

Summary of 2004 Public and Special Acts

Contents:

| | |
|--|----|
| CIVIL RIGHTS | 1 |
| CONSUMER | |
| Lending and Other Banking Practices | 1 |
| Debt Collection | 2 |
| Motor Vehicle Practices | 3 |
| Other Consumer Protection | 4 |
| DISABILITY | |
| Mental Retardation and the Department of Mental Retardation | 4 |
| Other Disability | 6 |
| EDUCATION | 7 |
| ELDERLY | 8 |
| EMPLOYMENT | |
| Employment Compensation and Workers' Compensation | 8 |
| Reentry into the Employment Market from Prison | 9 |
| Other | 12 |
| FAMILY | |
| Domestic Violence | 13 |
| Child Support and Alimony | 13 |
| Child Protection | 15 |
| GOVERNMENTAL OPERATIONS | 18 |
| HEALTH INSURANCE, HEALTH CARE, AND MEDICAL ASSISTANCE | |
| Medicaid, HUSKY, SAGA Medical, and Other State Medical Assistance | 19 |
| ConnPACE | 23 |

[Continued]

| | |
|--|----|
| Other Prescription Drugs | 25 |
| Nursing Homes and Long-Term Care | 26 |
| Private Health Insurance | 28 |
| HOUSING | |
| Summary Process and Landlord-Tenant Law | 29 |
| Public and Subsidized Housing | 30 |
| Rental Assistance | 32 |
| Supportive Housing | 33 |
| Code Enforcement | 33 |
| Property Taxes, Foreclosure, and Homeownership | 34 |
| Planning and Zoning | 35 |
| Other Housing Legislation | 36 |
| JUDICIAL PROCEDURES | |
| JUDICIAL PROCEDURES | 37 |
| PUBLIC BENEFITS AND SOCIAL SERVICES | |
| PUBLIC BENEFITS AND SOCIAL SERVICES | 37 |
| INDEX OF PUBLIC AND SPECIAL ACTS | |
| INDEX OF PUBLIC AND SPECIAL ACTS | 43 |

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. "MSS" stands for "May Special Session." This special session was convened after the regular 2004 legislative session ended.

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CIVIL RIGHTS

MSS P.A. 04-2 HUMAN RIGHTS REFEREES (eff. May 12, 2004).

Section 9 of this act increases the number of human rights referees, who hear contested Commission on Human Rights and Opportunities cases, from five to seven.

See also: Prison Overcrowding (P.A. 04-234), p. 9.

CONSUMER

LENDING AND OTHER BANKING PRACTICES

P.A. 04-170 INCOME TAX REFUND ANTICIPATION LOANS (eff. October 1, 2004).

"Income tax refund anticipation loans" (RALs) are loans which are made in anticipation of the borrower receiving an income tax refund and are repaid out of the proceeds of the refund. Since income tax refunds are commonly received within two weeks of electronic filing of a return, RALs are very short-term loans. The loans are usually made by income tax preparation services through a bank.

This act requires that the "facilitator" of the loan, i.e., the income tax preparation service and its employees, make the following written disclosures to the borrower at the time of loan application in a document separate from the loan application:

- The estimated charge for preparing and electronically filing an income tax return;
- The fee schedule for making an RAL;
- The annual percentage rate of the RAL;
- The estimated total cost to the borrower for utilizing an RAL;
- The estimated number of days before the borrower receives the loan proceeds;
- The fact that the borrower is responsible to repay the loan and fees, even if the income tax refund is less than applied for;
- The average time announced by the IRS within which the borrower can expect to receive a tax refund once a tax return is filed electronically, and the fact that electronic filing is available without taking out an RAL.

A facilitator who violates the act is subject to a \$500 fine and is liable to the borrower for three times the RAL fee plus reasonable attorney's fees in a civil action brought by the borrower or by the Attorney General.

P.A. 04-69 POWERS OF THE BANKING COMMISSIONER AGAINST LICENSEES (eff. October 1, 2004).

This act clarifies and expands the enforcement powers of the Banking Commissioner in regard to a number of regulated industries:

- Sales finance companies: Under existing law, the Commissioner may take action against a sales finance licensee only for violating the Sales Financing Company Act itself. Section 18 of the act permits the Commissioner also to act against a sales finance company that defrauds or that wilfully fails to perform any written agreement with a retail buyer.
- Unfair debt collection practices: Connecticut's Unfair Debt Collection Practices Act regulates the collection practices of "creditors," which are defined as persons "to whom a debt is owed by a consumer debtor." Section 23 of this act makes clear that "creditor" includes assignees of the debt as well.
- Other provisions: The act also (a) makes clear that cease-and-desist orders can be issued under the Retail Instalment Sales Financing Act, (b) makes clear that the Commissioner can suspend or refuse to renew a small loan or sales financing company license for misconduct and is not limited to revoking the license, (c) automatically suspends licenses if the annual licensing fee check bounces, and (d) allows the Commissioner to suspend a first mortgage license or a collection agency license if the lender's surety bond is cancelled.

DEBT COLLECTION

P.A. 04-46 HOSPITAL BILLING PRACTICES (eff. July 1, 2004).

Existing law, which was adopted last year as part of P.A. 03-266, prohibits a hospital from referring an unpaid bill to a collection agent or bringing a collection lawsuit unless the hospital has determined "that" the patient is uninsured and not eligible for free services through the hospital's bed fund. Read literally, this language would preclude hospital collection against a person with insurance, since the hospital could not make the threshold determination that the patient was uninsured. This act, which is technical in nature, changes "that" to "whether," so as to permit hospital collection action once a determination of bed fund ineligibility has been made.

MOTOR VEHICLE PRACTICES

P.A. 04-30 NOTICE TO LIENHOLDERS OF MOTOR VEHICLES (eff. April 28, 2004).

Under existing law, when an unlicensed or abandoned motor vehicle is ticketed and towed, the ticketing police department must give notice to the owner and to the Motor Vehicle Department within 48 hours. This act requires that such notice also go to any lienholders in the DMV's records. Existing law also requires the entity storing the motor vehicle to notify the owner at least five days before selling it. This act requires that lienholders also receive that notice.

P.A. 04-92 FREE AIR AT GAS STATIONS (eff. October 1, 2004).

Existing law requires gas stations to provide free public use of an air compressor during the hours that they are open but exempts retail food stores with gasoline pumps if the stores sell less than 10,000 gallons of gas per month. This act eliminates the convenience store exemption.

OTHER CONSUMER PROTECTION

P.A. 04-207 INTRODUCTORY RATE OFFERS AND AUTOMATICALLY RENEWING CONSUMER CONTRACTS (eff. October 1, 2004).

Introductory rate offers: This act extends Connecticut's law on trial offers, so that it also applies to introductory rate offers. Under existing law, anyone who sells goods or services under a "trial offer" must provide a clear and conspicuous written notice that the purchaser can cancel at the end of the trial period. The notice, which must include the cancellation procedure, can be included either in the promotional materials or with the initial delivery of products or services. If the recipient has cancelled or has not otherwise renewed the contract, goods or services provided after the trial period are to be treated as unconditional gifts. This act applies the trial offer statute to sales of goods or services at an introductory rate if (a) the rate will change at the end of the introductory rate period and (b) the subsequent rate is not clearly and conspicuously disclosed in the original contract. However, it also narrows the existing law by limiting it to consumer transactions and excluding all transactions involving banking, insurance, or securities or subject to the Truth-in-Lending Act (i.e., all credit transactions).

Automatically renewing consumer contracts: The act also regulates a limited category of automatically renewing consumer contracts in which the contract renews automatically (i.e., without further action by the consumer) for a period of 31 days or more. If the initial contract period is for more than 180 days, then the seller must, between 15 and 60 days before the end of the initial contract, give the buyer written notice of the right to cancel (and thereby prevent renewal) and the procedure for cancelling. For shorter initial contracts, the notice must be in the contract itself and may require that the consumer's notice of cancellation be given as many as 60 days before the end of the initial contract period. As with trial offers and introductory rate offers, if the seller does not comply with the law, goods and

services received after the initial contract are considered unconditional gifts. The act does not apply to health club contracts, to transactions subject to the Truth-in-Lending Act, or to transactions involving banking, insurance, or securities. It also not does apply contracts between a condominium or housing association and a person other than an individual.

P.A. 04-194 ADVERTISING OF HOME HEATING OIL PRICES (eff. October 1, 2004).

This act requires home heating oil dealers that advertise a specific price for their fuel to maintain that price for at least 24 hours or until their next advertised price, whichever occurs first. The act also requires home heating oil dealers to display their state registration number, requires DCP to establish a list of registered dealers, prohibits home heating oil wholesalers from selling oil to anyone not on that registration list, requires insurance companies to notify DCP of the cancellation of mandatory insurance on any home heating oil dealer, and requires revocation of the registration of any dealer whose insurance is cancelled.

DISABILITY

MENTAL RETARDATION AND THE DEPARTMENT OF MENTAL RETARDATION

P.A. 04-29 APPEALS FROM PROBATE COURT STERILIZATION ORDERS (eff. April 28, 2004).

This act automatically stays a probate court order for involuntary sterilization of wards of the probate court for ten days from the date of the order so as to permit the ward to appeal. If an appeal is filed, the stay remains in effect until the appeal is resolved. The stay does not apply to an adult ward if the probate court finds that the ward is able to give informed consent and has given informed consent in writing.

P.A. 04-12 INVESTIGATION OF REPORTS OF ABUSE OR NEGLECT (eff. October 1, 2004).

Under existing law, the Office of Protection and Advocacy is responsible for investigating complaints of abuse or neglect against adults with mental retardation under the age of 60. This act (a) expands the list of mandatory reporters to include licensed professional counselors, (b) reduces the time by which a mandatory reporter must report from five days to 72 hours, (c) imposes a 24-hour time limit for DMR to notify P&A of the death of a person for whom DMR has responsibility if there is reasonable cause to suspect abuse or neglect, and (d) in such death cases, requires a report from DMR to P&A on the death of a person 60 or older and allows P&A to investigate.

P.A. 04-211 DMR OMBUDSMAN AND GUARDIANSHIP REVIEWS (eff. October 1, 2004).

This act makes two unrelated changes in DMR review and advocacy procedures:

- DMR Ombudsman: Section 3 of this act (eff. July 1, 2004) transfers authority to appoint the director of the DMR Ombudsman Office from the Commissioner of Mental Retardation to the Governor, with the approval of the General Assembly. The Ombudsman Office receives complaints about the care and supervision of DMR clients (including clients in privately operated group homes or facilities) and makes recommendations to the Commissioner. The act requires the Governor to nominate the director from a ranked list of five candidates to be submitted by the Council on Mental Retardation. If the Governor fails to choose and nominate one of the five within 60 days of receiving the list, the Council is to refer the top-ranked name on the list to the General Assembly for confirmation. The new nominating procedure is to take effect upon the first vacancy in the office of director that occurs after July 1, 2004.
- DMR guardianship reports: Under existing law, the probate court must review each appointment of a plenary or limited guardian for a person with mental retardation at least once every three years. The guardian, the attorney for the ward, and a DMR professional or assessment team must each submit a report. Section 2 of this act eliminates the DMR professional or assessment team report for the lowest functioning wards, i.e., for those who are "functioning adaptively and intellectually within the severe or profound range," unless specifically ordered by the court. The act also reduces from three to two the minimum number of persons on the DMR assessment team which must present a report before an initial guardianship is established.

P.A. 04-54 REVISIONS TO THE DMR STATUTES (eff. May 4, 2004).

This act makes changes to DMR statutes affecting several DMR programs:

- Birth-to-Three: The act makes it easier for the state to receive Medicaid reimbursement for the payment of services to Birth-to-Three providers under an individualized family service plan by allowing advanced practice registered nurses (APRNs) to sign such plans. It also requires that, when notice is given to the local school district that a Birth-to-Three program participant will attain the age of three, the system of notification include provisions to preserve the confidentiality of the child.
- DMR five-year plan: Under existing law, DMR is required to have a five-year plan but, because it must be reviewed every two years, it requires biennial revisions of the plan. This act requires that the plan be reviewed only in five-year increments, thereby converting it to a fixed-length plan. The immediate effect is to make it unnecessary to produce a new plan until 2007.
- Unified School District #3: Effective October 1, 2004, the act eliminates the advisory education council for DMR's Unified School District #3.

P.A. 04-186 TRANSFER OF STATE-OWNED LAND TO PRA AT SOMERSET, LLC (eff. June 1, 2004).

Section 14 of this act requires the Commissioner of Mental Retardation to enter into an agreement with PRA at Somerset, LLC, for it to construct a fully accessible, code-compliant residential board and care residence for six persons with mental retardation on its parcel of land adjacent to 2955 Main St. in Glastonbury. Upon completion, the act requires DMR to take title to the residence and land and in return to transfer to PRA at Somerset, LLC, the land and buildings owned by the state at 2955 Main St., Glastonbury.

OTHER DISABILITY

P.A. 04-142 DISCLOSURE OF CONFIDENTIAL MEDICAL INFORMATION BY PROBATE COURT (eff. October 1, 2004).

Section 7 of this act allows probate court judges in any proceeding to issue an order for the disclosure of medical information relevant to the proceeding. Such an order can require disclosure to the court, the attorney or guardian ad litem for the subject of the medical information, a doctor or psychologist ordered by the court to conduct an investigation, the respondent's guardian or conservator, or any other party to the proceeding. Such medical information filed with the court is explicitly made confidential. Sections 3 through 5 of the act make medical reports filed in conservatorship and other involuntary representation proceedings confidential but allow the probate court judge to order their release. Section 8 authorizes the probate court to order disclosure of medical information in cases concerning the commitment of an alcohol- or drug-dependent person.

P.A. 04-90 MEMBERSHIP OF THE BOARD OF EDUCATION AND SERVICES FOR THE BLIND (eff. May 10, 2004).

This act adds two adults with blindness to the Board of Education and Services for the Blind (BESB) Monitoring Council, one to be appointed by the majority leader of the House and one by the majority leader of the Senate. The Monitoring Council, which was created in 2003, was supposed to set benchmarks for the BESB, monitor its compliance with them, report to the General Assembly by February 1, 2004, and go out of existence by July 1, 2004. The act extends the reporting deadline and the termination date of the Monitoring Council by one year. In addition, the act changes the membership of the BESB itself, effective October, 1, 2004, by requiring that one of the Governor's appointments to the Board be the parent of a child who receives services provided by the Board.

See also: Compliance with ADA (P.A. 04-237), p. 33.
Restoration of Disabled Property Tax Relief (MSS P.A. 04-2), p. 34.

EDUCATION

P.A. 04-181 ADMINISTRATION OF MEDICATIONS IN SCHOOL (eff. July 1, 2004).

Section 1 of this act requires any school that allows a school nurse or other school staff to administer medication to students, or that allows students to administer their own medication, to adopt written policies and procedures on the administration of medication. It also requires that these policies and procedures be approved by the school's medical advisor or other qualified physician.

P.A. 04-224 CHILDHOOD HEALTH IN SCHOOLS (eff. July 1, 2004).

This act requires all school boards to offer all full-day students a lunch period of at least 20 minutes and to provide all children in kindergarten through fifth grade with a period of physical exercise within the regular school day. These scheduling requirements do not supersede special education plans, and a different schedule developed for a special education student by a planning and placement team takes priority over the act's scheduling requirements. The act also requires all school boards to make "nutritious, low-fat foods and drinks" available for purchase by students. Low-fat milk, 100% natural fruit juices, and water must be available for purchase at all times when drinks are sold. Low-fat dairy products and fresh or dried fruit must be available whenever food is being sold.

See also: Unified School District #3 (P.A. 04-54), p. 6.

ELDERLY

See: MEDICAID, HUSKY, SAGA MEDICAL, AND OTHER STATE MEDICAL ASSISTANCE, p. 19-23.
CONNPACE, p. 23-24.
OTHER PRESCRIPTION DRUGS, p. 25-26.
NURSING HOMES AND LONG-TERM CARE, p. 26-28.

EMPLOYMENT

EMPLOYMENT COMPENSATION AND WORKERS' COMPENSATION

P.A. 04-60 FRAUDULENTLY OBTAINED UNEMPLOYMENT COMPENSATION BENEFITS (eff. July 1, 2004).

Existing law requires that unemployment compensation overpayments obtained by fraud or wilful misrepresentation be repaid by offset against current unemployment compensation payments or, if insufficient for full recoupment, under a repayment schedule. Effective July 1, 2005, this act adds interest of 1% per month for repayments other than those paid by offset. The act also reduces the minimum forfeiture of benefits period in such cases from two weeks to one week.

The act also imposes a \$25 late fee on employers who fail to make timely quarterly wage reports.

P.A. 04-214 UNEMPLOYMENT COMPENSATION AMENDMENTS (eff. October 1, 2004).

This act makes two changes in eligibility for unemployment compensation:

- Social Security pensions: Under existing law, if an unemployed worker receives a pension under the Social Security Act, his or her unemployment benefits are reduced by half of the Social Security payments received. Section 3 of this act eliminates that reduction, thereby allowing the worker to receive full unemployment compensation while receiving a Social Security pension.
- Wilful misconduct: An employee who is fired for wilful misconduct is ineligible for unemployment compensation. One form of wilful misconduct is absenteeism. The statutes define wilful misconduct based on absenteeism as being three separate instances of absence within an 18-month period in which there is neither good cause nor notice to the employer. Absence for several consecutive days is usually considered a single act of absenteeism. Section 2

of this act makes two changes in the definition of absenteeism. First, it shortens the look-back period to 12 months. Second, it provides that the only consecutive-day absence which will be considered a single instance of absenteeism is an absence of two consecutive days.

P.A. 04-47 TIME PERIOD FOR PAYMENT OF WORKERS' COMPENSATION PAYMENTS (eff. May 4, 2004).

Under existing law, workers' compensation payments are to begin within ten days after an award or a voluntary agreement. This act extends the permissible delay period to twenty days.

P.A. 04-214 WORKERS' COMPENSATION LUMP SUM PAYMENTS (eff. June 30, 2004).

Section 1 of this act allows the parties in a workers' compensation case, by agreement and with the approval of the Workers' Compensation Commissioner, to prorate a single lump-sum payment over the life expectancy of the injured worker. In some cases, this may reduce or eliminate the deduction from Social Security disability benefits for workers' compensation which would otherwise be imposed on the worker.

REENTRY INTO THE EMPLOYMENT MARKET FROM PRISON

P.A. 04-234 PRISON OVERCROWDING (eff. June 8, 2004).

This act, which combines the Board of Pardons and the Board of Parole into the Board of Pardons and Paroles (BPP) effective July 1, 2004, makes numerous changes in the law for the purpose of reducing the number of persons incarcerated in prison. These include:

- Restructuring of pardons system (Sec. 1(j)): Effective July 1, 2004, the act requires the Board to create an administrative pardons process to permit people convicted of certain crimes to receive a pardon without a hearing (unless a hearing is requested by the victim). Such administrative pardons will be available to persons whose only conviction is of a misdemeanor if (a) the misdemeanor is no longer a crime, (b) the person was under age 21 when the crime was committed and has no convictions during the ten years before receiving the pardon, or (c) the conviction occurred before the creation of pretrial diversion programs for which the person would have been eligible and into which the person would probably have been accepted. Administrative pardons will also be available to persons convicted of certain drug crimes if (a) at least five years have passed since the person's release from prison and (b) the person has not been convicted of a crime during the five years before the pardon is granted. The act also requires a written statement of reasons for rejecting any application for a pardon, requires that pardon hearings be held at least once every three months and that they be held in various parts of the

state, and prohibits the holding of pardon hearings at a prison unless solely for the benefit of an incarcerated applicant.

- Reentry strategy (Sec. 29 and Sec. 1(j)): Section 29 of the act requires the Board of Pardons and Paroles, the Judicial Branch, the Department of Correction (DOC), DMHAS, DSS, and DOL to collaborate to develop and implement a "comprehensive reentry strategy" that provides a continuum of custody, care, and control for discharged offenders and that helps keep the prison population within its authorized bed capacity. The reentry strategy is to promote the successful transition of offenders from incarceration to the community while protecting the public and supporting the rights of victims. The success of the reentry strategy is to be measured by (a) the recidivism rate, (b) the number of prisoners eligible for early release programs, (c) the number of inmates successful in complying with their discharge plans, (d) prison bed capacity ratios, (e) the adequacy of the network of community-based programs, including treatment, employment, education, and supervision, and (f) the reinvestment in savings from prison reduction into reentry and community-based services and programs. DOC is required to submit progress reports annually, beginning January 1, 2005. Effective July 1, 2004, Section 1(j) of the act requires the Board chairperson and the Board executive director, in consultation with the Department of Correction, to develop a parole orientation program to provide parole-eligible inmates with information on parole at the time that they are incarcerated.
- Early release (Secs. 3, 4, 9, 10, 12, 13, 24, and 30): Inmates are ordinarily eligible for parole after serving either (a) 50% or (b) 85% of their sentence, depending upon the severity of the crime committed. Sections 3 and 4 mandate parole hearings for the first category of inmate if they have not been released at the time they have served 75% of their sentence and for the second category at the time they become eligible for parole. If parole is denied, the Board must state specific reasons on the record. Section 9 allows the Board chairperson to transfer inmates granted parole to a halfway house, group home, mental health facility, or approved community or private residence when they are within 18 months of their parole release date. Section 10 permits DOC, in most cases, to release persons incarcerated pre-trial to a DOC-approved residence, if they are charged only with a misdemeanor or a Class D felony. Section 30 authorizes DOC to transfer inmates on work or education release to an approved community or private residence upon satisfactory participation in a residential program. Sections 12 and 13 increase the daily credit for a person jailed for failure to pay a fine from \$50 per day to the average daily cost of incarceration, which at present is \$75 per day. Section 24 gives a child arrested and held in a detention center, police station, or courthouse lockup prior to disposition credit for days served against any post-disposition probation period.

- Reduction of incarceration and re-incarceration (Secs. 1(j), 23, 26, and 36): Effective July 1, 2004, the act requires the Board chairperson and the Board executive director to create an incremental sanctions system for parole violations. Section 26 requires the Judicial Department, DOC, and BPP to develop plans to reduce the number of incarcerations due to technical violations of probation or parole by 20%. Section 23 permits persons who have been diverted no more than once before to an alcohol or drug treatment program in lieu of prosecution or incarceration to be diverted a second time. Previous law permitted only one such diversion. Section 36, however, repeals an existing statute which allows the court to sentence a defendant who was unarmed to less than the mandatory minimum for certain drug crimes that did not involve force or cause physical injury.
- Program Review studies (Secs. 22 and 25): The act requires the Legislative Program Review and Investigations Committee (LPRIC) to conduct a study to (a) determine the impact of mandatory minimum sentencing laws on the demand for prison beds, (b) evaluate the actual impact of such laws on overall sentencing policy, and (c) estimate the cost of mandatory minimum sentences and the proposed alternatives. Its report is due on January 1, 2006. The act also requires LPRIC, in conjunction with the Office of Fiscal Analysis, to review whether the act generates costs savings and to what extent those savings are reinvested in improving community safety and ensuring the successful transition of ex-offenders to the community. Reports are due on January 1, 2006, and January 1, 2008.
- Commission on Prison and Jail Overcrowding (Secs. 14 and 34): The act adds representatives of DMHAS and the BPP to the Commission on Prison and Jail Overcrowding. It also requires the Commission to create a subcommittee on corrections behavioral health, composed of representatives of DOC, DMHAS, and the University of Connecticut Health Center, to make recommendations on the provision of behavioral health services to inmates.
- Hartford community justice center (Sec. 27): The act requires DOC to issue a request for proposals to build a 500-bed community justice center in Hartford.
- Transfer of inmates out-of-state (Sec. 11): Existing law allows DOC to transfer an additional 2,000 Connecticut inmates to out-of-state prisons for incarceration. This act requires DOC to submit the contracts for such transfers to the General Assembly's Appropriations and Judiciary Committees before they are signed. The submission is "for review and comment" only and does not appear to permit legislative veto of the contracts.
- Recovery of the costs of incarceration (Secs. 17-21): The act limits the state's lien on causes of action, inheritances, and claims against the estate of a prisoner for repayment of the costs of incarceration to 20 years from the date

of release from incarceration. It also exempts from execution by the state for that purpose property that is (a) exempt from execution on civil judgments, (b) acquired after the inmate was released from incarceration, or (c) acquired for work performed during incarceration as part of a job training, skill development, or career opportunity or enhancement program. The Attorney General is authorized to sue for payment, but any such suit must be brought within two years of the inmate's release from incarceration.

OTHER

P.A. 04-68 TIP CREDIT FOR WAITERS AND BARTENDERS (eff. January 1, 2005).

This act makes permanent the temporary increased tip credit for hotel and restaurant employees which was enacted in 2000. The tip credit allows hotels and restaurants to pay less than minimum wage to waiters, waitresses, service employees, and bartenders who receive tips. The tip credit was 23% of the minimum wage until January 1, 2001, when it was increased to 29.3% for service employees other than bartenders. An 8.2% tip credit was established for bartenders. Since the minimum wage is presently \$7.10 per hour, the tip credit reduces the minimum wage to \$5.02 for service employees and \$6.52 for bartenders. The 2000 revision was scheduled to return to the 23% reduction after December 31, 2004. This act makes the 2000 changes permanent.

P.A. 04-227 ENGLISH AS SECOND LANGUAGE INSTRUCTION (eff. July 1, 2004).

This act requires all state agencies providing or assisting in the provision of job training to include the opportunity for English-as-a-Second-Language (ESL) instruction. It also requires school boards to include information on second-language acquisition as part of in-service teacher and staff training in those districts that are required to provide bilingual education and, effective July 1, 2006, requires all teacher certification programs to include instruction in the concepts of second-language acquisition and the processes reflecting current research and best practices.

P.A. 04-95 FAMILY AND MEDICAL LEAVE FOR ORGAN DONATION (eff. October 1, 2004).

This act expands leave under the family and medical leave acts for state and private sector employees to include serving as an organ or bone marrow donor.

See also: Allocation of TANF Bonus Funds (P.A. 04-216), p. 39.

FAMILY

DOMESTIC VIOLENCE

P.A. 04-66 DUAL ARRESTS (eff. October 1, 2004).

Existing law mandates the arrest of a family violence suspect, even if the victim does not request arrest. If each party requests the arrest of the other, the police officer is required to make an individual evaluation as to whether both parties should be arrested. This act provides that a police officer is not required to arrest a party who the officer reasonably believes used force as a means of self-defense.

CHILD SUPPORT AND ALIMONY

P.A. 04-100 CHILD SUPPORT COLLECTION (eff. October 1, 2004).

This bill makes a number of changes in the law concerning the state's collection of child support. In particular, it (a) makes parents liable for child support to age 19 for full-time high school students living at home in all support proceedings and not only those involving dissolutions of marriage; (b) allows support enforcement officers to obtain modification of non-TANF Title IV-D support orders based on their own information about obligor income, without waiting for a modification request, as required by federal law; (c) allows support enforcement officers to issue capiases directly rather than through the clerk of the court; (d) makes clear that family support magistrates may issue writs of habeas corpus to the Commissioner of Correction in Title IV-D cases to require that a prisoner be brought to a hearing; and (e) if the probate court or Superior Court changes a child's guardian, automatically changes the payee of a child support order to the new guardian, unless the new guardian is the obligor, in which case the child support order is automatically suspended.

P.A. 04-255 ACKNOWLEDGEMENTS OF PATERNITY (eff. October 1, 2004).

Section 16 of this act restricts access to and issuance of certified copies of acknowledgements of paternity filed with the Department of Public Health's paternity registry to (a) the parents named on the acknowledgement, (b) the child after the child turns 18, (c) an authorized representative of DSS, (d) an attorney representing the child or a parent, (e) agents of a state or federal agency, and (f) the state's Title IV-D agency.

Section 15 makes minor changes in the way in which DPH records birth certificate information for children born out of wedlock.

P.A. 04-258 TREATMENT OF CHILD SUPPORT INCOME FOR TFA FAMILIES (eff. June 1, 2004).

Section 27 of this act changes the way DSS counts current child support that it

collects on behalf of families receiving TFA. Under existing law, DSS disregards the first \$50 per month in child support and passes any remaining money through to the family. It then reduces the family's TFA benefit by the amount passed through. Under this act, all child support received by a family is disregarded in determining the amount of TFA benefits for which the family is eligible, but any portion of the child support above \$50 per month is taken by the state as reimbursement for TFA. With one exception, this produces the same net result for both the state and the TFA family but, for accounting purposes, results in a higher state expenditure for TFA. In the one circumstance in which the change would disadvantage the TFA family -- if the child support received exceeds the family's TFA benefit by more than \$50 -- the old system remains in place and all child support payments are paid to the family.

See also: Private insurance cross-matching (P.A. 04-216), p. 21.
Allocation of TANF Bonus Funds (P.A. 04-216), p. 39.

CHILD PROTECTION

P.A. 04-216 JUAN F. EXIT PLAN (eff. July 1, 2004).

The state budget provides increased funding to DCF and the Attorney General's Office to implement the Juan F. exit plan, under which federal court supervision of DCF will eventually end. The Budget Document identifies this funding as:

- Streamline finalization of adoption process: Under the Juan F. consent decree, at least 32% of adoptions must be finalized within 24 months of the removal of a child from home. The budget includes \$663,000 to hire four attorneys (two at DCF and two in the Attorney General's Office) and six paralegals (three in each agency) to enhance the ability to comply with these time deadlines.
- Support families of children leaving residential care: Under the consent decree, no more than 11% of the children in DCF out-of-home care are to be in privately-operated residential treatment placement. Many of the children leaving such residential care require extensive support. The budget includes net new funding of \$5.98 million to support (a) seven family support services teams in the community, each including both clinical and para-professional staff, to provide care coordination, support, and clinical services to approximately 224 children and their families; (b) two new six-bed group homes for children with complex needs; (c) increased utilization of foster and therapeutic foster care homes; and (d) new community "wrap" services, including comprehensive global assessments, behavioral managements, and behavioral health consultations.
- Enhance targeted recruitment: The budget includes \$500,000 to expand efforts to recruit homes for (a) older children and (b) children with multiple behavioral or developmental problems.

P.A. 04-63 JUAN F. CONSENT DECREE (eff. October 1, 2004).

In accordance with the Juan F. consent decree, this act allows permanent state employees to be assigned to work for the Office of the Court Monitor at DCF, but not beyond December 31, 2006.

P.A. 04-258 MONITORING OF CHILDREN PLACED IN OUT-OF-STATE FACILITIES (eff. July 1, 2004).

Section 19 of this act requires DCF to ensure that a DCF representative makes in-person visits at least bi-monthly with each child placed by DCF in a residential facility in another state, so as to assess the well-being of the child. The state budget includes \$500,000 for two additional social workers and related expenses.

P.A. 04-238 USE OF PSYCHOTROPIC MEDICATIONS BY DCF (eff. October 1, 2004).

Section 2 of this act requires DCF, with the assistance of the University of Connecticut Health Center, to establish guidelines for the use and management of psychotropic medications with children and youth in DCF care and to establish and maintain a database to track the use of such medications.

Sp.A. 04-5 SERVICES FOR ADOLESCENT FEMALES (eff. July 1, 2004).

This act requires DCF, in consultation with the Court Support Services Division, DSS, the Child Advocate, and providers of community services, to establish a plan for the development of a continuum of community-based services for female juvenile status offenders and delinquents so as to prevent their incarceration. The plan must include intervention and substance abuse programs, monitoring and treatment plans, and mental health services. The plan is to be submitted to the General Assembly by January 1, 2005.

P.A. 04-89 REPORTS ON ADJUDICATED YOUTH IN THE CARE OF DCF (eff. May 10, 2004).

This act requires DCF to report annually to the General Assembly on (a) the number, by gender and age, of adjudicated 16- and 17-year-olds in DCF care and custody, (b) the facilities in which they are housed, (c) the status of new construction or planning of facilities to house them, (d) the number, by gender and age, of youth who have run away or otherwise left DCF custody in an unauthorized manner, and (e) the number of police reports regarding such youth. The first report was due on June 1, 2004.

MSS P.A. 04-1 HOUSING AND SUPPORT SERVICES FOR FAMILIES WITH
and MEDICALLY COMPLEX CHILDREN (eff. July 1, 2004).
MSS Sp.A. 04-2

Section 41 of May Special Session P.A. 04-1 requires DCF, in collaboration with DECD, DSS, DMR, DPH, OPM, and CHFA, to establish a pilot project to provide affordable housing and support services to families with children who have one or more serious, chronic medical conditions and have on-going, significant health care service needs. Section 9(c) of May Special Session Sp.A. 04-2 bonds \$3 million to DECD to fund the construction of housing for the pilot.

P.A. 04-159 REGIONAL CHILDREN'S PROBATE COURT PILOT PROGRAM (eff. June 1, 2004).

This act requires the Probate Court Administrator to establish a children's court pilot program to hear only "children's matters." These are defined as guardianship, termination of parental rights, adoption, paternity, emancipation, and voluntary admission to DCF. The pilot is to be conducted in the New Haven area, to cover the probate districts of New Haven, Branford, East Haven, Hamden, Milford, North Branford North Haven, Orange, West Haven, and Woodbridge. It may be located in an existing courthouse or in a separate facility. The regional court will handle those children's cases which the probate judges within the district choose to transfer to it. The Probate Court Administrator must consult with the probate judges of those districts, each of whom may participate on a voluntary basis. The participating probate judges will hear the cases. The Probate Court Administrator is also to appoint an administrative judge to manage the regional court. A report to the General Assembly is due by January 3, 2007.

P.A. 04-142 TRANSFER OF PROBATE COURT CASES (eff. October 1, 2004).

Under existing law, cases concerning termination of parental rights or guardianship of a minor may be transferred by one probate court judge to a different probate court judge who specializes in children's matters. The case must be heard in the original court of probate, except by agreement of DCF and the parties. Sections 2 and 6 of this act eliminate the requirement that the parties consent to the location of the hearing.

P.A. 04-128 TERMINATION OF PARENTAL RIGHTS BASED ON CONSENT (eff. October 1, 2004).

This act accelerates the procedure for terminating parental rights in the probate court when the birth parent has consented to the termination. Under existing law, a hearing in the probate court on a petition for termination of parental rights must be held within 30 days of the filing of the petition, and an appeal from an actual termination must be taken within 90 days of the termination order. This act reduces the time periods in terminations based on consent to 20 days for the probate court hearing and to 20 days for an appeal.

P.A. 04-88 SPECIAL STUDY FOSTER CARE (eff. October 1, 2004).

This act allows DCF to place children over the age of 14 for up to 90 days with persons over the age of 21 who are not licensed as foster parents ("special study foster care"). Under existing law, relatives of the child are the only people who may accept a placement without being licensed. The act makes special study foster care subject to the same rules that apply to placement with unlicensed relatives. In particular, DCF must (a) determine that the placement is in the child's best interest, (b) conduct a

satisfactory home visit, and (c) complete a basic assessment of the family. As with an unlicensed relative, if a special study foster parent accepts placement of a child for over 90 days, he or she must become licensed as a foster parent.

P.A. 04-48 NOTIFICATION OF CHILD NEGLECT REPORTS (eff. October 1, 2004).

Under existing law, within ten days after receiving a report of suspected abuse of a child committed to DCF in a delinquency proceeding, DCF must both notify the child's legal guardian and the child's attorney from the delinquency proceeding of the report and, if substantiated, of the substantiation. This act (a) expands the law to cover reports of neglect as well as of abuse and (b) requires notice of the substantiation report within ten days after substantiation, rather than within ten days of the original abuse or neglect complaint. Under other law, DCF has 30 days to complete an abuse or neglect investigation.

P.A. 04-53 HEALTH INSURANCE FOR ADOPTIVE PARENTS (eff. October 1, 2004).

Under existing law, the state Comptroller maintains a group health insurance policy for the benefit of foster parents and their dependents. Once foster parents or parents in permanent family residences have cared for the child for at least six months, they are allowed to buy into the Comptroller's policy for themselves and their dependents by paying the monthly premium. This act extends eligibility to buy into the state plan to any person who adopts a child from the state's foster care system until such time as the child turns 18 or, if the child is still in a secondary education program, until the child turns 21.

See also: Transitional behavioral health services for reservists and their families (P.A. 04-258), p. 22.

GOVERNMENTAL OPERATIONS

P.A. 04-94 JUDICIAL REVIEW UNDER THE UNIFORM ADMINISTRATIVE PROCEDURE ACT (eff. October 1, 2004).

Under Connecticut's Uniform Administrative Procedure Act (UAPA), the right to appeal an administrative hearing to court is limited to those administrative hearings which are "required by statute." Supreme Court decisions have held that the right to an administrative hearing must appear explicitly in a statute to trigger the right to judicial review; and a hearing required only by agency regulation does not provide jurisdiction for judicial review. In addition, the Supreme Court has implied, and at least one lower court has held, that the "statutes" referred to in the UAPA are state statutes and that a federal statute which requires a state agency to provide a hearing as part of a federally-funded program does not authorize state judicial review under the UAPA. Current judicial construction thus appears to limit

state judicial review to agency hearings which are explicitly required by a state statute.

This act expands the right to judicial review by permitting appeal to the Superior Court from agency hearings required by state regulation (other than Department of Corrections and Board of Parole hearings), in addition to hearings required by state statute. To that extent, it overturns Supreme Court decisions that rejected Superior Court jurisdiction over such appeals. By limiting judicial review to state-required hearings, however, it also codifies those court decisions which denied UAPA judicial review in appeals from federally-required hearings.

See also: DSS Regulations (P.A. 04-166), p. 40.

P.A. 04-216 RAINY DAY FUND (eff. July 1, 2004).

Section 38 of this act requires that any revenues received by the state during the 2004-2005 fiscal year in excess of the revenue projections contained in the budget be deposited into the Budget Reserve Fund (the so-called "Rainy Day Fund," except if the excess revenues are used for the payment of deficiencies.

P.A. 04-216 GOVERNOR'S POWER TO RESCIND BUDGET AUTHORIZATIONS (eff. July 1, 2004).

In 2003, the General Assembly expanded the power of the Governor to order rescissions of budgeted funds during the 2004-2005 budget year. In particular, in addition to rescission powers already in law, it allowed the Governor to rescind up to \$55 million in General Fund expenditures if the state failed to receive from the federal government at least that amount in "extraordinary federal assistance." Section 72 of this act repeals the extra rescission authority which was granted in 2003.

HEALTH INSURANCE, HEALTH CARE, AND MEDICAL ASSISTANCE

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

P.A. 04-258 MEDICAID, HUSKY, AND SAGA AMENDMENTS (eff. July 1, 2004).
and
MSS P.A. 04-2 These acts make many changes to Medicaid and other medical assistance
and programs, including restoring many benefits which were cut in 2003.
P.A. 04-216

- Repeal of HUSKY and Medicaid premiums (Section 44 of P.A. 04-258): In 2003, the General Assembly passed legislation which attempted to change the level of services in Medicaid and require co-payments and monthly premiums. Section 72 of June 30 Special Session P.A. 03-3 required DSS to operate the Medicaid managed care program (HUSKY A) so that the plan of services would be substantially similar to the State Employee Non-Gatekeeper POE Plan. It allowed the imposition of co-payments of up to \$3 per medical service and up to \$1.50 per prescription drug. It also required managed care organizations to charge a monthly premium to families with incomes above 50% of poverty (\$10 per person to a maximum of \$25 for families with incomes up to 100% of poverty and \$20 per person to a maximum of \$50 for families at 100% or more of poverty) and allowed termination of assistance to any family more than one month in arrears in premium payments. Section 11 of September 8 Special Session P.A. 03-1 required the Commissioner to impose similar cost-sharing requirements on Medicaid recipients not in HUSKY A. The changes in both acts were contingent upon compliance with federal law and the obtaining of federal waivers where necessary. The only provisions implemented by DSS were co-payment requirements of \$1.50 per prescription drug and \$2 per medical service.

Section 44 of P.A. 04-258 reverses those changes and prevents further implementation by repealing the two sections of 2003 law upon which they were based.

- Prohibition against Medicaid block-granting application (Section 106 of May Special Session P.A. 04-2): Effective May 12, 2004, and continuing through June 30, 2005, this section prohibits the Commissioner of Social Services from agreeing to any Medicaid waiver for which the federal government requires the state to accept a cost-sharing rate of less than 50%. In effect, this keeps the state from seeking a block grant of Medicaid funds during Fiscal Year 2004-2005.
- Legal immigrants (Sections 16 and 17 of P.A. 04-258): The act restores state-funded medical benefits and home care services to recent legal immigrants. Coverage for recent legal immigrants had originally been enacted with a sunset date on new applications, but the sunset for new applications was not extended in 2003 and the programs therefore ceased to take new applicants after June 30, 2003. Because this act repeals the sunset date entirely, its effect is not merely to reopen the programs but to make them permanent.
- SAGA transfer of assets (Section 9 of P.A. 04-258): The act imposes a three-month look-back period for SAGA Medical by denying eligibility to anyone who transferred assets for less than fair market value within three

months of applying for SAGA Medical. The ineligibility will extend for the number of months equal to the amount below fair market value, divided by \$500, beginning with the month in which the person would otherwise have been eligible for benefits. Any transfer of property within the three months before application is presumed to have been made for the purpose of establishing eligibility unless the applicant provides "convincing evidence" that the transaction was "exclusively" for some other purpose. The act allows the look-back period to be implemented while permanent regulations are being adopted.

- HUSKY B terminations (Section 107 of May Special Session P.A. 04-2): Effective May 12, 2004, this section prohibits the termination of any child from HUSKY B for lack of payment of any premium increase implemented during the 2003-2004 fiscal year prior to June 30, 2004. It requires the Commissioner of Social Services to examine the impact of the premium increases on enrollment and to report to the Appropriations and Human Services Committee by June 1, 2004, as to any increase adopted for the 2004-2005 fiscal year. As a result of the study and report, premiums in HUSKY B have been returned to 2003 levels.
- Medicaid-Medicare dually-eligible managed care pilot (Section 4 of P.A. 04-258): Effective June 1, 2004, the act requires the Commissioner of Social Services, to the extent permitted by federal law, to amend the state Medicaid plan to create a pilot program serving up to 500 elderly or disabled Medicaid recipients who are also eligible for Medicare. Participation by recipients must be voluntary. The pilot is to demonstrate the feasibility and cost-effectiveness of delivering comprehensive health insurance coverage to such recipients in a managed care setting. According to the Budget Document, the pilot program "will encourage the enrollment of dual eligibles into a managed, capitated system for the acute care portion of their benefits. A single entity would manage the care, regardless of payer." The Commissioner is permitted to include medical services in the pilot which are not currently covered by Medicaid and may make other modifications to Medicaid to encourage voluntary participation.
- Private insurance cross-matching (P.A. 04-216): The state budget includes \$148,500 for DSS to match its support-order caseload against the names of persons insured by private health insurance. The purpose is to identify cases in which a non-custodial parent required to provide medical insurance for a child (a) has such insurance but DSS has not been informed or (b) has insurance for himself but has not included the child on the policy. The program is expected to save the HUSKY program about \$2 million per year.

- Optional substance abuse rehabilitation services (Section 84 of May Special Session P.A. 04-2): Effective May 2, 2004, this section requires DSS to amend the Medicaid state plan to include optional adult rehabilitation services for persons with serious or persistent substance abuse problems. It also expands eligibility for adult mental health rehabilitation services to any adult with "serious and persistent mental illness" (not only DMHAS clients) and to any DMHAS-certified providers (and not only to provider under contract with DMHAS). The act authorizes DMHAS to certify both mental health and substance abuse rehabilitation service providers. DSS is allowed to implement the act while regulations are being adopted.
- Transitional behavioral health services for reservists and their families (Section 34 of P.A. 04-258): This act requires DMHAS, in collaboration with DCF, to provide behavioral health services, on a transitional basis, for military reservists who have been called to active duty for the wars in Afghanistan or Iraq, and for their dependents, if such services are not available from the Department of Defense. Provision of such services is to continue until an application for coverage for the reservist and his or her dependents is approved by the federal Department of Veterans' Affairs.

See also: Hospital Billing Practices (P.A. 04-46), p. 2.
 Birth-to-Three (P.A. 04-54), p. 6.
 Childhood Health in Schools (P.A. 04-224), p. 7.
 Definition of Burial Plot (P.A. 04-233), p. 41.

P.A. 04-216 ON-LINE MEDICAID AND HUSKY ENROLLMENT PROGRAM (eff. July 1, 2004).

Section 26(d) of this act requires DSS to develop a statewide on-line Medicaid and HUSKY enrollment program.

P.A. 04-216 COMMUNICABLE DISEASE SCREENING AND TREATMENT IN STATE PRISONS (eff. July 1, 2004).

Section 31(b) of this act requires the Department of Correction to report to the General Assembly, by January 1, 2005, on its efforts to screen, treat, contain, and prevent tuberculosis and other communicable diseases and HIV, AIDS, and other sexually transmitted diseases.

Sp.A. 04-7 COMMITTEE ON ORAL HEALTH CARE (eff. July 1, 2004).

This act requires the Commissioner of Public Health to establish an ad hoc committee to examine statutory changes that would improve (a) the quality of

oral health care and (b) access to such care, especially for persons who are underinsured, uninsured, or on Medicaid. The committee is particularly required to examine expanding the tasks which can be performed by dental hygienists and dental assistants, requiring continuing education for dentists, and substituting a post-graduate year for the licensing requirement for dentists. The Commissioner of Public Health is to submit the committee's report to the General Assembly by December 1, 2004.

P.A. 04-169 ROCKY HILL VETERANS' HOME (eff. June 1, 2004).

This act changes the name of the Veterans' Home and Hospital to the Veterans' Home and eliminates war service as a requirement for admission to the Veterans' Home. It also codifies the existing practice that the state is not liable for the cost of caring for indigent veterans in private hospitals unless no other funds or means of payment are available.

CONNPACE

P.A. 04-258 REPEAL OF ESTATE RECOVERY AND ASSET LIMITS (eff. June 1, 2004).

Sections 11 and 12 of this act repeal the portions of the 2003 law which (a) gave the state a lien on the estate of a deceased ConnPACE recipient to recover the cost of drugs which the recipient had received from ConnPACE and (b) put an asset limit of \$100,000 on single ConnPACE recipients and \$125,000 on married couples.

P.A. 04-6 and P.A. 04-101 CONNPACE AND MEDICARE DRUG DISCOUNT CARDS (eff. March 30, 2004).

P.A. 04-6 requires low-income ConnPACE recipients (incomes below 135% of federal poverty level) to obtain and use a Medicare prescription drug discount card as a condition of ConnPACE eligibility. Section 2 of P.A. 04-101 (eff. April 28, 2004) makes the Commissioner of Social Services the authorized representative of such recipients so as to be able to sign the forms necessary to enroll them in the discount card program. The Commissioner must give each recipient a reasonable period of time to choose which specific card to apply for but may make the choice herself if the recipient fails to make a designation. P.A. 04-101 also requires ConnPACE recipients subject to the discount card requirement to reapply for the card annually. In regard to other ConnPACE recipients, P.A. 04-6 allows the Commissioner to mandate application for a Medicare card only "if obtaining such discount card is determined by the commissioner to be cost-effective to the state." The Commissioner is authorized to pay Medicare card enrollment fees.

Under P.A. 04-6, the recipient will be responsible for the lower of the federal co-payment amount (5% of the cost for persons below 100% of poverty and 10% for persons between 100% and 135% of poverty) and the ConnPACE co-payment amount (\$16.25 per prescription); and ConnPACE will pick up the remaining cost not covered by the Medicare discount card. The state is expected to save about \$16 million per year, because low-income cardholders are eligible for a \$600 per year federal prescription drug subsidy. The act adjusts eligibility for ConnPACE so that participation in the Medicare discount card program will not make the person ineligible for ConnPACE. In addition, the act prohibits pharmacies from participating in ConnPACE unless they accept the Medicare discount card. The Commissioner is allowed to implement the new act while new regulations are being adopted.

P.A. 04-6 also codifies the most recent inflation adjustments to ConnPACE eligibility, setting them at \$20,800 for a single person and \$28,100 for a married couple. It repeals the authority for higher income eligibility limits which would have been based on a federal Medicaid waiver which has not been received.

P.A. 04-101 REIMPORTATION OF PRESCRIPTION DRUGS FROM CANADA (eff. April 28, 2004).

Section 1 of this act requires the Commissioner of Social Services to evaluate the feasibility, health and safety, legality, and cost-effectiveness of reimporting prescription drugs from Canada under the ConnPACE program. She must submit a report to the General Assembly by January 1, 2005.

P.A. 04-104 LOST OR STOLEN PRESCRIPTION DRUGS UNDER CONNPACE (eff. July 1, 2004).

This act bars ConnPACE payment for lost prescription drugs more than twice in a calendar year and, even then, only if the ConnPACE recipient signs a statement under penalty of perjury that the drug was lost or stolen and that he or she has made a good faith effort to find it. No co-payment may be required for a replacement prescription. Wilful misrepresentation will subject a recipient to a suspension from ConnPACE of up to one year for a first offense and permanent revocation for a second offense.

OTHER PRESCRIPTION DRUGS

P.A. 04-258 PRESCRIPTION DRUG AMENDMENTS (eff. July 1, 2004).

This act makes a number of changes to state programs concerning prescription drugs:

- Repeal of co-payment requirements (Sections 9 and 44): Section 9 repeals the \$1.50 per prescription co-payment imposed on SAGA recipients in 2003. Section 44 repeals the \$1.50 per prescription co-payment imposed on HUSKY A and Medicaid recipients. Section 44 also repeals the 2003 law requiring DSS to seek federal approval to allow pharmacies to deny prescriptions to Medicaid recipients for "continuous failure" to make co-payments.
- Pharmacy benefit management (Section 7): This act allows DSS to consolidate management of Medicaid managed care pharmacy benefits under a single entity, such as a pharmacy benefits management organization or a Medicaid managed care organization (MCO) to provide prescription drug coverage to Medicaid recipients receiving services in a managed care setting. There are currently four separate MCOs serving the HUSKY population.
- Preferred drug list (Section 8): The act provides that, upon entry into a pharmacy benefits management contract, DSS, in conjunction with the Medicaid Pharmaceutical and Therapeutics Committee, must expand the preferred drug list for use in HUSKY A and B. At present, the preferred drug list applies only to three classes of drugs. The act requires that the list be expanded by June 30, 2005, to include other classes of drugs. It also allows DSS to contract with a pharmacy benefits management organization or other qualified entity to negotiate with drug manufacturers for supplemental rebates for drugs on the preferred drug list. In addition, the act requires that the preferred drug list be used in the SAGA program.
- Prior authorization (Section 43): Under existing law, mental-health-related drugs and anti-retroviral drugs are exempt from prior authorization requirements. P.A. 04-258 exempted, in addition, medications to treat diabetes, asthma, and cancer; but Section 41 of May Special Session P.A. 04-2 repealed this exemption, thereby restoring existing law.
- Pharmacy dispensing fee (Section 10): The act reduces the per prescription pharmacy dispensing fee from \$3.30 to \$3.15. Section 85 of May Special Session P.A. 04-2 exempts SAGA Medical from the

requirement that a dispensing fee in a specified amount be paid. It is anticipated that the conversion of SAGA Medical to a managed care system will result in dispensing fees negotiated with pharmacy providers.

NURSING HOMES AND LONG-TERM CARE

P.A. 04-158 PATIENTS' BILL OF RIGHTS (eff. October 1, 2004).

Existing law requires the Nursing Home Patients' Bill of Rights to be implemented in accordance with certain sections of the Social Security Act. Section 1 of this act adds additional portions of the Social Security Act that refer to quality care. The section also makes other changes in the patients' bill of rights, including (a) explicitly articulating the right to receive quality care, (b) making explicit the right to be fully informed about patient rights by state- or federally-funded patient advocacy programs, and (c) clarifying that the written care plan under which the patient receives drugs must be consistent with federal law. These changes will also bring violations of those rights within the scope of the existing state private right of action to enforce the patients' bill of rights.

P.A. 04-216 PERSONAL CARE ASSISTANCE PROGRAM (eff. July 1, 2004).
and

P.A. 04-258 These acts expand the state's Personal Care Assistance (PCA) program in two ways:

- Personal care assistance waiver (P.A. 04-216): The PCA waiver provides support and services to avoid nursing home institutionalization for adults under the age of 65 who have chronic, severe, and permanent physical disabilities. The state budget includes \$2.2 million to expand the waiver from 498 participants to 700 participants.
- Personal care assistance pilot program (Sections 40 and 41 of P.A. 04-258): This act requires DSS to establish a state-funded two-year PCA pilot program as an alternative to home health services for seniors over the age of 65 who are eligible for the state-funded Connecticut Home Care program. PCA differs from home health services in that, under PCA, the services are provided by a person hired by the client instead of by a home health care agency. Members of the recipient's family, other than the recipient's spouse, may be PCA providers under the pilot. The cost of care under the pilot program cannot exceed the average cost for current home health services. A maximum of 100 seniors may participate. Effective June 1, 2004, DSS is required to apply for a Medicaid waiver to include these services in its Medicaid-funded home-care program. DSS is also required to monitor the provision of services and assure that the program is cost-effective; and DSS may set a lower payment rate for PCA

services provided by family members than it sets for non-family service providers. The Commissioner of Social Services is to report to the General Assembly on the program by January 1, 2006, and the program will terminate on June 30, 2006, unless extended. The report must include information on the quality of services provided.

P.A. 04-258 PRIVATE-PAY ASSISTED-LIVING PILOTS (eff. July 1, 2004).

Under existing law, DSS is authorized to run two pilot programs for persons in private assisted-living facilities. The purpose is to provide a less costly alternative to nursing homes when such persons have exhausted their financial resources. One is for individuals who are Medicaid-eligible (50 participants) and one for individuals who are not (25 participants). Because of delays in the approval of a federal waiver, the Medicaid portion of the programs is not fully enrolled. Sections 5 and 6 of this act set the maximum number of participants at 75 individuals for the two pilots combined, thereby making full utilization easier.

P.A. 04-158 PILOT ASSISTANCE AND EDUCATION PROGRAM FOR RESIDENTS OF MANAGED RESIDENTIAL COMMUNITIES (eff. June 1, 2004).

Section 2 of this act requires the Office of the Long-Term Care Ombudsman, which under existing law advocates for residents of nursing and residential care homes, to develop and implement a pilot assistance and education program for residents of managed residential communities (MRC) who receive assisted living services from an assisted living services agency. The pilot must include assistance and education concerning (a) the return of residents to the MRC after a temporary hospital stay, (b) MRC contracts, and (c) the adequacy and appropriateness of services, particularly for residents with cognitive impairments. The pilot is to be operated in cooperation with MRCs and assisted living services agencies, with priority to residents of state-subsidized assisted living programs. A report on the pilot is to be submitted to the legislature by June 30, 2005.

P.A. 04-81 HOSPICE SERVICES IN RURAL AREAS (eff. May 10, 2004).

and

P.A. 04-258

P.A. 04-81 allows home health care agencies to provide hospice services in patients' homes in rural towns without meeting Department of Public Health staffing requirements by obtaining a waiver from DPH. Waivers will be for two years and will be renewable. A home health care agency may seek a waiver if it is unable to access licensed or Medicare-certified hospital care to consistently provide adequate services to patients in the rural area. Through a waiver, the Commissioner may (a) allow the home health care agency's clinical services supervisor to supervise hospice-related clinical services, (b) permit the hospice volunteer coordinator and hospice program director to be part-time

employees, and (c) allow the agency's program director to serve as hospice volunteer coordinator. The Commissioner may approve a waiver only upon a determination that the waiver will not adversely impact the health, safety, and welfare of hospice patients and their families. Section 42 of P.A. 04-258 made P.A. 04-81 effective on passage.

PRIVATE HEALTH INSURANCE

P.A. 04-157 APPEALS OF HEALTH INSURANCE CLAIMS (eff. October 1, 2004).

Under existing law, enrollees who have exhausted internal appeal mechanisms provided by a managed care organization or utilization review company can appeal a determination not to certify an admission, service, procedure, or extension of stay. This act expands the grounds for appeal to include the denial of any claim based on medical necessity and makes clear that the decision appealed from may have occurred before, during, or after the admission or other event occurred. It requires the medical organization, and not just the appellant, to pay a \$25 appeal fee (refundable to the medical organization if the appeal is not accepted for full review and to either party if it prevails). It also requires the respondent managed care organization within five business days to admit or deny whether a disputed procedure is covered by the policy and to send or make available to the Commissioner a copy of the policy. Failure to do so creates a rebuttable presumption of coverage.

P.A. 04-98 FLEXIBLE HEALTH CARE SPENDING ACCOUNTS FOR STATE EMPLOYEES (eff. July 1, 2004).

This act requires the state Comptroller to maintain for state employees a Flexible Health Care Spending Account program for state employees that meets the standards of federal tax law. Under federal law, an employee may request that a portion of his or her salary be placed in a separate health care account, which may be used to cover uninsured health expenditures. The amount in the account is exempt from state and federal income taxes, but any portion of the account not used for health expenditures during the calendar year is lost.

P.A. 04-125 ESTIMATES OF REIMBURSEMENT UNDER DENTAL PLANS (eff. October 1, 2004).

This act requires dental insurance policy providers, at the request of the insured or the insured's dentist, to provide an advance estimate of the probable reimbursement for a special dental procedure.

P.A. 04-173 HEALTH INSURANCE COVERAGE FOR MEDICALLY NECESSARY BABY FORMULA (eff. October 1, 2004).

Existing law requires that individual and group health insurance policies cover medically necessary specialized nutritional formulas for children up to age three administered under the direction of a physician. This act (a) extends that coverage to formulas for children to age eight and (b) requires that the coverage be on the same basis as outpatient prescription drugs.

The act also includes cystic fibrosis as an "inherited metabolic disease," thereby requiring health insurance policies to cover amino acid-modified preparations and low-protein modified food products prescribed for cystic fibrosis.

P.A. 04-34 HEALTH INSURANCE COVERAGE FOR WIGS FOR CHEMOTHERAPY PATIENTS (eff. October 1, 2004).

This act requires individual and group health insurance policies to cover at least \$350 for the cost of a wig if prescribed by a licensed oncologist for a patient who suffers hair loss as a result of chemotherapy.

See also Health Insurance for Adoptive Parents (P.A. 04-53), p. 18.

H O U S I N G

SUMMARY PROCESS AND LANDLORD-TENANT LAW

P.A. 04-127 SUMMARY PROCESS TECHNICAL AMENDMENTS (eff. October 1, 2004).

Sections 3 through 5 of this act make several minor and clarifying changes to the summary process statutes:

- Termination of weekly tenancies: Section 3 permits a notice to quit for a week-to-week tenancy to be served in the week after the tenancy has expired, in the same manner that C.G.S. 47a-23(d) permits a notice to quit for a month-to-month tenancy to be served in the month after that tenancy has expired.
- Three-day pleading rule: Section 4 codifies the three-day pleading rule, which requires that the defendant plead within three days after a motion for default for failure to plead has been filed. The existing statutory language is explicit only in regard to the defendant's initial pleading.

- Farm workers and domestic employees: Section 5 reduces the notice to quit for farm workers and domestic employees from five days to three days in conformity with changes made for other tenants in 1997.

PUBLIC AND SUBSIDIZED HOUSING

MSS P.A. 04-2 DEMOLITION OF FEDERALLY-ASSISTED PUBLIC HOUSING (eff. July 1, 2004).

C.G.S. 8-64a prohibits any housing authority "which receives or has received any state financial assistance" from demolishing or selling a housing project, if any part of the project would no longer be available for low or moderate income rental housing, without the approval of DECD. In order to grant such approval, DECD must hold a public hearing and then make findings that (a) the demolition or disposition is in the best interest of the state and municipality, (b) an adequate supply of low or moderate income rental housing exists in the municipality, (c) the housing authority has developed the plan in consultation with the tenants and municipal representatives and has made adequate provision for their participation, and (d) any person displaced will receive relocation assistance and will be relocated to a comparable unit of public or subsidized housing or receive a tenant-based rent subsidy. The Attorney General has ruled that C.G.S. 8-64a is not limited to state-assisted public housing if the housing authority has received state assistance for other developments. Since all housing authorities have received state assistance in the past, the opinion seems to hold that C.G.S. 8-64a applies to the demolition of any public housing project, which would include federal public housing.

Section 28 of this act exempts five specific federally-assisted public housing demolitions from C.G.S. 8-64a. Three of them are federally approved and funded HOPE VI revitalization plans which include replacement of all or most of the lost units and in which the tenants have been actively involved in the planning – Southfield Village in Stamford, Quinnipiac Terrace/Riverview in New Haven, and Dutch Point in Hartford. A fourth HOPE VI – Fairfield Court in Stamford – is exempted upon federal approval of its HOPE VI application, provided that its revitalization plan includes one-for-one replacement of low and moderate income units. The fifth exempted project – Evergreen Apartments in Bridgeport – is federally subsidized housing which was vacant when transferred to the Bridgeport Housing Authority for the development of a supermarket, for which DECD funding has already been committed.

MSS P.A. 04-2 NEW BRITAIN REVITALIZATION PLAN (eff. May 12, 2004).

Sections 49, 90, and 91 of this act permit the March 13, 2002, master

redevelopment plan for Pinnacle Heights and Corbin Heights in New Britain to be amended. Any such amendment must be developed with the advice and consultation of a local planning committee to be convened by CHFA. The committee must include at least two residents of the development and at least two representatives of organizations that advocate for public housing residents. Each resident association representing residents of the developments may select one representative. CHFA must assure that the residents can fully participate in the planning, review, and implementation process and must make reasonable efforts to link residents to community resources so that they will have access to expertise in tenant outreach, training, organizing, legal rights, and housing policy. The planning committee must hold at least one public hearing, for which residents must receive at least 30 days' written notice. CHFA must also hold a hearing, and the amendment must be approved by DECD before it can take effect.

Sections 92 through 95 establish general rules for CHFA and any CHFA subsidiary if either takes title to a public housing project. Section 95 requires that they operate the housing in compliance with all provisions of the general statutes applicable to the operation or disposition of such housing by a housing authority. Effective July 1, 2004, Section 94 explicitly applies C.G.S. 8-68f to CHFA and its subsidiaries in such situations. That statute requires housing authorities to (a) provide tenants with a written lease, (b) adopt a procedure for hearing tenant complaints and grievances, (c) adopt procedures for soliciting tenant comment on proposed changes in housing authority policies and procedures, including changes to its lease, and (d) encourage tenant participation in the housing authority's operation of its programs. Section 92 makes a technical change to the statute that allows CHFA to take over a housing project from a public housing authority. Section 93 allows DECD to make Payments in Lieu of Taxes (PILOT) to the municipalities for housing projects operated by CHFA or a CHFA subsidiary, in the same manner as it makes PILOT payments on behalf of housing authorities.

MSS P.A. 04-2 SALE OF RIDGELAND APARTMENTS (eff. May 12, 2004).

This act allows the Wallingford Housing Authority to apply to DECD for a waiver of its waiting list regulations so as to allow it to put persons displaced by its sale of Ridgeland Apartments at the top of the waiting lists in its state-financed housing developments. Although the act is phrased in general terms, it is written so that it can only apply to Ridgeland.

P.A. 04-119 DISCLOSURE OF TENANT INFORMATION (eff. May 21, 2004).

This act prohibits a housing authority from disclosing to any private person, except a purchaser of a housing authority development, any tenant's Social Security or bank account number without the consent of the tenant. It

also prohibits a purchaser of a project from disclosing to the public a Social Security or bank account number "contained in the tenant's lease agreement." A person who violates the act can be fined up to \$200.

RENTAL ASSISTANCE

P.A. 04-258 OPENING OF SECTION 8 WAITING LISTS (eff. July 1, 2004).

Section 14 of this act requires each housing authority to notify a website operator designated by DSS at least two weeks in advance of any opening of its Section 8 waiting list. The notice must include the dates on which the list will open and close and the manner in which applicants may apply. The website operator is to make the information available by electronic or other means to Infoline of Connecticut, to other organizations, and to the general public. DSS has designated the Department of Administrative Services as the operator of the website, but the website is not expected to be operational until about October 1, 2004.

P.A. 04-73 EXPANSION OF THE TRANSITIONARY RENTAL ASSISTANCE PROGRAM (eff. July 1, 2004).

The Transitional Rental Assistance Program (T-RAP) provides a one-year rent subsidy for families who are employed at the time they exhaust their Temporary Family Assistance (TFA) benefits and have income which exceeds the TFA payment standard. This act expands eligibility for the program by also making any family employed at least 12 hours per week when leaving TFA eligible for T-RAP, without regard to exhaustion of benefit eligibility. The act does not expand the \$1.15 million annual appropriation for the program, and it is expected that T-RAP certificates will be awarded by lottery if there are more applicants than available certificates.

P.A. 04-216 EXTENSION OF THE TEMPORARY RENTAL SUBSIDY PROGRAM (eff. May 6, 2004).

Section 50 of this act, which allocates the state's TANF High Performance Bonus payments for 2005 and 2006, includes \$1.12 million for "transitional rental subsidies," of which \$720,000 is allocated to 2004-2005 and \$400,000 to 2005-2006. In 2002, when the state previously received TANF High Performance Bonus funds, it allocated \$2 million to create a new rental assistance program called the Temporary Rental Subsidy Program (TRSP), which is administered by the Connecticut Council of Family Service Agencies, the state's Safety Net contractor. Eligible families are either (a) on TFA with housing instability identified as a barrier to success in the Jobs First Employment Services program or (b) recently off TFA but not eligible for T-RAP. It is expected that the 2005-2006 TANF Bonus funds will be used to

extend this program. Because of the declining allocation, it is also anticipated that the program will be phased out so as to end in 2006.

See also: Advertising of Home Heating Oil Prices (P.A. 04-194), p. 4.

SUPPORTIVE HOUSING

P.A. 04-216 SUPPORTIVE HOUSING FOR FAMILIES WITH CHILDREN (eff. July 1, 2004).

The DCF budget includes \$2.12 million to expand the DCF Supportive Housing Program, of which \$1.87 million is for case management services and \$250,000 for substance abuse treatment services. The program currently provides case management services through The Connection, Inc., to about 160 families, which also receive Section 8 Family Reunification vouchers. The increased funding is expected to add about 180 families to the program. Housing vouchers (about \$692,000 per year) are to come from the DSS High Performance Bonus money for Fiscal Years 2005 and 2006 and from 200 traditional Section 8 vouchers set aside by DSS over the next 18 months from its voucher inventory.

See also: Housing and Support Services for Families with Medically Complex Children (MSS P.A. 04-1 and MSS Sp.A. 04-2), p. 16.
Allocation of TANF Bonus Funds (P.A. 04-216), p. 39.

CODE ENFORCEMENT

P.A. 04-59 REVISION OF STATE FIRE SAFETY AND BUILDING CODES (eff. May 10, 2004).

This act requires increased coordination between state and national fire safety and building codes. In particular, it requires that a new fire prevention code based on a nationally recognized code be adopted by January 1, 2005, and that the State Building Code and the State Fire Safety Code also be revised by that date. It also mandates that the State Building Code be based on a nationally recognized model building code. The fire prevention code is to be adopted by the State Fire Marshal in coordination with an advisory committee consisting of seven local fire officials and two representatives of the state Codes and Standards Committee. Subsequent revisions to the codes are to be made within 18 months of revisions to the related nationally recognized codes.

P.A. 04-237 COMPLIANCE WITH ADA (eff. October 1, 2004).

Sections 2 through 4 of this act generally require that housing which is

newly constructed or substantially rehabilitated under a building permit applied for after October 1, 2004, comply with the accessibility requirements of the State Building Code, rather than the accessibility requirements previously established by state statute. The effect is to conform state law to the Americans with Disabilities Act and the federal Fair Housing Act, both of which have previously been incorporated into the State Building Code. This act applies generally to all residential housing other than one- and two-family houses, although it has a particular provision for state-assisted rental housing which applies only to buildings with four or more units.

PROPERTY TAXES, FORECLOSURE, AND HOMEOWNERSHIP

MSS P.A. 04-2 RESTORATION OF DISABLED PROPERTY TAX RELIEF (eff. May 12, 2004).

In 2003, the General Assembly suspended the \$1,000 property tax exemption for permanently and totally disabled homeowners for one year. Sections 76 and 77 of this act retroactively restore the exemption for that year (the property tax year beginning October 1, 2003). They also restore state reimbursement to towns for the tax revenue lost because of the exemption. In regard to future years, the act provides that, if the state appropriation is insufficient to reimburse all towns fully, the reimbursement will be pro-rated. Section 78 of the act makes changes in the deadline by which OPM must give notice of its decisions on appeals regarding a variety of property tax exemption programs.

MSS P.A. 04-2 PROPERTY TAX REVALUATION STUDY (eff. May 12, 2004).

Sections 32 and 33 of this act provide that any municipality required to reevaluate property in the 2003, 2004, or 2005 assessments years may, by action of its legislative body, postpone the revaluation to 2006. Thereafter, revaluations must occur every five years. The time period between physical inspections of property for purposes of revaluation is reduced from 12 years to ten years. Section 27 of the act requires the Secretary of OPM to "examine the policies and regulations" relative to property revaluation and to submit a report to the General Assembly by January 1, 2005, regarding his recommendations "to clarify, or make more effective" such policies and regulations.

P.A. 04-40 PORTABILITY OF VETERANS' PROPERTY TAX BENEFITS (eff. October 1, 2004).

Existing law provides various property tax exemptions for active-duty servicemen, veterans, and members of their immediate families. This act requires towns annually to issue a certificate that the person is eligible for the exemption for that year and, if the person moves during the year to a different

town, requires the tax assessor of the new town to honor the certificate without the applicant's having to reestablish eligibility.

P.A. 04-127 PROTECTION AGAINST FORECLOSURE IN CHAPTER 7
BANKRUPTCIES (eff. October 1, 2004).

C.G.S. 49-15(b) requires the automatic reopening of a foreclosure judgment upon the filing of a Chapter 13 bankruptcy petition if the law days have not yet passed. By reopening the judgment, the law subjects the foreclosure action to the automatic stay of proceedings in bankruptcy before title can pass to the creditor. Section 6 of this act applies the automatic reopening rule to all bankruptcy petitions, including Chapter 7 petitions.

P.A. 04-39 DISCLOSURE OF PRIOR OCCUPANCY BY HIV-POSITIVE PERSON
(eff. October 1, 2004).

Existing Connecticut law bars any cause of action for failure to disclose to a potential buyer or renter the fact that a property is "psychologically impacted," unless the potential buyer or renter informs the seller or the seller's agent in writing that knowledge that the property was suspected to be the site of a murder, felony, or suicide is material to the decision to buy or rent. "Psychologically impacted" property includes property (a) occupied by a person suspected to be "infected" with the HIV syndrome or (b) suspected to have been the site of a homicide, felony, or suicide.

This act eliminates the use of the term "psychologically impacted" and substitutes the phrase "nonmaterial fact concerning real property." It expands the protection against liability for nondisclosure (a) to any disease on the state Department of Public Health's list of reportable diseases and not only HIV syndrome and (b) to any death and not only homicides and suicides. Thus, under this act, knowledge or suspicion that a property is occupied by a person with a reportable disease or that a death or felony occurred on the premises is not a material fact and need not be disclosed in a real estate transaction, except to the extent that the buyer or renter has given written notice regarding homicide, felony, or suicide.

PLANNING AND ZONING

P.A. 04-209 JURISDICTION OF INLAND WETLANDS COMMISSIONS (eff. June 3,
2004).

This act makes clear that inland wetlands commissions may, in their decision-making, consider the impact of a proposed development on aquatic, plant, and animal life and habitats in wetlands and watercourses. However, the act also prohibits a commission from denying or imposing conditions on an

application for a regulated activity based on its impact on aquatic, plant, or animal life unless the activity will likely affect the physical characteristics of the wetlands or watercourses. The law is a response to the Connecticut Supreme Court's decision in AvalonBay Communities, Inc. v. Inland Wetlands Commission of the Town of Wilton, 266 Conn. 150 (2003), which overturned a local inland wetlands commission that attempted to block an affordable housing development outside of a wetlands area because it impacted the non-wetlands physical habitat of an animal that spent a short part of each year in the wetlands, even though the housing development would have no physical impact on the wetlands. This act largely codifies the AvalonBay decision.

OTHER HOUSING LEGISLATION

MSS Sp.A. 04-2 BONDING FOR HOUSING (eff. July 1, 2004).

Section 9 of this act bonds \$20.5 million to DECD for housing development. Of that amount, \$3 million is for supportive housing for families with medically complex children, \$2.5 million is for a congregate housing facility in Waterbury, and the remaining \$15 million is for all other DECD programs. Section 106 also makes a technical change to the 2001 DECD bonding authorization so that funds from that allocation can be used for DECD's Affordable Housing Program under C.G.S. 8-37pp. In addition, Section 13(d)(2) bonds \$500,000 to DSS for non-profit corporations to provide housing and related facilities for persons with AIDS.

P.A. 04-240 PROPERTY TAX EXEMPTION FOR CHARITABLE ORGANIZATIONS WHICH RENT SHORT-TERM HOUSING (eff. June 8, 2004).

Section 35 of this act redefines which housing providers are exempt from local property taxes. Under P.A. 03-270, "temporary" housing operated by a tax-exempt charity for any of a number of purposes, including "short-term" housing where the average length of stay is less than six months, is not subject to local property tax. That act was an attempt to overturn Fanny J. Crosby Memorial, Inc. v. City of Bridgeport, 262 Conn. 213 (2002), in which the Supreme Court held that housing was not a charitable purpose. It failed, however, to address language in Crosby which held that the receipt of rent from tenants prevented the housing from being charitable in nature. Section 35 of this act completes the process of overturning Crosby by providing explicitly that operation of exempt housing by a charity, including the receipt of rental payments, shall be deemed to be an exclusively charitable purpose for purposes of the exemption from local property tax.

P.A. 04-186 TRANSFER OF STATE LAND TO NUTMEG HOUSING DEVELOPMENT CORPORATION (eff. June 1, 2004).

Section 9 of this act transfers a 5.72-acre plot of state-owned land in Colchester to the Nutmeg Housing Development Corp. for "affordable housing purposes."

JUDICIAL PROCEDURES

MSS P.A. 04-2 SUPERIOR COURT ENTRY FEES (eff. July 1, 2004).

Sections 13, 14, and 112 of this act repeal the \$5 surcharge on civil case entry fees but raise the Superior Court civil action entry fee from \$220 to \$225. As a result, the repeal lowers the entry fee only for smaller civil actions (summary process, landlord-tenant, paternity, and civil actions claiming less than \$2,500), to which the surcharge will no longer apply, thereby lowering that fee from \$125 to \$120. Small claims entry fees are not affected, because they were not subject to the surcharge.

P.A. 04-184 FEES OF COURT REPORTERS AND MONITORS (eff. July 1, 2004).

This act increases the fees that court reporters and monitors may charge parties other than the state from \$1.75 per page to \$3.00 per page for the first copy of a page. The fee for subsequent copies of a page remains at \$1.75 per page.

PUBLIC BENEFITS AND SOCIAL SERVICES

P.A. 04-258 CHANGES TO PUBLIC ASSISTANCE PROGRAMS (eff. July 1, 2004).

and

P.A. 04-216

and

MSS P.A. 04-2

This act makes changes to eligibility for TFA, SAGA, and child care programs:

- TFA assessment interview (Section 13 of P.A. 04-258): Section 13 of P.A. 04-258, as amended by Section 35 of May Special Session P.A. 04-2, delays TFA eligibility for families not exempt from the employment services program until the applicant has attended an initial employment services assessment interview and has participated in the development of an employment services plan. DSS is prohibited from delaying benefits if it schedules the initial interview more than ten business days after the application is made. It may also not continue to delay benefits if the Labor Department fails to complete an assessment plan within ten business days of the assessment interview. DSS is to refer any TFA applicant in need of emergency benefits during the delay period to other

services offered by DSS or community organizations.

- SAGA appeals (Section 38 of P.A. 04-258 and Section 87 of May Special Session P.A. 04-2): Under a law adopted in 2003, applicants for and recipients of SAGA cash or medical benefits had a statutory right to request a fair hearing if they were "aggrieved by" a DSS decision, but only SAGA Medical recipients (and not SAGA cash recipients or any SAGA applicants) had a right to receive benefits pending a hearing decision. The application of the law to SAGA cash recipients was never implemented by DSS, perhaps because of its doubtful constitutionality. P.A. 04-258 eliminates all references to whether an appellant has a right to receive benefits during the pendency of an appeal, thereby leaving that question to DSS regulations. It also deletes aggrievement as the standard for obtaining a hearing and instead provides that a SAGA applicant or recipient has a statutory right to a hearing only if (a) an application "is denied" or (b) receipt of assistance "is terminated or modified." In addition, it requires a SAGA Medical recipient who wishes to contest a denial of coverage for a specific medical service to exhaust the grievance process available pursuant to section 17b-257 before a fair hearing may be requested. Section 87 makes clear that DSS contracts with managed care organizations to perform administrative functions may include a grievance process and that a recipient who has exhausted the grievance process may request a fair hearing.
- Reopening of Care for Kids child care subsidy program (Section 37 of P.A. 04-258): P.A. 04-258 requires DSS to open and maintain the Care for Kids child care subsidy program within its budget authorization. The state budget (P.A. 04-216) includes appropriated and TANF bonus funds to create about 3,000 new childcare slots. P.A. 04-258 also adds as a priority eligibility category working families whose TFA was discontinued within the five years before applying for a child care subsidy. The DSS regulations now have a similar preference for such families, but only if they left TFA within the preceding six months. In addition, the act codifies an existing priority for recipients of TFA who are employed or engaged in employment activities under the Jobs First program. The existing statute, which remains in effect, already gives explicit eligibility preference to teen parents, low-income working families, DCF adoptive families who have received from DCF a waiver of income standards, and working families at risk of welfare dependency.

P.A. 04-258 RESTORATION OF BENEFITS FOR LEGAL IMMIGRANTS (eff. July 1, 2004).

Sections 15 and 18 of this act restore state-funded cash assistance under TFA and SAGA and state-funded food assistance to recent legal immigrants. Coverage for recent legal immigrants had originally been enacted with a sunset date on new applications, but the sunset for new applications was not extended in 2003 and the programs therefore ceased to take new applicants after June 30, 2003. Because this act repeals the sunset date entirely, its effect is not merely to reopen the programs but to make them permanent.

P.A. 04-216 ALLOCATION OF TANF BONUS FUNDS (eff. May 6, 2004).

and
MSS P.A. 04-2

Section 50 of P.A. 04-216, as amended by Section 36 of May Special Session P.A. 04-2, allocates the \$11.745 million in TANF high performance bonus payments received by the state in the following manner:

| | <u>2003-2005</u> | <u>2005-2006</u> |
|--------------------------------|------------------|------------------|
| <u>Housing</u> | | |
| Transitory rental subsidies | \$ 720,712 | \$ 400,000 |
| Family supportive housing | 691,503 | 691,503 |
| <u>Employment</u> | | |
| Child care certificate program | 4,000,000 | |
| Women in Transition | 239,750 | 239,750 |
| Child Care Apprentices Program | 200,372 | 200,372 |
| Enhanced job entry initiatives | 575,400 | 575,400 |
| Employment Success Program | 710,270 | |
| Good News Garage | 250,000 | 300,000 |
| Welfare-to-work transportation | 650,000 | 300,000 |
| <u>Family</u> | | |
| Fatherhood Initiative | 250,000 | 250,000 |
| <u>Other</u> | | |
| Faith-based funding | 150,000 | 150,000 |
| CAUSA | 150,000 | |

The act earmarks \$50,000 per year of Fatherhood Initiative funds for the Family Alliance in New Haven and \$250,000 of the Employment Success Program grant to the Greater Hartford Literacy Council for basic skill training for TANF recipients with low literacy. Section 36 of May Special Session P.A. 04-2 added the allocation of \$150,000 to CAUSA (the Connecticut Association for United Spanish Action, Inc.) by reducing the Good New Garage allocation by \$50,000 and eliminating a \$100,000 allocation for emergency shelter services.

P.A. 04-238 TEN-YEAR PLAN TO REDUCE CHILD POVERTY (eff. June 8, 2004).

Section 1 of this act creates an inter-agency Child Poverty Council, whose duty is to develop a ten-year plan to reduce the number of children living in poverty in Connecticut by 50%. The Council, which is to be chaired by a representative of OPM, includes 17 representatives of state agencies and four representatives of House and Senate legislative leadership. The plan must include an analysis of the occurrence and impact of child poverty, an inventory and analysis of statewide public and private programs addressing child poverty, and procedures and priorities for cutting child poverty in half by June 30, 2014. Those procedures and priorities must include vocational training and placement, educational opportunities and literacy programs, housing, day care and mentoring, health care access including mental health services and family planning, substance abuse and other treatment programs, and accessible childhood nutrition programs. The Council is to submit its plan by January 1, 2005, followed by annual reports on the implementation of the plan. The Council is to terminate on June 30, 2015.

See also: Childhood Health in Schools (P.A. 04-224), p. 7.

P.A. 04-166 DSS REGULATIONS (eff. October 1, 2004).

Under existing law, DSS is required to adopt all new policies as regulations, in accordance with the Uniform Administrative Procedure Act. New policies which are necessary to conform to a requirement of a federal or state/federal program, however, may be implemented during the regulation-approval process, as long as DSS publishes a notice of intent to adopt a regulation in the Connecticut Law Journal within 20 days after adopting the policy. Such policies are valid until final regulations take effect.

This act expands the exception allowing interim implementation for federal and state/federal programs to include new policies necessary to conform to an approved federal waiver initiated in accordance with C.G.S. 17b-8 (which provides for public notice and comment and for review by General Assembly committees); and it imposes time limits on the Department's adoption of those regulations in final form. In particular, the act requires that the final version of the regulation subject to interim implementation be submitted to the Regulation Review Committee within 180 days after the notice of intent to adopt the regulation. The submission must identify the date on which the Department began implementing the regulation and any parts of the interim regulation which have been withdrawn or superseded. If the Department is not able to finalize such a regulation within the 180-day period, it must give notice to the Regulation Review Committee at least 35 days before the end of that period, explaining why it will not meet the deadline and when it will submit the regulation for approval. In that case, the act authorizes the

Regulation Review Committee to require the Department to appear before the Committee to explain the delay and the policy, as well as to request review by the Human Services Committee, which can hold its own hearing and make recommendations to the Regulation Review Committee.

The act exempts from this procedure amendments to an existing regulation which are necessary solely to conform to amendments to the Connecticut General Statutes and which do not require any discretion by the Department. In those cases, the act appears to allow the Department either to follow the ordinary procedures for adopting such regulations (which require notice and hearing) or to "proceed without prior notice or hearing."

In addition, the act makes clear that the requirement that the DSS policy manuals be "in clear and concise language" also applies to updates to the manuals.

P.A. 04-233 DEFINITION OF BURIAL PLOT (eff. October 1, 2004).

This act provides a statutory definition of "burial plot" for purposes of State Supplement and TFA so as to include specifically as part of "burial plot" the casket, the outer burial container, and the opening and closing of the grave site. These items are not included in the existing definition of "burial plot" contained in the DSS regulations. Since there is no dollar maximum on the value of a burial plot owned by a State Supplement or TFA recipient, the practical effect is significantly to increase the total burial reserve that such a recipient may have. In addition, the impact of the act appears in reality to be much broader, because state regulations use the State Supplement definition of "burial plot" in determining eligibility for the portion of the Medicaid program that serves seniors and persons with disabilities. Medicaid eligibility standards in turn affect the Medicaid spend-down. By allowing a Medicaid applicant a larger burial reserve, an otherwise over-income person applying for Medicaid, and especially a person needing nursing home care, will have a lower spend-down; and Medicaid will begin picking up costs sooner.

The act also requires that the exclusion of the value of burial funds, burial plots, and irrevocable funeral contracts, as available under existing law, be applied by DSS uniformly throughout the state.

P.A. 04-76 STATUTORY CHANGES RESULTING FROM THE REPEAL OF
and GENERAL ASSISTANCE (eff. October 1, 2004).
MSS P.A. 04-2

In 2003, the General Assembly ended the last of the local general assistance programs, effective March 1, 2004, thereby folding all general assistance into SAGA. P.A. 04-76 amends numerous statutes which refer to general assistance so as either to refer instead to SAGA or to eliminate the

reference entirely. The act (§13) also repeals subsections (a) and (b) of C.G.S. 17b-118, concerning benefit levels and procedures in SAGA, which was largely superseded by Section 42 of June 30 Special Session P.A. 03-3. Section 38 of May Special Session P.A. 04-2 allows OPM, at the request of the Commissioner of Social Services, to cancel any receivable resulting from an audit against a town, including an audit of the town's general assistance program. The Secretary of OPM may also authorize DSS to suspend any future audits of the former general assistance programs.

P.A. 04-234 STATE LIEN AGAINST INHERITANCE BY WELFARE RECIPIENT (eff. June 8, 2004).

Existing law requires that 50% of any inheritance received by a beneficiary of aid under State Supplement, Medicaid, TFA, or SAGA be assigned to the state. Section 15 of this act makes explicit that the state has a lien against the proceeds for that amount and may file a lien notice with the probate court.

P.A. 04-195 NATIONAL GUARD ELIGIBILITY FOR SOLDIERS, SAILORS AND MARINES' FUND (eff. June 3, 2004).

This act makes members of the Connecticut National Guard eligible to apply for benefits from the Soldiers, Sailors and Marines' Fund.