditions; and (d) integrating into the plan the recommendations of the Ryan White Title I Planning Councils and the Connecticut HIV Prevention Community Planning Group. The report is due on January 1, 2005.

P.A. 03-88 POWERS OF OFFICE OF PROTECTION AND ADVOCACY (eff. October 1, 2003).

This act authorizes the Director of P&A to ensure that all aspects of P&A operations conform to federally established requirements for program

independence and authority, including structural independence from other agencies and authority to pursue legal and administrative remedies on behalf of persons with disabilities, investigate allegations of abuse and neglect, contact persons with disabilities and access their records, educate policy makers and the general public, and reach out to members of traditionally underserved populations.

JSS P.A. 03-6 SUSPENSION OF PROPERTY TAX EXEMPTION FOR PERSONS WHO ARE PERMANENTLY AND TOTALLY DISABLED (eff. August 20, 2003).

Under existing law, the first $1,000 of property owned by a person who is permanently and totally disabled is exempt from municipal property taxes. Towns are reimbursed by the state for the amount of property tax which they do not receive because of this exemption. Sections 40 and 41 of this act repeal this exemption for one year -- the tax assessment year which begins on October 1, 2003 -- but they restore it for subsequent years. Section 41 also appears to suspend state reimbursement to municipalities for any property tax revenue lost as a result of disability exemptions which were taken for the tax year which began on October 1, 2002.

P.A. 03-40 GYNECOLOGICAL SERVICES FOR WOMEN WITH DISABILITIES (eff. May 23, 2003).

This act requires the Department of Public Health, in consultation with the Office of Protection and Advocacy, to develop recommendations for the provision of gynecological services for women with mental and physical disabilities. The recommendations must include (a) procedures for providing services, including procedures for confidentiality and consent, and (b) policies and procedures regarding the use of sedation which limit sedation when not medically necessary and which provide for informed consent. The Department must also develop a plan for public education regarding its recommendations. A report to the General Assembly on the recommendations and the public education plan is due on January 1, 2004.

The act also requires DMHAS and DMR to provide mammograms and pelvic examinations according to the standards of the American College of Obstetricians and Gynecology to patients in state-operated facilities and institutions.

P.A. 03-217 BOARD OF EDUCATION AND SERVICES FOR THE BLIND (eff. July 9, 2003).

This act establishes a 16-member Council to Monitor the Activities of the Board of Education and Services for the Blind (BESB). The membership

includes four state agency representatives (OPM, DSS, Education, and the BESB); four designated members of the public appointed by legislative leadership (one representative of a statewide organization for the blind, two blind adults receiving BESB services, and one person with business administration and financial management expertise); and the chairs and ranking members (or their designees) of the legislature's Human Services and Program Review Committees. The Council, in consultation with the BESB, is to establish benchmarks for agency management, operations, and services and monitor the actions of the agency regarding (a) the quality, efficiency, and equity of education services for children who are blind, outreach efforts to elderly persons who are blind, and home, daily living skills, and vocational rehabilitation services for persons who are blind; (b) the provision of employment training and experience in a competitive work environment and the availability of the broadest employment and entrepreneurial opportunities; (c) the development and implementation of strategic planning efforts; (d) the accountability of fiscal operations; and (e) BESB implementation of Program Review recommendations on vending operations. The Council is to report its recommendations to the General Assembly by February 1, 2004. The act warns that failure by the BESB to meet Council-established benchmarks may result in the transfer of authority and funding for deficient programs and services to another state agency.

In addition, the act requires that the executive director of the BESB be a person who has background, training, or education related to services for the blind and also experience in program administration, oversight, and leadership. The act also classifies the executive director as a "department head."

P.A. 03-129 INJURY TO GUIDE DOGS (eff. October 1, 2003).

Section 1 of this act allows blind or disabled crime victims to receive victim compensation for injuries to their guide or assistance dogs under the same circumstances as they may currently receive it for personal injuries.

E D U C A T I O N

SPECIAL EDUCATION

P.A. 03-86 SPECIAL EDUCATION SERVICES FOR CHILDREN IN THE JUVENILE JUSTICE SYSTEM (eff. October 1, 2003).

This act requires that a pre-sentencing report for a school-age child convicted of juvenile delinquency (a) indicate whether the child has been identified as requiring special education and related services and (b) if so,

include a report of the child's individualized education program (IEP).

JSS P.A. 03-6 SPECIAL EDUCATION PROGRAMS (eff. August 20, 2003).

Sections 2 through 4 of this act conform state law to the federal Individuals with Disabilities Education Act (IDEA) by incorporating references to federal definitions and requirements and by eliminating redundant and inconsistent state provisions. Sections 5 through 7 make similar changes in the procedure for special education hearings. For example, they allow an issue to be considered on a planning and placement team (PPT) appeal, even if the issue was not raised at a PPT meeting; and they eliminate a requirement that the pre-hearing conference must be held at least ten days before the hearing. They also require (rather than permit) a court handling an appeal to hear additional evidence if requested by a party and also make changes in the circumstances in which action may be taken without the consent of the child's parent.

See also: Board of Education and Services for the Blind (P.A. 03-217), p. 11.
Changes in Medicaid Benefits and Eligibility/School-based child health program (JSS P.A. 03-3), p. 32.

OTHER

JSS P.A. 03-6 HOMELESS CHILDREN (eff. August 20, 2003).

Section 8 of this act requires boards of education to follow the federal McKinney-Vento Homeless Assistance Act in providing educational services to homeless children. That law spells out in greater detail than state law when a child can attend school in the district of former residence and when in the district where the child's temporary housing is located.

P.A. 03-206 AFTER-SCHOOL PROGRAMS (eff. July 9, 2003).

This act requires the Commission of Education, in consultation with the Commissioner of Social Services and the Executive Director of the Commission on Children, to establish and appoint an After School Committee. Members must include after-school program providers, persons having expertise in after-school programs, local elected officials, members of community agencies, members of the business community, and professional educators. By February 1, 2004, the Committee is to make recommendations to the General Assembly on (a) existing state, federal, and private resources for after-school programs; (b) ways to improve coordination and goal-setting among state agencies to achieve efficiencies and encourage training and local technical assistance; (c) identification of best practices; (d) methods of encouraging community-based providers; (e) professional development; (f)

barriers to after-school programs; and (g) a public and private governance structure that ensures the sustainability of after-school programs. The Commissioner is authorized to accept funding for the study from private organizations which do not receive funding from the Department of Education.

P.A. 03-211 MEETING THE HEALTH CARE NEEDS OF STUDENTS IN SCHOOL (eff. July 1, 2003).

Existing law requires school boards to adopt policies prohibiting school personnel from recommending the use of psychotropic drugs for any child. This act makes explicit that those policies must include procedures for (a) communication between school health personnel and other school personnel, (b) communication to parents of a recommendation that the child receive a medical examination, and (c) obtaining parental consent for school health personnel to communicate with a medical practitioner about the child. The act also makes clear that it does not prohibit a planning and placement team from recommending a medical evaluation to determine a child's eligibility for special education and related services or a child's educational needs for an individualized educational program.

The act also (a) requires school boards to honor the orders of an advanced-practice registered nurse (RN) restricting a student's physical activity in school; (b) provides that required in-service staff training programs on the development of exceptional children must include attention-deficit hyperactivity disorder and learning disabilities; (c) requires school boards to let diabetic students test their own glucose levels in school if the written order of a physician or advanced-practice RN states the student needs to self-test and is capable of doing so; (d) adds school physical and occupational therapists and paraprofessionals to the list of school employees who can administer medication to students under specified circumstances, expands authority for the state to adopt regulations to govern administration, and shifts authority to adopt regulations from the Commissioner of Public Health to the State Board of Education; (e) requires health care providers to report to school districts when they immunize or conduct a health care assessment on a child seeking to enroll in a public school and to report on immunizations and assessments for each child enrolled in that school; (f) immunizes from civil liability volunteers and certain nonprofit organizations when, under specified conditions, a volunteer uses an automatic prefilled cartridge injector on a child who apparently needs an injection due to an allergic reaction; and (g) prohibits school boards from denying a student access to school transportation solely because he needs to carry an automatic cartridge injector or similar equipment to deliver epinephrine to treat allergic reactions.

E L D E R L Y

P.A. 03-126 ADMINISTRATION OF ESTATES BY DAS (eff. July 1, 2003).

Under existing law, the Department of Administrative Services may be appointed administrator of the estate of any person who is deceased, incapable, incompetent, or a minor who has received state financial assistance and whose estate consists solely of personal property valued at no more than $10,000. Appointment as administrator makes it easier for the state to recoup its aid. This act expands the maximum value of estates for which DAS may serve as administrator from $10,000 to $50,000.

P.A. 03-267 ABUSE AGAINST THE ELDERLY AND PERSONS WITH DISABILITIES (eff. October 1, 2003).

This act tightens the laws concerning mandatory reporting of abuse against elderly persons and persons with disabilities.

- Mandatory reporting of elderly and nursing home resident abuse: Existing law requires mandatory reporters to report suspected abuse of elderly persons and nursing home residents within five calendar days, and failure to report can result in a $500 fine. This act reduces the reporting period to 72 hours and makes intentional failure to report into a Class C misdemeanor for a first offense and a Class A misdemeanor for subsequent offenses. It also makes explicit that any employee who is retaliated against for making an abuse report is entitled to "all remedies available under law," specifically including reinstatement, treble damages, back pay, and attorney's fees.

- DSS referrals for prosecution: If DSS's investigation of a nursing home abuse complaint confirms that abuse has occurred, the act requires DSS to refer the matter in writing to the Chief State's Attorney for possible criminal prosecution.

- Crime of abuse: The act also creates the new crime of abuse of an elderly, blind, disabled or mentally retarded person in the first, second, or third degree. Third-degree abuse (Class A misdemeanor) is abuse that is committed recklessly or knowingly, without regard to its seriousness. If the abuse is "intentional," or if it is both "knowing" and serious, the crime is enhanced to second-degree (Class D felony). If it is both serious and intentional, it becomes first-degree abuse (Class C felony). The act also allows DPH to suspend or revoke the professional license of, or otherwise discipline, any DPH-licensed person convicted of abuse.

- Religious refusal of treatment: The act makes explicit that an elderly person's refusal of treatment based on religious reasons does not of itself constitute grounds for the implementation of protective services.

See also: NURSING HOMES AND LONG-TERM CARE, p. 38-39.

EMPLOYMENT

P.A. 03-213 FAMILY AND MEDICAL LEAVE (eff. October 1, 2003).

This act requires private-sector employers with 75 or more employees to allow employees to use up to two weeks of accumulated sick leave to attend to the "serious health condition" of a son, daughter, spouse, or parent or the birth or adoption of a child. The act applies only if the employer has a written sick leave policy providing compensation while the employee is absent due to illness, and it does not allow use of a disability plan for family and medical leave. Any aggrieved employee may file a complaint with the Labor Commissioner, who is required to hold a hearing and may order all appropriate relief, including reinstatement, back wages, and reestablishment of benefits. The act is explicit that its rights and remedies are "cumulative and nonexclusive" and are in addition to rights under other law.

The act also liberalizes the way in which eligibility for unpaid family and medical leave under the present state statute is calculated. Existing law allows covered employees to take up to 16 weeks unpaid leave in any 24-month period for the birth or adoption of a child, the care of a seriously ill relative, or the serious health condition of the employee. Those 24 months are measured forward, from the first day of leave taken. This act allows the employee, as an alternative to the existing method, to use any fixed 24-month period, including months which have already occurred.

P.A. 03-239 CALCULATION OF OVERTIME PAYMENTS FOR DELIVERY DRIVERS AND SALES MERCHANDISERS (eff. October 1, 2003).

This act amends C.G.S. 31-76b to make clear that overtime pay for those delivery drivers and sales merchandisers paid on a base salary and commission basis who are not exempt from the overtime pay laws is calculated by treating their regular hourly pay rate as one-fortieth of their weekly remuneration.

P.A. 03-102 PILOT PROGRAM TO UPGRADE EMPLOYEE SKILLS (eff. July 1, 2003).

This bill requires the Connecticut Employment and Training Commission, in cooperation with a consenting regional workforce development board, to establish a pilot program between July 1, 2003, and June 30, 2006, that allows the board to use its funds to make an existing adult education program available to "incumbent workers," defined as Connecticut employees who are in need of additional skills, training, or education to "upgrade employment." It is to report to the General Assembly on the pilot program by January 1, 2007.

P.A. 03-142 CAREER LADDER PROGRAMS (eff. June 26, 2003).

This act requires the Office of Workforce Competitiveness (OWC), in consultation with the Permanent Commission on the Status of Women, to establish a Connecticut Career Ladder Advisory Committee. By February 1, 2004, the OWC, in conjunction with the advisory committee, is to develop and submit to the General Assembly a three-year plan for the creation or enhancement of career ladder programs for occupations in early childhood education, child care, health care, and any other field with a projected workforce shortage.

P.A. 03-207 APPRENTICESHIP TRAINING PROGRAM (eff. July 9, 2003).

This act imposes a $25 per year fee on persons registered with the Labor Department as apprentices and a $30 per apprentice per year fee on apprenticeship programs. The revenue from these fees is to be used by the Department for its costs of administering the Apprenticeship Training Program and the Connecticut State Apprenticeship Council and for the costs of the Commissioner's functions regarding the formulation of work training standards. The act also requires the Commissioner of Labor to report to the General Assembly by February 4, 2004, on the feasibility of establishing an on-line system for registering apprentices and apprenticeship programs with the Department.

P.A. 03-187 CONFIDENTIALITY OF EMPLOYEE ASSISTANCE PROGRAM COMMUNICATIONS (eff. October 1, 2003).

Under existing law, the participation by or records of a state employee in a voluntary state employee assistance program may not be disclosed. These are counseling programs for addressing personal employee concerns, such as health, marital, family, financial, emotional, and substance abuse issues. This act (a) extends the confidentiality provisions to all employer-authorized employee assistance programs and not just those for state employees, but (b) permits disclosure if "necessary to prevent harm to the employee or others."

P.A. 03-93 COMMUNITY ECONOMIC DEVELOPMENT FUND (eff. October 1,

2003).

Under existing law, OPM operates a program through the Community Economic Development Fund (CEDF) to promote employment in the 45 towns which are either "public investment communities" or "targeted investment communities." The Fund provides technical assistance and funding to help develop businesses in those communities. This act removes the geographic restriction on where CEDF can provide assistance by allowing CEDF to use its funds to help low and moderate income individuals (defined as persons earning below the state median income) establish, maintain, and expand businesses in any town in the state.

See also: CHRO Enforcement Procedures (P.A. 03-143), p. 1.
Nursing Home Health and Safety (P.A. 03-272), p. 38.

F A M I L Y

DOMESTIC VIOLENCE

P.A. 03-202 RESTRAINING ORDERS (eff. October 1, 2003).

Section 4 of this act amends C.G.S. 46b-15(e) to provide that a restraining order may be served by any "proper officer" and not only by a state marshal. Section 5 amends C.G.S. 46b-38(e) to require that the notice to a defendant released on bail for a family violence crime include a statement that the offense is punishable by up to five years in prison and a fine of up to $5,000. Section 6 expands the designation of family violence offenses to include criminal violation of a restraining order (C.G.S. 53a-223b).

P.A. 03-98 FOREIGN ORDERS OF PROTECTION (eff. October 1, 2003).

This act conforms Connecticut law to the requirements of the federal Violence Against Women Act (18 USC 2265). In particular, it requires Connecticut courts and Connecticut police departments to give full faith and credit to out-of-state "protection orders" if they appear on their face to be authentic and to enforce them, without regard to whether they have been entered into the state's registry of protective orders or into the state and national crime recording systems. A child custody provision in such an out-of-state protection order will also be enforced, as long as it complies with the applicable uniform child custody jurisdiction acts and with the federal Parental Kidnapping Prevention Act of 1980. The act also requires that the Connecticut court in which the out-of-state judgment is filed have it placed on the state's protective order registry. The act makes it an affirmative defense to an enforcement action

that the order does not comply with the federal Violence Against Women Act.

The act also eliminates the requirement that the person registering the out-of-state protection order give notice to the defendant of the registration and repeals the procedure which previously allowed a defendant to challenge the validity of an out-of-state protective order at the time it is being registered. In addition, the act expands the existing criminal statutes involving violation of a protective order to include violation of an out-of-state protection order.

P.A. 03-200 ADDRESS CONFIDENTIALITY PROGRAM (eff. January 1, 2004).

This act establishes an address confidentiality program within the office of the Secretary of the State for victims of family violence, injury or risk of injury to a minor, sexual assault, or stalking who wish to keep their residential address secret because of safety concerns regarding themselves or their children. Application may be made by the victim or by another person on the victim's behalf. Participants' residence, work, and school addresses are made exempt from disclosure under the Freedom of Information Act. Under the act, the Secretary of the State is designated as the participant's agent for service of process and for receipt of mail; and the participant is given a post office box number and fictitious address which he or she can disclose. Mail to the post office box must be picked up daily by the Secretary of the State and immediately forwarded to participants. Process may be served by leaving two copies of the process at the Secretary of the State's Office or mailing them to the "Address Confidentiality Program." The Secretary of the State must forward a copy to the participant by certified or registered mail within two business days after service, but the service is considered effective from the time which the Secretary of the State receives it. A certification card is good for four years, after which it may be renewed for additional four-year terms upon proof of continuing eligibility for the program. Program participants may also request that the municipal registrar of vital statistics keep their marriage records confidential and that the municipal registrar of voters keep their voter registration address confidential.

The act requires state and local public agencies, upon presentation of a participant's certification card, to accept and use their program address in lieu of their actual residential address, unless the agency has received an exemption from the Secretary of the State, who may make exceptions (including protective requirements within the exceptions to limit use of the actual address and protect its confidentiality) for agencies which are required by other law to use only an actual address. The Secretary of the State must notify the participant before granting an exception to any agency, and a participant may appeal the issuance of an exception under the Uniform Administrative Procedure Act. Information may also be disclosed under court order or, in limited circumstances, to the police or the State Elections Enforcement Commission. No employee of an

agency having possession of confidential address information may disclose it in court, unless the court finds that non-disclosure "may prejudice a party to the proceeding." The act provides explicitly that custody and visitation orders are not "affected" by participation in the program.

The act also requires the Secretary of the State to adopt regulations to implement the program. The regulations may include provisions on (a) application to the program, certification of eligibility, and cancellation of certification; (b) agency use of program addresses; (c) forwarding of participants' mail; (d) voting by participants; and (e) recording of vital statistics for participants.

P.A. 03-179 CRIME VICTIMS AND VICTIM ADVOCATES (eff. October 1, 2003).

Under existing law, the victim of any crime (or the representative or immediate family of a deceased victim) may make a statement to the court before the defendant who committed the crime is sentenced or the court accepts a plea agreement to a lesser charge. The court may also have in its files a victim impact statement completed by Judicial Branch employees serving as victim advocates. This act requires courts to ask, on the record, whether a crime victim is present and whether the victim wants to make a statement or has submitted a written statement. If no victim is present and no statement has been submitted, the court must ask, on the record, whether the prosecutor attempted to contact the victim as required by law.

The act also makes changes in the statutory duties of victim advocates. In particular, it (a) repeals the duty to prepare victim impact statements and substitutes the duty to help victims prepare such statements; (b) repeals the duty to provide information needed for more effective processing of cases and substitutes the duty to obtain a statement from the victim, to be co-signed by the victim and the victim advocate and placed in the court file, that the victim has been notified of his or her rights by the victim advocate; but (c) makes explicit that the reason for requiring victim advocates to provide information to victims is to help them exercise their rights throughout the criminal justice system.

CHILD SUPPORT AND ALIMONY

P.A. 03-130 DISABLED OBLIGORS (eff. October 1, 2003).

Section 1 of this act provides that, if an obligor has been determined by the Social Security Administration or a state agency to qualify for disability benefits under SSI, Social Security Disability, SAGA, or general assistance, then earning capacity cannot be used as a basis for deviating from the Child Support Guidelines.

The section also makes clear that, in general, a magistrate or judge who deviates from the Guidelines must make a finding on the record that the application of the guidelines would be inequitable or inappropriate in the particular case. Existing law provides that such a finding is sufficient to justify deviation from the Guidelines but does not make a finding a precondition for deviation.

P.A. 03-258 ESTABLISHMENT OF PATERNITY AND CHILD SUPPORT (eff. October 1, 2003).

This act makes a number of changes in the procedures for establishing paternity:

- Expansion of hospital-based program to additional sites: Existing law requires hospitals to develop protocols for the voluntary establishment of paternity at the time that a baby is born. This act expands this voluntary paternity establishment program by allowing DSS to approve programs at non-hospital sites. The program must encourage the positive involvement of both parents in the life of the child. No site may be approved unless the program has a protocol approved by the Commissioner which provides for the training of all involved staff members as to how to assure that all acknowledgements are informed, voluntary, and free of coercion. DSS must make all protocols and proposed protocols available for public inspection. No entity or location at which all or a substantial portion of occupants are present involuntarily, including a prison or a mental hospital (but excluding DSS's paternity demonstration program at the Department of Corrections detention center in Cheshire), may be approved by the Commissioner; nor may she approve any site which maintains a coercive environment or at which the failure to acknowledge voluntarily may result in the loss of benefits or services. The act requires DSS to promulgate implementing regulations, including specifying the requirements for participation. It also makes minor changes in the pre-acknowledgement notice given to the putative father.

- Determination of past ability to pay child support: Under existing law, when child support is calculated retroactively based on time periods before the beginning of a child support enforcement action, it must be based on ability to pay. The act makes clear that ability to pay is based on the Child Support Guidelines. Existing law provides that, if no information is available on past ability to pay, the order is based on the obligor's current income or, if that is not known, on state assistance received by the child. The act instead provides that, in the absence of knowledge of current ability to pay, past ability to pay is to be based on the obligor's work history if known or, if not known, on the state minimum wage at that time.

It also provides that only actual earnings may be considered during any period of time when the obligor was in jail, institutionalized, incapacitated, or a full-time high school student. It applies the same rule to any initial establishment or modification of a support order against an institutionalized or incarcerated obligor. In addition, in a Title IV-D case, it requires the state to move to adjust the order if, within a year of the order, it obtains information which would substantially have affected the court's determination of past ability to pay. A copy of any order subject to adjustment must state in plain language the basis for the calculation of past support, the right to request an adjustment and to present information as to past ability to pay, and the consequences of the failure to request such an adjustment.

- John S. Martinez Fatherhood Initiative: The act establishes the John S. Martinez Fatherhood Initiative, in memory of the deceased New Haven state legislator who was involved in its creation. The purpose of the initiative is to promote the positive involvement and interaction of fathers with their children, with a focus on children eligible or formerly eligible for TANF services. The Initiative is, in particular, to identify services that will (a) encourage and enhance responsible and skillful parenting and (b) increase the ability of fathers to meet the financial needs of their children through employment services and child support enforcement.

P.A. 03-130 and P.A. 03-202 — SECURITY FOR PAYMENT OF CHILD SUPPORT AND ALIMONY (eff. October 1, 2003).

Sections 2 through 4 of P.A. 03-130 make clear that a party in a family case may use prejudgment and postjudgment remedies to secure future as well as present obligations for periodic payments of child support or alimony. Sections 23 and 24 of P.A. 03-202 provide that a court may not order a party to obtain life insurance as security for periodic payments if the party proves by a preponderance of the evidence that such insurance is not available to the party, that the party is unable to pay its costs, or that the party is uninsurable.

P.A. 03-89 and P.A. 03-109 — ADMINISTRATION OF THE CHILD SUPPORT PROGRAM (eff. October 1, 2003).

These acts make numerous small changes in the state's child support enforcement program of the Bureau of Child Support Enforcement within DSS.

- Health insurance: In Title IV-D support cases in which the non-custodial parent has been ordered to provide health insurance but is not able to give

the provider the necessary information about the custodial parent and the child, P.A. 03-89 requires DSS to disclose the information to the medical provider, even though the information would otherwise be confidential. DSS must, however, first give notice to the custodial parent and an opportunity to object and must make a finding that disclosure is in the child's best interest.

- Non-TANF enrollment fee: P.A. 03-89 requires the state to pay the $25 application fee which would otherwise be imposed on non-TANF applicants for child support services. It also requires DSS to notify anyone receiving child support payments through the Title IV-D system of the full range of child support enforcement services which are available without cost to participants.

- New hire reporting: P.A. 03-89 treats a person or entity who hires an independent contractor for $5,000 or more as an "employer" and requires that it report the name of the independent contractor to the Department of Labor as a newly-hired "employee." The Department of Labor cross-checks the list of new hires against a list of child support obligors with arrearages.

- Paternity testing: Under existing law, a putative father who requests paternity testing and is subsequently found to be the father is liable to the state for the cost of the tests. P.A. 03-89 makes explicit that payment to the state may be ordered by a judge or family support magistrate and thus, presumably, made part of the support order. The act also expands the power of support enforcement personnel to require genetic testing to interstate cases in which the custodial parent and the child do not live in Connecticut.

- Wage withholding orders: Under existing law, a wage withholding order is stayed if the obligor appeals the order. P.A. 03-89 eliminates the stay during the pendency of the appeal. The act also allows DSS support investigators in Title IV-D cases to issue wage withholding orders without waiting for a request from the custodial parent or for the obligor to fall 30 days behind in the payments.

- Distributions to families: P.A. 03-109 repeals a provision requiring that an arrearage to a family is to be paid off before payment is made on arrearages owed to the state. It substitutes a requirement that support collected be distributed in compliance with Title IV-D. In practice, this produces substantially the same result.

- Credit bureau reporting: P.A. 03-109 mandates that all support arrearages of $1,000 or more be reported to a credit bureau. This eliminates the power of judges and magistrates to grant exceptions to the reporting requirement.

- Lottery winnings: P.A. 03-109 requires the Connecticut Lottery Corp. to withhold payment of any lottery ticket worth $5,000 or more until it has verified that the ticket holder is not on DSS's list of obligors in arrears on their child support.

- Arrearages under out-of-state support orders: P.A. 03-109 expands the authority of DSS and Judicial Branch child support enforcement staff to attach sources of obligor income (e.g., unemployment compensation, bank accounts, pensions) for arrearages of $500 or more on arrearages under out-of-state court orders. This authority already exists in regard to Connecticut orders.

CHILD PROTECTION

P.A. 03-243 PROTECTION OF CHILDREN IN DCF CUSTODY (eff. October 1, 2003).

- Sibling and parent visitation: Section 5 of this act requires DCF to ensure that a child in DCF custody under an order of temporary custody or an order of commitment is provided visitation with the child's parents and siblings unless otherwise ordered by the court. Parental visitation must occur "as frequently as reasonably possible," based on the child's best interests, including the child's age and developmental level, and shall be "sufficient in number and duration to ensure continuation of the relationship." If the child has an existing relationship with a sibling but is separated by the DCF placement, DCF must ensure that the child has access to and visitation rights with the sibling throughout the placement, subject to the child's best interests. DCF must also include in the child's treatment plan information relating to the factors considered in making visitation determinations under the act and, if the Commissioner determines that such visits are not in the best interests of the child or that their frequency or duration should be less than requested by the child's attorney or guardian ad litem, the Commissioner must include the reasons for that determination in the treatment plan.

- Continuity of placement: Section 13 of this act provides that, if the juvenile court determines that efforts to reunify a child in DCF custody with the child's family are not appropriate, DCF must use "its best efforts" to maintain the child in his or her initial out-of-home placement until a

permanent home is found or the child is placed for adoption, as long as doing so is in the child's best interests. The section also authorizes DCF to accept funds from any source to implement the provisions of the law on permanency planning and placement.

- Interstate adoptions: Sections 1 and 2 make the state agency where prospective adoptive parents live responsible for providing federal adoption assistance subsidies when a private adoption agency places a Connecticut child there and applies the Interstate Compact on the Placement of Children and state law governing placement of children from other states to children whose parents' rights have been terminated or who have been committed to DCF in abuse and neglect cases. Section 3 relieves DCF of responsibility for paying Title IV-E adoption subsidies for special needs children placed with out-of-state adoptive parents by a private adoption agency. That responsibility will presumably be assumed by the public agency of that state.

- Criminal records checks: Sections 6 through 12 require criminal history records checks for DCF job applicants and persons who apply for a private adoption agency license. Any applicant for a job at DCF must affirmatively disclose any convictions and pending charges. DCF is also required to check its child abuse registry to see if the applicant is listed. The act makes explicit that applicants for a foster parent license, and any other person in the household who is at least 16 years old, must also submit to criminal background checks.

P.A. 03-257 YOUTHS IN CRISIS AND OLDER TEENAGERS (eff. October 1, 2003).

This act makes several changes in juvenile law, primarily regarding the handling of status offenders and older teenagers.

- Maximum age for juvenile court jurisdiction: Effective July 9, 2003, the act requires the creation of an implementation team to review all matters, including funding, necessary to increase the maximum age of juvenile court jurisdiction from age 16 to age 18. The team is to consist of representatives of the Chief Court Administrator, the Commissioner of Children and Families, the Chief State's Attorney, the Chief Public Defender, the Child Advocate, and the executive director of the Commission on Children. It is to report to the General Assembly by January 15, 2004.

- Middletown probate court youth-in-crisis pilot: The act requires the Probate Court Administrator to establish a pilot program in the Middletown probate district to administer youth-in-crisis cases, other than those involving truancy. The Administrator is to report to the General Assembly by January 1, 2005,

on the status and effectiveness of the pilot program.

- Runaway youths in crisis: The act requires police officers to attempt to locate youths in crisis who have run away from home and to report the youth's location to his or her parent or guardian, if such a report will not place the youth in physical or emotional harm. In addition, it requires the police to either (a) transport the youth home, (b) release the youth to a parent or guardian, (c) refer the youth to the probate court in those districts willing to accept such referrals, (d) hold the youth in protective custody for up to 12 hours, or (e) transport or refer the youth to an agency serving children, with or without the youth's consent, or to a youth service bureau. If none of these alternatives is viable, the officer must refer the youth to the appropriate juvenile court. Under existing law, these options are discretionary rather than mandatory for the police officer, and referral to juvenile court is a co-equal rather than a last option. The act also requires the Police Officer Standards and Training Council to develop a uniform protocol for providing intervention and assistance in matters involving youths in crisis and requires all police departments to implement the protocol.

- Youth-in-crisis judicial orders: The act makes explicit that a juvenile court judge may refer a youth in crisis to a youth service bureau and may review the option of emancipating the child. It also limits driver's license suspensions to one year and makes clear that a court's order is to be directed to DMV to suspend the license (rather than merely an order to the youth in crisis not to drive).

P.A. 03-42 KINSHIP FOSTER CARE PROGRAM (eff. October 1, 2003).

This act requires DCF to establish a Kinship Foster Care Program to assure that, if the Department determines that it is in a child's best interest to be placed with a relative for foster care, the Department will inform the relative regarding procedures to become licensed as a foster parent.

P.A. 03-145 STATE PREVENTION COUNCIL (eff. June 26, 2003).

This act requires the State Prevention Council to determine long-term goals, strategies, and outcome measures to promote the health and well being of children and families and to design a plan for intra- and inter-agency implementation of these goals and strategies. The goals to be met include (a) cost-effective, research-based early intervention strategies; (b) an increase in the health of pregnant women and newborn children; (c) a decrease in the rate of child neglect and abuse; (d) an increase in the number of school-ready children; (e) an increase in the number of children who succeed in school; (f) a decrease in the number of children left unsupervised after school; (g) an increase in the number of youth who choose healthy behaviors and become successful

working adults; (h) a decrease in juvenile suicide; (i) a decrease in juvenile crime; and (j) an increase in access to health care and stable housing. The SPC is an inter-agency board consisting of representatives of OPM, the Judicial Branch, DSS, DMR, DMHAS, DPH, DCF, and the State Department of Education. The plan is to be submitted to OPM and the General Assembly by January 1, 2004.

P.A. 03-202 JUVENILE COURT CONFIDENTIALITY (eff. October 1, 2003).

Section 7 of this act permits, rather than requires, juvenile court judges to exclude from the courtroom all persons who presence is not necessary for the case to proceed. Section 8 revises the definition of "records" for purposes of record confidentiality in juvenile court cases.

P.A. 03-251 CONNECTICUT JUVENILE TRAINING SCHOOL.

Effective July 1, 2003, this act requires DCF to ensure that the Connecticut Juvenile Training School (CJTS) (a) completes health, mental health, and educational assessments and a written individualized treatment plan within 30 days of a child's admission; (b) follows state law governing the use of physical restraints, seclusion, and psychopharmacological drugs; (c) gives each child the opportunity for at least one hour of physical activity each weekday and two hours a day on weekends; and (d) trains all staff on their duties as mandatory child abuse reporters.

The act (eff. July 9, 2003) also requires the CJTS Advisory Group and the CJTS Public Safety Committee to provide on-going review of the CJTS and to submit recommendations for improvements. The review must include such areas as substance abuse treatment, educational and literacy programs, special education needs, vocational training programs, delinquency recidivism, post-intake assessment diagnosis of children, reintegration strategies for returning children to their communities, and staffing and other costs associated with the operation of the school. DCF is required to staff the CJTS Advisory Group. The act requires DCF to report annually to the General Assembly, beginning February 4, 2004, with information and recommendations regarding the CJTS.

P.A. 03-255 INTERSTATE COMPACT FOR JUVENILES (eff. July 1, 2004).

This act ratifies the Interstate Compact for Juveniles, which will take effect when adopted by 35 states, but not sooner than July 1, 2004. The Compact, which replaces an earlier 1957 interstate compact, establishes the Interstate Commission for Juveniles, which is authorized to make rules to implement the Compact and to administer and enforce it. Its primary purpose is to address issues which arise when a juvenile delinquent, status offender, or other child in need of supervision runs away or relocates from the state where the

adjudication took place.

See also: Special Education Services for Children in the Juvenile Justice System (P.A. 03-86), p. 12.

VISITATION AND DISSOLUTION OF MARRIAGE

P.A. 03-52 SUPERVISED VISITATION (eff. October 1, 2003).

This act requires the Chief Court Administrator to identify additional secure visitation centers in order to facilitate visits between children and family members subject to supervised visitation. He must also prepare a list of all secure visitation centers, including those established by DCF for supervised visitation of children in DCF custody, and make the list available to the general public at no charge.

P.A. 03-130 FILING FEE FOR CHANGE OF NAME PETITIONS (eff. October 1, 2003).

Under C.G.S. 46b-63(b), a spouse who does not have her birth name or former name restored at the time of dissolution of a marriage may have the name restored at any later time by motion. Section 5 of this act provides that there shall be no filing fee for such a motion.

OTHER

P.A. 03-188 BLOOD TEST REQUIREMENT FOR MARRIAGE LICENSE (eff. October 1, 2003).

This act repeals the requirement that couples being married obtain a blood test for venereal disease and rubella.

See also: Family and Medical Leave (P.A. 03-213), p. 16.

GOVERNMENTAL OPERATIONS

JSS P.A. 03-1 POWER OF GOVERNOR TO RESCIND APPROPRIATIONS (eff. August 16, 2003).

Sections 60 and 61 of this act expand the power of the Governor to order rescissions of budgeted funds in the 2004-2005 budget year. Under C.G.S.

4-85, if a legislatively-adopted budget falls out of balance, the Governor has the power to reduce total General Fund expenditures by up to 3% without further approval or up to 5% with the approval of the Finance Advisory Committee. Within that authority, no individual budget line item reduction may exceed 5% of that line except with the approval of the Finance Advisory Committee. Section 60 of this act increases the Governor's authority in two ways in regard to the second year of the state budget (2004-2005). First, it allows the Governor to make all changes authorized by C.G.S. 4-85 without having to obtain Finance Advisory Committee approval, i.e., the Governor will be able to reduce total appropriations by up to 5% on his own authority, without the 5% limit on individual line-item reductions. Second, it allows the Governor, on his own authority, to reduce total General Fund expenditures by an additional $55 million, but not to exceed 5% of General Fund expenditures. This new budget-reduction authority will become effective, however, only if the state fails to receive at least $55 million in "extraordinary federal assistance" during the 2004-2005 fiscal year. By July 1, 2004, the Secretary of OPM must certify the amount of such assistance to be received in the coming fiscal year. To the extent that an amount less than $55 million is certified, then the Governor's extraordinary reduction authority for 2004-2205 will be reduced by the amount of extraordinary federal assistance.

HEALTH INSURANCE, HEALTH CARE, AND MEDICAL ASSISTANCE

MEDICAID AND HUSKY

P.A. 03-2 and JSS P.A. 03-3 and SSS P.A. 03-1

CHANGES IN MEDICAID BENEFITS AND ELIGIBILITY.

These acts make substantial changes in both the Medicaid and the HUSKY B programs. Unless otherwise noted, changes made by P.A. 03-2 were effective on February 28, 2003 and changes made by June 30 Sp. Sess. P.A. 03-3 were effective on August 20, 2003.

- Continuous eligibility for children (Section 7 of P.A. 03-2): Under prior law, a child eligible for either HUSKY A or HUSKY B medical benefits retained that eligibility for twelve months, even if a change in status occurred which would otherwise have resulted in the child's loss of eligibility. This section eliminates this "continuous eligibility" provision from the statutes.

- Medication administration (Section 8 of P.A. 03-2 and Sections 197 and 198 of June 30 Sp. Sess. P.A. 03-6): Section 8 of P.A. 03-2 allows DSS to set a reduced home health services fee for home visits which include

only the administration of medication and health-indicator checks (e.g., the taking of a blood pressure reading). The act also allows DSS to require pre-authorization for such medication administration visits. Section 197 of June 30 Sp. Sess. P.A. 03-6 requires that the home health services fee schedule include rates for psychiatric nurse visits. Section 198 of that act requires that (a) DSS set these rates only after consultation with the chairpersons of the Appropriations Committee, (b) the rates be submitted to those chairpersons by December 15, 2003, and (c) the rates take effect by January 1, 2004.

- Co-payments for outpatient services (Sections 9 and 18 of P.A. 03-2; Section 72, 73, and 96 of June 30 Sp. Sess. P.A. 03-3; and Section 11 of Sept. 8 Sp. Sess. P.A. 03-1): Sections 9 and 18 of P.A. 03-2, which were effective February 28, 2003, require DSS to impose a $1 co-payment for each outpatient service received by any SAGA or general assistance medical assistance recipient and by a Medicaid recipient who is not enrolled in a managed care plan (i.e., elderly and disabled Medicaid recipients). Section 96 of June 30 Sp. Sess. P.A. 03-3, however, which is effective August 20, 2003, repeals the $1 co-pay, and Section 72 authorizes DSS to set a co-payment of up to $3 per medical service during fiscal years 2003-2004 and 2004-2005. Section 11 of Sept. 8 Sp. Sess. P.A. 03-1 makes clear that these co-pays are to be imposed on non-HUSKY A Medicaid recipients (generally the elderly and people with disabilities), as well as on HUSKY A and HUSKY B enrollees.

- Medical coverage for parents between 100% and 150% of poverty (Section 10 of P.A. 03-2): This section ends coverage of parents of HUSKY A children with incomes between 100% and 150% of poverty, effective from April 1, 2003. Section 10(g) provides that applications for such coverage shall not be accepted by DSS "until on or after July 1, 2005"; but Section 10(a) permanently lowers the maximum eligibility from 150% of poverty to 100% of poverty, so that the revised statute does not appear to provide for restored eligibility on July 1, 2005.

- Continuous eligibility for adults (Section 12 of P.A. 03-2): Under previous DSS policy, an adult eligibility determination for Medicaid was good for six months, even if the adult's eligibility circumstances changed. This section prohibits such a policy.

- Presumptive eligibility (Sections 56 and 57 of June 30 Sp. Sess. P.A. 03-3): These sections repeal presumptive eligibility for children applying for Medicaid. Presumptive eligibility allowed children to receive immediate, temporary coverage when they applied for HUSKY at certain provider offices and school health centers.

- Conversion of HUSKY A to managed care with reduced services (Section 72 of June 30 Sp. Sess. P.A. 03-3): The act requires DSS, in consultation with OPM, to contract with managed care agencies to provide services for eligible persons enrolled in a managed care plan under HUSKY A. The managed care plan is to be substantially similar to the State Employee Non-Gatekeeper POE Plan as of October 1, 2003. This plan provides less comprehensive services than are currently required under federal Medicaid rules.

- Monthly premiums for HUSKY A recipients (Sections 72 and 73 of June 30 Sp. Sess. P.A. 03-3 and Section 11 of Sept. 8 Sp. Sess. P.A. 03-1): Sections 72 and 73 of June 30 Sp. Sess. P.A. 03-3 require managed care organizations serving HUSKY A recipients to impose a monthly premium on all families with income above 50% of federal poverty level (FPL), i.e., above $7,630 per year for a family of three. If the family's income is between 50% and 100% of FPL, the monthly premium will be $10 per person, up to a maximum of $25 per family. If the family's income is between 100% and 185% of FPL, the monthly premium will be $20 per person, up to a maximum of $50 per family. Similar cost-sharing requirements will apply to HUSKY A recipients not enrolled in managed care. June 30 Sp. Sess. P.A. 03-3 allows the Commissioner to deny coverage or discontinue Medicaid eligibility for any recipient who is two months behind on premium payments. Thirty days notice of termination must be given. The act also requires the Commissioner to amend the state Medicaid plan and apply for any federal waivers needed to implement cost-sharing. It allows the Commissioner to implement these changes while in the process of adopting regulations. Section 73 applies the definitions of HUSKY B to the HUSKY A program. Section 11 of Sept. 8 Sp. Sess. P.A. 03-1 permits the Commissioner to impose cost-sharing requirements on all recipients of Medicaid and not only those on HUSKY A.

- Transfers of assets (Section 62 of June 30 Sp. Sess. P.A. 03-3): This section makes a number of changes in the law regarding transfers of assets for less than fair market value and allows the Commissioner to implement them while adopting regulations.

    - Presumption of intent: It establishes a presumption that any transfer of assets resulting in the imposition of a disqualification period is made with the intent to obtain Medicaid. The presumption may be rebutted only by clear and convincing evidence that the transferor's eligibility or potential eligibility was not a basis for the transfer.

    - Creation of debt: It makes a transfer resulting in a disqualification period a debt to the state, up to the amount of medical assistance

provided to the transferor after the date of the transfer. The Attorney General, DSS, or the Department of Administrative Services may act to collect the debt.

- Adverse impact on nursing homes: Under prior law, DSS was required to seek a federal waiver so as to delay the start of the Medicaid disqualification period to the month when the applicant would otherwise have become eligible for Medicaid, rather than the month of the transfer (which would have occurred somewhat earlier). This act allows DSS, on request, to grant financial relief to a nursing home if it (a) is experiencing severe financial hardship due to the change in the beginning of the disqualification period and (b) has made every legal effort to recover the funds it is due for having cared for the resident for at least 90 days without having received reimbursement. If DSS grants such relief and makes Medicaid payments, the act requires DSS to seek recoupment from the resident and the transferee by all legal means available to it.

- Waiver of the disqualification period: The act allows the Commissioner to waive the disqualification period if (a) the applicant suffered from dementia at the time of the improper transfer, (b) suffers from dementia at the time of the application for Medicaid and cannot explain the transfer, or (c) was exploited into making the transfer. Waiver of the disqualification period does not prevent the state from recouping the value of Medicaid payments up to the amount of the transfer.

- Look-back period: It extends the look-back period for real estate transfers from three years to five years, except for transfers exempt under DSS regulations. It allows the Commissioner to establish threshold limits for the total amount of asset transfers within any year of the look-back period which will not result in the imposition of a transfer-of-assets disqualification.

- Community spouse (Section 63 of June 30 Sp. Sess. P.A. 03-3): This section requires an institutionalized spouse applying for Medicaid to divert income, rather than income-producing assets, to the maximum extent permitted by law, to his or her spouse who is living in the community, so as to raise the community spouse's income to the level of the minimum monthly needs allowance under the Social Security Act. Previously, the institutionalized spouse could transfer income-producing assets to the community spouse to increase the income of the community spouse. Under the new requirements, if the institutionalized spouse has assets above the Medicaid limits, he or she will have to liquidate those assets and use the proceeds to pay for nursing home care before becoming eligible for

Medicaid benefits to pay for nursing home costs.

- Management of high-cost Medicaid recipients (Section 51 of June 30 Sp. Sess. P.A. 03-3): This section requires DSS to design and implement a "care enhancement and disease management initiative" to provide an integrated and systematic approach for managing the health care needs of high-cost Medicaid recipients. The Commissioner is authorized to contract with an appropriate experienced entity to carry out this requirement. She is also required to report annually to the General Assembly on the status of the initiative.

- Medical supply payments (Section 53 of June 30 Sp. Sess. P.A. 03-3): This section requires DSS to modify the fee schedules paid for durable medical equipment, orthotic and prosthetic devices, hearing aids, surgical supplies, and oxygen to achieve budget-required spending reductions. It does not appear, however, to reduce DSS's duty to provide such equipment to recipients.

- School-based child health program (Section 54 of June 30 Sp. Sess. P.A. 03-3): Under prior law, the state pays school districts 60% of the Medicaid reimbursement it receives from the federal government for Medicaid-eligible special education and related services for the school district's Medicaid-eligible children. This section reduces those payments to 50% of federal reimbursements.

- Mental health services (Section 88 of June 30 Sp. Sess. P.A. 03-3): This section allows DSS to reimburse DMHAS for "targeted case management services" that it provides to its clients, and in particular to individuals with severe and persistent psychiatric illness or with persistent substance dependence.

See also: Funding of Community Mental Health Restoration Subaccount (JSS P.A. 03-3), p. 7.

P.A. 03-28 TRANSITIONAL MEDICAID (eff. October 1, 2003).

This act revises language in existing law which extends Medicaid for two years to a family which is employed at the time it loses its cash TFA assistance or which becomes employed within six months of losing TFA. The act extends transitional Medicaid to families which become ineligible for TFA because of the receipt of child support, but it also limits transitional Medicaid for employed families only to those families whose ineligibility is under Section 1931 of the Social Security Act. The revision makes Connecticut statutory language follow federal statutory language. This has the effect of making employed families ineligible for transitional Medicaid if they lose benefits for any reason other than income (e.g., failure to file proper forms). The statute changes the language but

appears to continue eligibility for transitional medical assistance for two years.

P.A. 03-155 DELIVERY OF DENTAL SERVICES UNDER MEDICAID (eff. June 26, 2003, and July 1, 2003).

This act requires the Commissioner of Social Services, by July 1, 2004, and before the implementation of a statewide Medicaid dental services plan, to amend the state's HUSKY A federal managed care waiver under Section 1915(b) of the Social Security Act. The amended waiver must be submitted to the Human Services and Appropriations Committees for review under C.G.S. 17b-8. It also requires the Commissioner before implementing the dental services plan to consider eliminating prior authorization requirements for basic and routine dental services and permits her to eliminate prior authorization while in the process of adopting regulations.

The act also requires the Commissioner, prior to July 1, 2004, to revise the Connecticut Medical Assistance Provider Manual to enhance and expedite the delivery of dental services to Medicaid-eligible persons by measures including (a) simplifying the application process for dental service providers and (b) streamlining the renewal form when provider information has not changed in the preceding two years.

JSS P.A. 03-3 CHANGES IN HUSKY PART B (eff. August 20, 2003).

- Cost-sharing (Section 55 and 56): The act requires DSS to impose cost-sharing requirements on HUSKY B participants to the maximum extent permitted by federal law, so long as they do not exceed 5% of the family's gross income. These cost-sharing requirements are to be "substantially similar" to the cost-sharing requirements of the largest commercially available health plan offered in Connecticut by a managed care organization. DSS had previously limited cost-sharing to $650 per year for families with incomes between 185% and 235% of federal poverty level (FPL) and $1,250 per year for families with incomes from 235% to 300% of FPL. Five per cent of income for a family of three at 200% of FPL is $1,526 and at 250% of FPL is $1,908. The act also allows DSS to impose a premium requirement (which counts against the 5%-of-gross-income cap) on families with incomes above $185% of FPL. Families with incomes below 235% of FPL previously paid no monthly premiums.

- Available services (Sections 56 and 96): Under prior law, HUSKY B medical services are the same as those available under Medicaid. Section 56 of the act reduces HUSKY B services by requiring that they be substantially similar to those provided by the largest commercially available health plan offered to Connecticut residents by a managed care

organization. Section 96 repeals C.G.S. 17b-293, which had set minimum benefit coverage under HUSKY B.

JSS P.A. 03-3 NEWBORN SCREENING (eff. August 20, 2003).

Section 4 of this act creates a separate non-lapsing Newborn Screening Account, to be funded with $345,000 annually from the fees assessed under C.G.S. 19a-55 on the medical facilities which conduct the screenings. The account is to be used to pay for the Department of Public Health's Newborn Screening Program.

PRESCRIPTION DRUGS

P.A. 03-2 and JSS P.A. 03-3 CHANGES TO CONNPACE.

These acts make substantial changes in eligibility requirements, costs, and repayment obligations under the ConnPACE program. Unless otherwise noted, changes made by P.A. 03-2 were effective on February 28, 2003 and changes made by June 30 Sp. Sess. P.A. 03-3 were effective on August 20, 2003.

- Annual application fee: Section 15 of P.A. 03-2 increases the annual application fee for ConnPACE from $25 to $30.
- Copayments: Section 14 of P.A. 03-2 increases the ConnPACE co-pay to $16.25 per prescription. The prior co-pay had been $12 for seniors with incomes below $15,900 ($21,500 for a married couple) and $15 for other eligible seniors, except that seniors on ConnPACE before September 1, 2002, were grandfathered at the $12 rate. The act eliminates the distinctions based on income and date of initial eligibility and makes the co-pay $16.25 per prescription for all ConnPACE participants.

- Asset limitations: Section 58 of June 30 Sp. Sess. P.A. 03-3 limits eligibility for ConnPACE to individuals with available assets of less than $100,000 and to married couples with available assets of less than $125,000. Available assets are those that are considered available in determining eligibility for the Connecticut Home Care Program for the Elderly.

- Repayment obligations: Section 59 of June 30 Sp. Sess. P.A. 03-3 makes the estate of a ConnPACE recipient who dies on or after September 1, 2003, liable to the state for the repayment of benefits received on or after July 1, 2003.

P.A. 03-268 REDUCTION IN DSS REPORTING TO THE GENERAL ASSEMBLY

October 1, 2003).

Section 10 of P.A. 03-268 reduces the DSS's mandated reporting on the consumer aspects of ConnPACE (e.g., percentage of eligibles enrolled, educational outreach program, number of appeals) from four times a year to once every two years.

P.A. 03-2 and JSS P.A. 03-3

CHANGES IN MEDICAID-RELATED PROVISIONS CONCERNING PRESCRIPTION DRUGS.

These acts make numerous changes to the law regarding prescription drugs. Most are Medicaid-related, but some impact ConnPACE or SAGA as well. Unless otherwise noted, changes made by P.A. 03-2 were effective on February 28, 2003 and changes made by June 30 Sp. Sess. P.A. 03-3 were effective on August 20, 2003.

- Co-payments (Sections 9 and 18 of P.A. 03-2 and Sections 43, 72, 73, and 96 of June 30 Sp. Sess. P.A. 03-3): P.A. 03-2, effective February 28, 2003, amended C.G.S. 17b-259a to require DSS to impose a $1 co-payment for each drug prescription filled under Medicaid, SAGA, or general assistance medical assistance. DSS was allowed to exempt from the drug co-payment recipients who receive drugs in less than 30-day increments and recipients in institutional settings. June 30 Sp. Sess. P.A. 03-3, however, which was effective August 20, 2003, repeals C.G.S. 17b-259a, and instead allows the Commissioner to impose a co-payment of up to $1.50 per prescription drug during fiscal years 2003-2004 and 2004-2005. June 30 Sp. Sess. P.A. 03-3 appears to have also repealed the less-than-30-day exception for Medicaid but not for SAGA medical.

- Drug dispensing fee (Section 11 of P.A. 03-2 and Section 52 of June 30 Sp. Sess. P.A. 03-3): Section 11 of P.A. 03-2 reduces the dispensing fee paid to pharmacies for prescriptions filled under Medicaid, ConnPACE, SAGA, and general assistance from $3.85 per prescription to $3.60 per prescription, effective February 28, 2003. Effective August 20, 2003, Section 52 of June 30 Sp. Sess. P.A. 03-3 further reduces the fee to $3.30 per prescription. It does, however, allow DSS to pay a higher dispensing fee to pharmacies enrolled or participating in the federal drug discount program.

- Preferred drug list (Sections 19 of P.A. 03-2 and Section 83 of June 30 Sp. Sess. P.A. 03-3): Section 19 of P.A. 03-2 requires DSS to adopt a preferred drug list by July 1, 2003, and clearly places responsibility for the list on DSS, rather than on the Medicaid and Pharmaceutical Therapeutics Committee, whose function is explicitly made consultative only. Section

83 of June 30 Sp. Sess. P.A. 03-3 makes clear that DSS's preferred drug list for Medicaid will also apply to SAGA and ConnPACE. For the 2003-2004 fiscal year, however, it limits implementation of the preferred drug list to proton pump inhibitors and two additional categories of drugs to be chosen by DSS. The Commissioner is to notify the General Assembly of its choice of categories by January 1, 2004. The act also makes clear that the MPTC's recommendations on prior authorization of drugs must be in accordance with the plan already developed under C.G.S. 17b-491a.

- Generic drug substitution (Section 52 of P.A. 03-2 and Section 84 of June 30 Sp. Sess. P.A. 03-3): Section 52 of P.A. 03-2, as amended by Section 84 of June 30 Sp. Sess. P.A. 03-3, exempts pharmacists from needing pre-approval to dispense a brand-name drug if, after factoring in manufacturer's rebates, the brand-name drug costs less than the generic equivalent.

- Suspension of drug coverage for failure to make copayments (Section 69 of June 30 Sp. Sess. P.A. 03-3): This section requires DSS, by September 30, 2003, to submit an amendment to the Medicaid state plan to allow pharmacies to refuse to fill Medicaid prescriptions, other than psychotropic drug therapies, for beneficiaries who "demonstrate a documented and continuous failure to make required copayments, notwithstanding having the financial ability to make such required copayments." A failure is "continuous" if payment is not made within six months from the filling of a prescription or if no required copayments are made on six or more prescriptions during any six-month period. Eligibility will be restored upon the recipient's paying the arrearage.

- Cost-efficient dosages (Section 82 of June 30 Sp. Sess. P.A. 03-3): This section requires pharmacists, when filling prescriptions under Medicaid, SAGA, ConnPACE, and Connecticut AIDS Drug Assistance, to use "the most cost-efficient dosage" consistent with the prescription, unless the pharmacist has received prior authorization to do otherwise.

- Medicaid Pharmaceutical and Therapeutics Committee (Sections 83 and 96 of June 30 Sp. Sess. P.A. 03-3): Section 83 of this act changes the composition of the Medicaid Pharmaceutical and Therapeutics Committee (MPTC), which advises DSS on the identification of preferred drugs. The act expands the Committee from 11 members to 14 members; reduces the required number of pharmacists on the Committee from five to four; retains the consumer representative and pharmaceutical manufacturer slots; specifies that the five physician members must include one general practitioner, one pediatrician, one geriatrician, one psychiatrist, and one specialist in family planning; and adds two visiting nurses (one

specializing in adult care and one in psychiatric care) and one clinician designated by DMHAS. It requires the Commissioner of Social Services or her designee to convene the Committee. The act also allows the Committee on an ad hoc basis to seek the participation of other state agencies and interested parties. Section 96 of the act repeals the Pharmacy Review Panel.

P.A. 03-116 PRESCRIPTION DRUG MANAGEMENT IN NURSING HOMES.

This act (eff. June 18, 2003) requires DSS, in consultation with the Pharmacy Review Panel, by June 30, 2003, and annually thereafter, to update and expand the list of drugs included in the Nursing Home Drug Return Program. The list must include the 50 drugs with the highest average wholesale price that meet the program's requirements. The act (eff. July 1, 2003) also allows DSS to provide extra reimbursement to pharmacies for services they provide to residents in long-term care facilities which both improve the residents' quality of care and save the state money, as determined by the Commissioner. The act specifies that these extra payments may cover emergency and delivery services, if they are offered on a 24-hour-per-day, seven-day-per-week basis, for all medications, including intravenous therapy.

See also: Meeting the Health Care Needs of Students in School (P.A. 03-211), p. 14.

NURSING HOMES AND LONG-TERM CARE

JSS P.A. 03-3 ADMISSION OF PATIENTS FROM NURSING HOMES WHICH ARE CLOSING (eff. August 20, 2003).

Section 74 of this act allows a nursing home to admit an applicant who seeks to transfer from a nursing home that is closing, without regard to its waiting list.

P.A. 03-92 NURSING HOME INSPECTIONS (eff. June 3, 2003).

Under existing law, the Department of Public Health conducts nursing home inspections under both federal law (for Medicaid and Medicare certification) and under state law (for license renewal). Under state law, at least 70% of these inspections must be “dual,” i.e., the federal and state inspections must be conducted at the same time. This act explicitly prohibits the advance disclosure to the nursing home of when a dual inspection will occur. It also requires that those inspections be conducted on a random basis as to date and time of day.

P.A. 03-272 NURSING HOME HEALTH AND SAFETY (eff. October 1, 2003).

This act requires DPH to adopt recommendations for minimum and maximum temperatures for areas within nursing homes and rest homes, based on national standards, so as to ensure the health and safety or residents.

The act also prohibits discrimination or retaliation against any employee of a nursing home, hospital, clinic, or other health care facility because of the employee's complaint to a government entity related to care, services, or conditions in a health care facility or because of the employee's cooperation in a governmental investigation. A health care facility which violates the act is liable to the employee for reinstatement, lost wages, lost work benefits, and reasonable legal costs, in addition to remedies under any other law.

JSS P.A. 03-3 SPRINKLER SYSTEMS (eff. August 20, 2003).

Section 11 of this act requires the Connecticut Health and Educational Facilities Authority, in conjunction with DPS, DSS, and DPH, to develop a strategy for planning and financing the installation of automatic fire sprinkler systems in existing nursing homes. Its report is due on February 1, 2004. Section 92 of the act requires that, by July 1, 2004, the owner of each nursing home or rest home with nursing supervision submit to local fire and building officials a plan for an automatic fire sprinkler system and apply for a building permit. All such systems must be installed and operational by July 1, 2005. Any person who fails to install a system in compliance with the act is liable for a civil penalty of up to $1,000 per day. The act authorizes the Attorney General, at the request of the State Fire Marshal, to sue to collect the penalty.

JSS P.A. 03-3 NURSING HOME/CHRONIC DISEASE PILOT (eff. August 20, 2003).

Section 87 of this act requires DSS, by July 1, 2004 and within the limits of available Medicaid funding, to implement a pilot project in Greater Hartford involving a chronic disease hospital that is co-located with a skilled nursing facility. The purpose is to improve the diagnosis, care, and treatment of chronic or geriatric mental conditions that require prolonged hospital or restorative care.

See also: Abuse Against the Elderly and Persons with Disabilities (P.A. 03-267), p. 15.
Prescription Drug Management in Nursing Homes (P.A. 03-116), p. 37.

PRIVATE HEALTH INSURANCE

P.A. 03-77 CONTINUATION OF COVERAGE PENDING ELIGIBILITY FOR MEDICARE (eff. October 1, 2003).

Under federal law, an employee can begin receiving Social Security retirement benefits as early as age 62 but, except for persons with disabilities, cannot become eligible for Medicare until age 65. The state's COBRA law allows employees to continue coverage through the employer's group health care policy (at their own expense), for a maximum of 18 months. This act provides that, if an employee's reduction of hours or termination of employment "results from" his or her eligibility to receive Social Security income, the employee may continue extended coverage in the group health care policy until becoming eligible for Medicare.

P.A. 03-70 HEALTH INSURANCE COVERAGE FOR ADOPTED CHILDREN (eff. October 1, 2003).

Under existing law, a group or individual health insurer must cover children placed with prospective adoptive parent in anticipation of adoption on the same basis as other dependents in the family. This act provides that, if the prospective adoptive parent fails to pay the premium and submit required application materials to the insurer within 31 days after the child was legally placed for adoption, an insurer may condition acceptance of the child upon a review of the child's health.

P.A. 03-119 MODIFICATIONS TO INDIVIDUAL HEALTH INSURANCE POLICIES (eff. October 1, 2003).

Section 1 of this act prohibits insurers of individual health insurance policies, after a policy has been issued, from moving an insured individual from a standard underwriting classification to a substandard one or increasing premium rates due to the claim experience or health status of the individual. The act does not prohibit a premium increase for all individuals in an underwriting classification due to the claim experience or health status of the classification as a whole.

P.A. 03-37 HEALTH INSURANCE COVERAGE FOR TREATMENT OF CRANIOFACIAL DISORDERS IN CHILDREN (eff. October 1, 2003).

This act requires that certain individual and group health insurance policies sold in Connecticut include coverage for medically necessary orthodontic processes and appliances for the treatment of craniofacial disorders for children under the age of 18 (e.g., for cleft palate or cleft lip). The treatment must be

prescribed by a craniofacial team recognized by the American Cleft Palate-Craniofacial Association. Coverage is not required, however, for surgery that is merely cosmetic and not medically necessary.

P.A. 03-58 HEALTH INSURANCE COVERAGE FOR DENTAL ANESTHESIA (eff. October 1, 2003).

Existing law requires that all health insurance policies cover medically necessary dental anesthesia for children under age four. This act extends the dental anesthesia coverage requirement to all persons covered by an individual or group health insurance policy, without regard to age.

OTHER

P.A. 03-80 COMMUNITY BENEFIT PROGRAMS (eff. October 1, 2003).

Since 2001, managed care organizations (MCOs) and hospitals which have developed community benefit programs have been required to report annually to the Department of Public Health on the status of those programs and DPH has been required annually to analyze the reports for compliance with statutorily-required guidelines for such programs. A "community benefits program" is a voluntary program to promote preventive care and to improve the health status for working families and populations at risk in the communities within the provider's service area. This act changes the reporting requirements from annual to biennial (thereby making the next DPH report due on January 1, 2005) but imposes a civil penalty of up to $50 per day on MCOs and hospitals which fail to file timely reports.

P.A. 03-275 DEMONSTRATION PROJECT FOR LONG-TERM ACUTE CARE HOSPITALS (eff. October 1, 2003).

This act permits the Office of Health Care Access, in consultation with DPH and DSS, to authorize up to four demonstration projects allowing chronic disease hospitals to establish and operate new long-term acute care hospitals or satellite facilities. The purpose of the demonstration is to study the quality of service, patient outcomes, and cost-effectiveness from the use of such facilities. The demonstration project must serve patients who require long-term hospitalization in an acute-care setting and need 24-hour on-site physician availability but are not suitable for placement in a skilled nursing home.

See also: Gynecological Services for Women with Disabilities (P.A. 03-40), p. 11.
Meeting the Health Care Needs of Students in School (P.A. 03-211), p. 14.

H O U S I N G

PUBLIC AND SUBSIDIZED HOUSING

JSS P.A. 03-6 TRANSFER OF DISTRESSED HOUSING PROJECTS TO CHFA (eff. August 20, 2003).

Section 51 of this act provides that, "notwithstanding any provision of the general statutes," a housing authority may, with the approval of DECD and the consent of CHFA, transfer to CHFA its interest in a financially distressed development which it owns. The Commissioner of Economic and Community Development must first find that (a) the housing authority is financially unable to maintain the development and (b) there is no reasonable prospect that the housing authority will be able to maintain the property in the future.

JSS P.A. 03-6 DEMOLITION AND RECONSTRUCTION OF PUBLIC HOUSING DEVELOPMENTS IN NEW BRITAIN AND STAMFORD (eff. August 20, 2003).

Sections 34 through 38 of this act authorize revitalization plans for particular State Moderate Rental public housing developments in New Britain (Corbin Heights and Pinnacle Heights) and Stamford (Vidal Court) without full compliance with the General Statutes. The act exempts both projects from Chapters 127c and 128 of the General Statutes, which include most provisions concerning Moderate Rental housing (including the one-for-one replacement requirement). It does not exempt them from the Uniform Relocation Assistance Act, which is in Chapter 135.

- New Britain: Sections 34 through 36 of the act address Pinnacle Heights, Pinnacle Heights Extension, Corbin Heights, and Corbin Heights Extension in New Britain. The act permits the City of New Britain and the New Britain Housing Authority (or a successor entity to which title has been transferred), in cooperation with DECD and CHFA, to revitalize the developments "only" pursuant to an approved revitalization plan and in accordance with the act. The plan must provide for 635 low and moderate income replacement units, which represents three-fourths of the original number of units (many of them now vacant) which are on-site. The replacement units may be either on-site or off-site. The on-site portion of the redevelopment may contain between 270 and 550 total units, of which 15% must be for households below 25% of area median and 25% for households below 60% of area median (the remaining 60% of units may be unrestricted). On-site reconstruction is to be completed within five years. The project may be built in

phases, but no demolition is to occur for any phase unless financing has been secured for reconstruction of the portion of the units associated with that phase. Only the income-restricted households count as replacement units. Residents who were residing in Corbin Heights or Pinnacle Heights at any time on or after January 1, 2002, must be given priority for the purchase or rental of the replacement units. The housing authority or its successor owner, with the assistance of DECD and CHFA, must "reasonably assist" eligible residents to meet qualifying criteria, including adjusting interest rates and minimum payment requirements in programs which they administer.

Whatever replacement units are not provided on-site must be provided off-site. The City of New Britain is responsible for off-site replacement, which must include at least 20 units per year (half for below-25% households and half for below-60% households) until all replacement units have been provided. On–site and off-site project-based replacement units must be subject to thirty-year affordability deed restrictions. Replacement may be in the form of new construction, rehabilitation, or rent subsidies, but rent subsidies do not count as replacement units unless they are in addition to the number of vouchers or certificates authorized for the administering authority as of August 20, 2003. Rehabilitated vacant buildings count as replacement units only if they have been vacant for at least one year.

The actual development of the project (and particularly the on-site portion of the project) may be by a sponsor chosen by the New Britain Housing Authority or the successor owner through a competitive process, in consultation with the City of New Britain, DECD, and CHFA. Any sponsor proposal must include a resident involvement plan indicating the extent to which residents will be involved in the planning process for the construction, sale, and lease of replacement units and the mechanism for allowing residents to comment on the implementation of the plan. In choosing a sponsor, the housing authority or successor is specifically authorized to consider (a) the role of residents in developing and implementing the proposal and (b) the sponsor's support for resident involvement.

The Commissioner of Economic and Community Development may approve the revitalization plan on a finding that (a) it is in the best interest of the state, the community and the residents; (b) adequate provision has been made for the current residents, including relocation assistance, (c) there is sufficient affordable housing in the

community to accommodate displaced residents, (d) residents have been involved in the planning process, (e) a mechanism will be available to facilitate resident comments on implementation, and (f) the plan has been approved by the Mayor of New Britain. The plan may not be approved by DECD unless at least one phase of the plan is fully funded and there is an agreement in place to assure that all off-site replacement units will be provided in accordance with the act. Approval of the plan does not commit either DECD or CHFA to funding it.

If the plan is approved, the housing authority or its successor owner may sell or lease all or part of the site to a sponsor for housing purposes and a part of the site to the City of New Britain or a developer designated by the City for non-housing purposes. As part of these transfers, DECD and CHFA may cancel any debts owed to the state by the housing authority on the developments.

- Stamford: Section 38 of the act authorizes the demolition and replacement of Vidal Court, a 216-unit Moderate Rental development in Stamford. The provisions of this section are generally less restrictive than those for New Britain. The Commissioner of Economic and Community Development may approve the Vidal Court plan on a finding that it is in the interest of the state and the community and that it complies with all provisions of the act, local ordinances, and general statutes applicable to the demolition of, resident consultation and participation within, and anti-displacement and relocation of displaced persons in Vidal Court. The Stamford Housing Authority must assure that all 216 existing units in Vidal Court will be replaced on a one-for-one basis with at least 216 units of low and moderate income housing. The plan must include evidence of resident and community support and may not be approved without evidence that the sponsor has permitted and will permit the tenants of Vidal Court to fully participate in the planning, review, and implementation process in accordance with two specific memoranda of understanding previously entered into by the Stamford Housing Authority and the Vidal Court Tenants Association. Before the revitalization plan is submitted to DECD for final approval, the Stamford Housing Authority and the Vidal Court Tenants Association must hold an open meeting on the plan. All oral and written comments from the meeting must be submitted to the Commissioner along with the plan. In approving the plan, DECD and CHFA may cancel any debt owed to the state by the housing authority in regard to Vidal Court.

- CHFA powers: Section 39 of the act amends C.G.S. 8-250, CHFA's enabling act, to make explicit that CHFA may provide assistance to a local housing authority or project sponsor in connection with a housing revitalization project undertaken under the act.

P.A. 03-95 DISPOSITION OF STATE-ASSISTED PROJECTS AFTER DISSOLUTION OF THE SPONSOR (eff. October 1, 2003).

This act authorizes the Commissioner of Economic and Community Development, in consultation with the executive director of CHFA, upon the dissolution of the developer of a state-assisted housing development, to accept ownership of the property and transfer ownership to an eligible developer or allow the property to participate in state assistance programs, as long as the property is preserved as housing for very low, low, or moderate income persons. The act makes three specific exceptions from the "use as housing" requirement for two properties which have already been transferred to developers -- St. Joseph's Residence for Mothers and Children in Bridgeport and the House of Bread in Hartford, both of which are using former housing space for day care and other purposes, and the Rainbow Court Cooperative in Middletown, which has continued as housing for lower income persons.

HOUSING ASSISTANCE FOR TENANTS

P.A. 03-25 RENT BANK (eff. October 1, 2003).

C.G.S. 17b-804, which created the DSS Rent Bank program, authorizes grants and loans to low-income persons at risk of becoming homeless or in imminent danger of eviction or foreclosure. The program has not made loans for many years and, in reality, is run as an emergency grant program. This act repeals the authority to make loans under the program.

See also: Homeless Children (JSS P.A. 03-6), p. 13.

CODE ENFORCEMENT

P.A. 03-202 HOUSING COURT CRIMINAL JURISDICTION (eff. October 1, 2003).

Section 16 of this act amends C.G.S. 47a-68(f) to make clear that actions involving violations of any state or local health or safety code, including violations occurring in commercial properties, are "housing matters" within the jurisdiction of the housing courts.

P.A. 03-184 REHABILITATION SUBCODE (eff. October 1, 2003).

Under existing law, the State Building Inspector (SBI) and the Codes and Standards Committee (CSC) are required to develop "separate Building Code standards for the rehabilitation of buildings." Section 8 of this act requires the SBI and CSC instead to develop "a rehabilitation subcode," whose provisions must include the identification and standardization of economically feasible rehabilitation standards and modifications that ensure public health, safety, and welfare and protect the environment. The Commissioner of Public Safety is to adopt implementing regulations by January 1, 2005.

P.A. 03-231 FIRE SAFETY VIOLATIONS (eff. July 9, 2003).

This act strengthens state regulation of pyrotechnic displays and fireworks, but its provisions also cover other violations of the State Fire Safety Code affecting residential buildings. In particular, (a) it provides that if the local fire marshal or local police determine that there is a risk of death or injury from overcrowding or blockage of required exiting in a building, he or she may issue a verbal or written order to vacate the building immediately and (b) it amends the Nuisance Abatement Act (C.G.S. 19a-343 et seq.) to add fire safety violations under the State Fire Safety Code or certain other statutes as sufficient to trigger an abatement proceeding.

See also: Sprinkler Systems (JSS P.A. 03-3), p. 38.

P.A. 03-214 ELECTRIC SERVICE IN FORMERLY VACANT BUILDINGS (eff. October 1, 2003).

This act prohibits the owner of a building or portion of a building that has been vacant and disconnected from the electric distribution system for six months or more from resuming electrical service without first hiring an electrician to inspect the electrical switch, including the main power disconnect switch, and to provide the electric distribution company with written notice that the equipment is electrically safe and not a public safety hazard. Upon receipt of the notice, the distribution company is to promptly resume delivery of electrical service.

P.A. 03-252 APPEAL OF PUBLIC HEALTH ORDERS (eff. October 1, 2003).

Under existing law, a person aggrieved by an order of a local health director has 48 hours from the making of the order in which to appeal to the state Commissioner of Public Health (except for lead abatement orders, for which the appeal period is three business days from the receipt of the order). Section 4 of this act makes the appeal period three business days from receipt for all appeals.

P.A. 03-252 LEAD ABATEMENT CERTIFICATION REGULATIONS (eff. October 1, 2003).

Section 25 of this act repeals C.G.S. 19a-111d, which requires DPH to establish certification criteria and procedures for lead inspectors and lead abatement and removal contractors. The requirement is redundant, because lead abatement workers, supervisors, consultants, and contractors are already subject to licensure by DPH under C.G.S. 20-474 et seq.

HOMEOWNER PROGRAMS AND FORECLOSURE

P.A. 03-202 IMPACT OF BANKRUPTCY ON FORECLOSURE PROCEEDINGS (eff. October 1, 2003).

Under C.G.S. 49-15(b), a judgment of strict foreclosure is automatically reopened upon the filing of a bankruptcy petition if the law days have not yet passed. By requiring an affirmative action by the creditor to complete the foreclosure, C.G.S. 49-15(b) thus triggers the automatic stay in bankruptcy and prevents the law day from passing without action by the bankruptcy court. Section 9 of this act requires the mortgagor to file with the clerk of the foreclosure court either a copy of the bankruptcy petition or an affidavit as to the date on which it was filed. The mortgagor is also required to file an affidavit with the clerk stating the date that the bankruptcy stay is terminated.

P.A. 03-61 HOME EQUITY LENDING (eff. October 1, 2003).

Section 8 of this act amends the Connecticut Abusive Home Loan Lending Practices Act to require that the notice to borrower of the right to cancel credit insurance at any time must be in at least 12-point type and be sent to the borrower separately from other mailings. Sections 1 and 2 of the act make technical changes in the Secondary Mortgage Lender Act.

P.A. 03-24 MORTGAGE APPLICATION PROTECTION FOR PERSONS ON ACTIVE MILITARY DUTY (eff. July 1, 2003).

This act provides that, if a member of the armed forces reserve or National Guard is called to active duty while his or her application to a financial institution for a mortgage to buy or improve his or her own one- to four-family house is pending, the institution must, upon a request made within 30 days after being called to active duty, maintain the application on file for two years and two months. If the applicant returns from active duty within two years, the institution on request must reactive the application on the same terms and conditions as it originally offered (but must also offer the applicant its current

terms and conditions).

P.A. 03-44 VETERANS' PROPERTY TAX EXEMPTION (eff. July 1, 2003).

Under existing law, eligible veterans and their surviving spouses are entitled to a property tax exemption on their home of $1,000. Municipalities may opt to exempt an additional $10,000 of value. To be income-eligible, the veteran's annual income must be no more than $16,200. This act allows municipalities which have an optional exemption to exempt 10% of the value of the home rather than a flat $10,000 and to set a higher income eligibility (not to exceed $41,200 per year) for veterans and their surviving spouses.

See also: Suspension of Property Tax Exemption for Persons Who Are Permanently and Totally Disabled (JSS P.A. 03-6), p. 11.

P.A. 03-55 NOTICE OF DENIAL OF CLAIM UNDER HOMEOWNERS INSURANCE POLICIES (eff. January 1, 2004).

This act requires that each denial of a claim under a "personal risk insurance policy" (which includes homeowners insurance) be accompanied by a notice in at least 12-point type informing the insured of the right to contact the Division of Consumer Affairs within the Insurance Department to contest the denial and providing the Department's address and toll-free telephone number.

P.A. 03-96 TRANSPORTATION OF MOBILE MANUFACTURED HOMES (eff. October 1, 2003).

This act substantially codifies and makes permanent a pilot program which requires the state Department of Transportation to permit larger mobile manufactured homes to be transported on Connecticut highways. The act requires the Commissioner to allow the transportation of mobile manufactured homes if they are either (a) wider than 14 feet but not in excess of 16 feet wide or (b) in combination with the length of the towing vehicle, less than 104 feet long (less than 100 feet long if the towing vehicle is more than 80 feet long). A permit may limit the conditions of transportation, including the times of day in which the home may be transported. The Commissioner of Transportation is required to adopt regulations to implement the act.

See also: Hospital Collection Practices/Limitations on hospital collection tools (P.A. 03-266), p. 2.

OTHER HOUSING LEGISLATION

P.A. 03-270 PROPERTY TAX EXEMPTION FOR TEMPORARY HOUSING (eff. July 9, 2003).

Under existing law, real estate owned by a charity is exempt from local property taxes, except that subsidized "housing" for low and moderate income households is not tax exempt. In the past, homeless shelters, YMCAs, and similar short-term residential facilities had not been considered "housing" and were therefore tax-exempt. In Fanny J. Crosby Memorial, Inc. v. City of Bridgeport, 262 Conn. 213 (2002), however, the Connecticut Supreme Court held that short-term housing is not charitable in nature if the charity collects rent from the occupants living there. This act overturns Crosby by providing that real property owned by a tax-exempt charity and used for temporary housing is exempt from local property taxes if its primary use is for (a) an orphanage; (b) a substance abuse treatment or rehabilitation facility; (c) housing for homeless persons, persons with disabilities, or battered or abused women and children; (d) housing for ex-offenders participating in a Department of Corrections or Judicial Branch program; or (e) other short-term housing in which the average stay is less than six months.

JSS P.A. 03-6 DECD FLEXIBLE HOUSING PROGRAM (eff. October 1, 2003).

In 2001, the General Assembly created a new flexible affordable housing program which allowed DECD to fund housing projects without the programmatic restrictions associated with its older programs. To be eligible to apply for assistance under the program, a developer had to be organized for the purpose of constructing, acquiring, rehabilitating, or operating affordable housing. Section 52 of this act expands the types of entities eligible to participate in the program by including entities whose purpose is the financing of affordable housing.

JSS P.A. 03-6 CONNECTICUT HISTORICAL COMMISSION (eff. August 20, 2003).

Sections 210, 211, 213, 216, 226 through 230, 235, 237, and 248 of this act abolish the Connecticut Historical Commission, an independent 12-member commission, and merge it into a new Connecticut Commission on Arts, Tourism, Culture, History and Film (CCATCHF), to which its functions are transferred. Section 226 of the act, however, effectively converts the former Historical Commission into a 12-member advisory board within CCATCHF to be known as the Historic Preservation Council. The act amends C.G.S. 10-320b to provide that, in exercising the functions formerly assigned to the

Connecticut Historical Commission, CCATCHF must operate with the advice of the Historic Preservation Council. In addition, it gives the Council the authority to go directly to the Attorney General, without the approval of CCATCHF, to request litigation to prevent the demolition of historic properties under the Connecticut Environmental Protection Act (C.G.S. 22a-16 and 22a-19a). Other functions of the former Commission, however, such as the review of state and federal projects which impact historic districts and historic buildings and the administration of the state Historic Home Ownership Tax Credit, will fall within the authority of the new commission, subject to the advice of the Council.

JUDICIAL PROCEDURES

P.A. 03-154 JUDICIAL INTERPRETATION OF STATUTES (eff. October 1, 2003).

This act attempts to restore the "plain meaning rule" for statutory construction, which was rejected by the Supreme Court in State v. Courchesne, 262 Conn. 357 (2003). Courchesne had eliminated the threshold requirement that statutory language be ambiguous before a court is permitted to use collateral interpretive tools, such as legislative history, legislative purpose, and statutory context. The act provides that if, after examination of the text of the statute and its relationship to other statutes, its meaning is plain and unambiguous and does not yield absurd or unworkable results, "extratextual evidence of the meaning of the statute" may not be considered.

P.A. 03-176 WRITS OF ERROR (eff. June 26, 2003).

This act repeals the statutory provisions concerning the procedure for taking a writ of error to the Supreme Court, thereby leaving such procedure to the Practice Book. It includes, however, an explicit statement that the Supreme Court "may issue all writs necessary or appropriate in aid of its jurisdiction and agreeable to the usages and principles of law."

P.A. 03-2 COURT FEES (eff. Feb. 28, 2003).

Sections 43 through 49 of this act raise a number of court-related fees. These include (a) an increase in the entry fee for summary process, landlord-tenant matters, paternity actions, and actions claiming damages of less than $2,500 from $75 to $125; (b) an increase in the entry fee for other civil actions (including dissolutions of marriage) from $185 to $220; (c) an increase of the fee for wage and property executions from $20 to $35, and (d) the imposition of new fees of $25 to reopen or modify a small claims judgment, $35 for an execution on a bank account, and $250 for a transfer to the complex litigation

docket. There is no change in the $35 fee for small claims actions, and there will continue to be no entry fee for family violence restraining orders under C.G.S. 46b-15. Section 51 allows the Judicial Branch to keep the first $4.9 million per year resulting from these fee increases.

P.A. 03-224 and P.A. 03-278 SERVICE OF PROCESS (eff. July 2, 2003).

P.A. 03-224 makes several changes in the rules for service of process on defendants:

- Statute of limitations: Under existing law, a cause of action is not lost if process is delivered to the marshal before the statute of limitations expires and it is served by the marshal within 15 days of receiving it. Section 14 of P.A. 03-224 amends C.G.S. 52-593a to increase that time period to 30 days.

- Service on municipal agencies and employees: Section 8 of P.A. 03-224, as amended by Section 126 of P.A. 03-278, amends C.G.S. 52-57 to allow municipal agencies, boards, and municipal employees to be served by serving two copies of the process on the town or city clerk, who must then forward one copy to the agency or employee being served.

- Subpoenaing of a doctor: Section 9 of P.A. 03-224 allows a subpoena summoning a physician as a witness to be served on the physician's office manager or other person in charge of the physician's office.

- Marshal's fees: P.A. 03-224 also increases several marshal's fees. Section 10 increases the marshal's collection fee on judgments from 10% of the amount collected to 15% of the amount collected, with a minimum fee of $30 (raised from $20). It increases the fee for serving multiple defendants at different addresses from $10 to $30 per defendant.

PUBLIC BENEFITS AND SOCIAL SERVICES

JSS P.A. 03-3 CHANGES TO SAGA AND SAGA MEDICAL (eff. August 20, 2003).

This act ends municipal general assistance programs and reduces benefits for both SAGA cash and SAGA medical recipients.

- SAGA cash (Sections 42 and 46):

  - Benefit reductions: The act reduces monthly SAGA benefits to $200 for unemployable persons (reduced from $350), $200 for

single transitional individuals who are required to pay for shelter (no change), and $50 for single transitional individuals who are not required to pay for shelter (reduced from $150). Families on SAGA will receive a cash benefit equal to $50 per month less than the TFA benefit for a family of equal size (reduced from 100% of the TFA payment). The changes are to take effect no earlier than September 1, 2003, but no later than October 1, 2003. The time limits and asset level for SAGA remain unchanged.

- Eligibility changes: "Unemployable" is redefined so that a person with a physical or mental impairment is considered unemployable only if the impairment prohibits the person from working or participating in an education, training, or other work-readiness program. VISTA volunteers are also made eligible for SAGA cash benefits. The definition of "transitional individual" is changed so as to repeal the specific requirement that the person have been eligible for unemployment compensation within the past six months or have worked in at least three of the past five calendar quarters and have earned at least $500 in each. This act requires instead that a transitional individual have "a recent connection to the labor market." The act also requires that DSS decisions as to whether a disability will last more than six months must be based on the recommendations of a medical review team.

- SAGA medical (Section 43):

  - Benefits: The act preserves SAGA medical as an entitlement but limits it to medical care through a federally-qualified health center or other primary care provider, as determined by the Commission of Social Services, plus hospital services. DSS is required to contract with community health centers and similar clinics and with primary care providers if necessary to "assure access to primary care services" for recipients living "farther than a reasonable distance" from a federally-qualified health center. All pharmacy services are to be provided through the assigned health center or a pharmacy with which the health center contracts, and recipients must pay a $1.50 per prescription co-payment. Each participating federally-qualified health center must within 30 days enroll in the federal Office of Pharmacy Affairs Section 340B drug discount program, and each may establish an on-site pharmacy. DSS is required to assure that the entities with which it contracts will provide "ancillary services," such as radiology, laboratory services, and durable medical equipment, and other "specialty services," except that no ancillary and specialty services can be provided if they were not

covered by SAGA medical as of July 1, 2003. DSS is required to contract for all SAGA services with providers, which are to be paid "within available appropriations" for their pro rata share of services provided.

- Eligibility: Eligibility for SAGA medical will be the same as the medically needy component of Medicaid, except that $150 per month in gross earned income will be disregarded. The asset maximum will be $1,000. No person eligible for Medicaid may receive SAGA medical. By March 1, 2004, DSS is required to seek a federal waiver so as to make everyone on SAGA medical eligible for Medicaid.

- Town general assistance programs (Sections 42 and 97): Section 42 of the act terminates the authorization for towns to run their own general assistance cash or medical programs (only Norwich still operates a general assistance program). Town medical assistance programs must end by September 30, 2003, and town cash assistance programs must end by February 29, 2004. Section 97 (eff. March 1, 2004) repeals a number of statutes which are specific to operation of general assistance programs (e.g., the right to a fair hearing appeal under C.G.S. 17b-63 through 17b-65, the statewide data bank on GA recipients under C.G.S. 17b-111a, the basic general assistance program under C.G.S. 17b-116, emergency shelter services for GA recipients under C.G.S. 17b-120, and GA medical under C.G.S. 17b-220 and 17b-259).

- Appeal procedures (Section 44): Aggrieved SAGA applicants and recipients may request a fair hearing, but only a recipient of SAGA medical may continue to receive benefits during the pendency of the appeal. Aggrieved applicants will receive neither cash nor medical benefits while appealing an unfavorable decision, and the cash benefits of a SAGA cash recipient will also be cut off during appeal.

- Regulations (Section 45): The Commissioner is allowed to implement the changes required by the act while new regulations are pending, as long as a notice of intent is published in the Connecticut Law Journal within 20 days of implementation.

- DMHAS behavioral managed care program (Section 47): Under prior law, a person was eligible for the DMHAS program if he or she were unemployable, transitional, or employable within the meaning of SAGA. This act redefines eligibility as being eligible for medical services under SAGA.

- SSI appeals (Section 49): The act makes explicit that DSS must inform SAGA recipients whose SSI claim is denied of their right to appeal and of the availability of local legal counsel.

- Transfer to TFA (Section 80): The act allows the Commissioner to expand eligibility for TFA to include any new eligibility categories created by federal law, including in particular households headed by a person who is, or is in the process of becoming, the legal guardian of the child but is not related to the child. If the Commissioner implements such expanded TFA eligibility, the act permits the Commissioner administratively to transfer eligible SAGA cash recipients to TFA (and to transfer them back to SAGA if the TFA category ceases to exist) without following the usual eligibility and enrollment procedures. The act also codifies the categories of household which the Commissioner may deem eligible for TFA.

P.A. 03-2 and JSS P.A. 03-3

CHANGES TO TFA AND RELATED ASSISTANCE PROGRAMS (eff. August 20, 2003).

These acts impose a wide range of reductions on TFA and other assistance programs. Unless otherwise noted, changes made by P.A. 03-2 were effective on February 28, 2003 and changes made by June 30 Sp. Sess. P.A. 03-3 were effective on August 20, 2003.

- TFA extensions (Section 13 of P.A. 03-2): A family subject to time-limited benefits may receive Temporary Family Assistance (TFA) for only 21 months, but previous law permitted DSS to grant up to three six-month extensions for certain statutorily-listed causes. This section permits only two such extensions.

- Child care subsidies (Section 16 of P.A. 03-2): The Transitional Child Care Program provides child care subsidies for families which have left TFA. This section reduces the income eligibility maximum for such subsidies from 75% of statewide median income to 55% of statewide median income.

- Public assistance COLA and personal needs allowance (Sections 60 and 61 of June 30 Sp. Sess. P.A. 03-3): These sections extend the freeze on payment standards under TFA, SAGA, and State Supplement for two more years. The freeze has been in effect since 1991 for TFA and SAGA/general assistance and since 1992 for State Supplement. The act, however, allows DSS to increase the personal needs allowance in the State Supplement program as necessary to meet federal maintenance-of-effort requirements.

- Food stamp administration (Section 75 of June 30 Sp. Sess. P.A. 03-3): This section allows DSS, in accordance with federal law, to implement policy to simplify program administration and increase payment accuracy in the food stamp program. The changes may be implemented while regulations are in the process of being adopted.

P.A. 03-28 CONFORMANCE WITH FEDERAL WELFARE LAW (eff. October 1, 2003).

This act makes minor changes to state welfare statutes to conform them to federal law. It eliminates the Commissioner's authority to operate the Reach for Jobs First demonstration project, which had been run pursuant to a waiver under Section 1115 of the Social Security Act. It also eliminates the requirement that DSS continue a comparative evaluation of current TFA program rules and a control group using different requirements. It makes clear that the 60-month maximum on time-limited TFA benefits applies to recipients who formerly received assistance from another state. It also repeals C.G.S. 17b-15, 17b-17, and 17b-55 as obsolete.

P.A. 03-2 and JSS P.A. 03-3 CHANGES TO THE STATE SUPPLEMENT AND RELATED PROGRAMS.

These acts make two changes in the State Supplement and related programs.

- SSI personal needs allowance (Section 57 of P.A. 03-2): In 2002, the General Assembly directed DSS to increase the personal needs allowance for SSI recipients by half of the percentage increase in SSI benefits. This section (eff. February 28, 2003) repeals that provision, thereby leaving the personal needs allowance frozen.

- State recoupment from annuity contracts (Section 59 of June 30 Sp. Sess. P.A. 03-3): This section (eff. August 20, 2003) deems the proceeds of an annuity contract purchased at any time with the assets of a public assistance beneficiary to be a part of the beneficiary's estate when he dies. It requires any person receiving those benefits to pay them to the state up to the amount of public assistance benefits paid to or on behalf of the deceased beneficiary. The act applies to all annuity payments which become payable on or after July 1, 2003.

P.A. 03-36 EXCESS SHELTER DEDUCTION FOR FOOD STAMP RECIPIENTS (eff. October 1, 2003).

Under existing federal law, food stamp applicants are entitled to a

deduction for excess shelter costs in determining their eligibility for food stamps and the amount of food stamps they receive. Utility payments which are not included in the rent are part of shelter costs. DSS regulations permit recipients to opt for the use of either their actual utility payments or a standard utility allowance. This act requires DSS to use only the standard utility allowance.

P.A. 03-268 and JSS P.A. 03-3 REDUCTION IN DSS REPORTING TO THE GENERAL ASSEMBLY October 1, 2003).

P.A. 03-268 reduces the legislative reporting requirements imposed on the Department of Social Services. The act eliminates annual reports on the funding needed to support programs funded by the TANF block grant, on the status of Medicaid for children between 100% and 185% of poverty level, on field audits to verify the reasonableness and propriety of payments to prescription drug providers under Medicaid, on the receipt of federal funds to match private contributions, and on nursing home self-pay rates. It requires a final report on the implementation of fingerprinting of welfare recipients by January 1, 2004. It narrows DSS's annual report on compliance with legislative mandates so as no longer to require reporting on federal financial penalties imposed on DSS, and it reduces the frequency of required reporting to the TANF Advisory Council on implementation of TANF. P.A. 03-268 and Section 97 of June 30 Sp. Sess. P.A. 03-3 (eff. March 1, 2004) also eliminate several reporting provisions made obsolete by the passage of time and the change or repeal of the applicable programs.

U T I L I T I E S

P.A. 03-135 ELECTRIC RESTRUCTURING (eff. July 1, 2003).

This act makes a number of significant changes in the state's 1998 electric utility restructuring law.

- Extension of standard offer: The act extends the standard offer rate for utility customers (now called a "transitional standard offer") for three more years (through December 31, 2006) but allows the rate to rise to its December 31, 1996 level (it is currently more than 10% below that level). Prior law required a standard offer (which effectively caps electricity rates) only through December 31, 2003, after which rates would be free to rise to whatever the market will bear. In addition, the act allows electric distribution companies (i.e., CL&P and UI) to recover as part of their rates, but in excess of the "just and reasonable" rate standard, 0.5 mills per kilowatt hour for administering the standard offer and 0.5 mills per kilowatt hour for buying electricity at prices below the regional average

price. The result will be potential rates increases for consumers of more than 20%. After December 31, 2006, the DPUC will set a "standard service price" to be charged by distribution companies to default customers, based on a pass-through of all costs. The act does require, however, that electric distribution companies mitigate price variations by buying their electricity in overlapping fixed-term contracts at least six months in length so as to "secure a reliable electricity supply while avoiding unusual, anomalous or excessive pricing."

- Public hearing process: The transitional standard offer is to be established by the DPUC by December 15, 2003, so as to take effect on January 1, 2004. The rate proceeding must be conducted as a contested case and include a hearing. The act also requires that CL&P apply for a rate amendment before January 1, 2004, and that its application include a four-year plan for electricity distribution. The DPUC must also conduct a contested case proceeding to establish the "incentive" plan under which a distribution company can earn the 0.5 mill per kilowatt hour for mitigating its cost for the purchase of electricity. The DPUC may also require that alternative standard offer and standard service options be offered containing more than the required minimum electricity generated from renewable energy resources ("green energy") or using strategies or technologies to reduce overall electric consumption.

- Community education: The act requires the DPUC, in consultation with the Office of Consumer Counsel (OCC), to develop promotional materials by January 1, 2004, to provide information about electric suppliers, including comparative rate information if feasible, and to require electric distribution companies to disseminate them twice a year to all of their customers. The DPUC must also post this information on its website and provide electronic links to the website of each supplier. In consultation with OCC and the Consumer Education Advisory Council, the DPUC must, by October 1, 2003, also develop a plan to restart the consumer education outreach program by October 1, 2004.

- Customer protection: The act requires the DPUC to adopt regulations "to address abusive switching practices by suppliers." The existing statute imposes certain specific consent requirements for switching but does not address abusive switching practices generally. The act also modifies the manner in which a consumer may give consent to receive marketing information from suppliers.

- Market competition study: The act requires the DPUC, by July 1, 2005, to open a contested case docket to examine the state of competition in the retail provision of electric generation services and by January 1, 2006, to

make recommendations to the General Assembly on (a) the protection of ratepayers from excessive rate fluctuations and (b) the development of a competitive market for retail electric generation services.

P.A. 03-47 ELECTRIC HEAT ARREARAGE FORGIVENESS PROGRAM (eff. October 1, 2003).

Since 1991, Connecticut has required gas companies to have arrearage forgiveness programs under which delinquent gas heating customers who comply with an amortization agreement can have a portion of the unpaid arrearage forgiven by the gas company. This act applies the same requirement to electric distribution companies (i.e., Northeast Utilities and United Illuminating) in regard to customers who heat with electricity. In particular, the customer must apply and be eligible for benefits under the Connecticut Energy Assistance Program or the State Assistance Fuel Assistance Program, must agree to let the utility company bill those programs directly for payment, and must enter into and comply with the repayment terms of an amortization agreement. Each April 30, the company must review whether the customer has been in compliance for the preceding six months. If so, the customer's arrearage is reduced by an amount equal to the amounts paid by or on behalf of the customer during the preceding six months, i.e., the customer's payments are doubled. If a customer in compliance on April 30 remains in compliance through November 30, the payments made by or on behalf of the customer since April 30 are also doubled. The act also requires electric distribution companies annually to file an amortization implementation plan with the DPUC.

P.A. 03-2 ENERGY CONSERVATION LOAD MANAGEMENT FUND (eff. February 28, 2003).

Section 20 of this act requires the DPUC to transfer $1 million per month from February, 2003, through July, 2005, from the Energy Conservation Load Management Fund to the General Fund for the purpose of paying for state electric utility costs.

INDEX OF PUBLIC AND SPECIAL ACTS

REGULAR SESSION

PUBLIC ACTS

SPECIAL ACTS

JUNE 30 SPECIAL SESSION

PUBLIC ACTS

SEPTEMBER 8 SPECIAL SESSION

PUBLIC ACTS

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” and “June 30 Sp. Sess.” stand for “June 30 Special Session.” “SSS” and “Sept. 8 Sp. Sess.” stand for “September 8 Special Session.” These special sessions were convened after the regular 2003 legislative session ended.

Published by: Legal Assistance Resource Center of Connecticut, Inc.
80 Jefferson St.
Hartford, CT. 06106
(860) 278-5688

Written by: Raphael L. Podolsky, Attorney at Law