

TESTIMONY OF PAUL CHILL

Connecticut General Assembly Judiciary Committee February 16, 2007

Good afternoon. My name is Paul Chill. I am a member of the state Commission on Child Protection but do not speak for the Commission today. Indeed, I am a renegade from the Commission on the issue of opening up child protection proceedings to the press and public. My support for Raised Bill No. 7039 comes from my experience over the past 19 years supervising clinical programs at UConn Law School that provide legal representation to parents and children in child protection cases.¹

This measure is, in my view, long overdue. The veil of secrecy that shrouds child protective proceedings does far more harm than good, at this point in our history, to children and families. It allows official incompetence to go unnoticed, systemic abuses to go unremedied, and ignorance to dominate public discussion. It sends the unfortunate message to participants in the proceedings, as well as members of their communities, that the system is trying to hide something. Our failure to open these court proceedings to the same public scrutiny that attends virtually all others is antithetical to every trend in our own and other democratic societies, not to mention those struggling to earn the right to use that name.

Significantly, the families on the blunt receiving edge of the child protection system do not experience the confidentiality of the proceedings as a benefit. By the time parents walk into a juvenile courtroom (children are seldom there), DCF investigators already have been asking questions of them, their children, their neighbors, teachers, clergy, doctors, therapists, etc., for several days, weeks or months. Far from feeling like their privacy and that of their children is being protected, they feel as though their privacy has been invaded and every aspect of their personal lives exposed and placed on public view. In many cases, moreover, these parents – some of whom have neglected their children to one degree or another, and some of whom have not – have been treated harshly if not rudely by DCF personnel. Often their children already have been taken away from them summarily, without notice let alone any kind of hearing. Many of these parents are non-white, and cannot help but notice that a disproportionate number of the other “clients” at the courthouse are non-white, while most of the lawyers and judges are white. These parents typically feel scared, angry, disoriented, and utterly powerless. The fact that the proceedings are closed feels like just one more indication that they are getting “screwed” by the system.

¹ I currently serve as Associate Dean for Academic Affairs at the Law School and am not actively engaged in law practice. My publications include a book as well as several shorter pieces on child protection law. My litigation achievements include *Pamela B. v. Ment*, 244 Conn. 296 (1998), a lawsuit that catalyzed structural reform of the juvenile court system.

Yet no one has been able to demonstrate that opening up child protection proceedings would cause any harm whatsoever. Indeed, family relations courts in our own state have been open for years, hearing many of the same sorts of sensitive, child-involved matters that regularly come before the juvenile courts. Yet no one has proposed, or frankly would dream of proposing, that those courts now should be closed. In addition, published decisions in child protection cases, at both the trial and appellate levels, routinely contain a great deal of factual detail about the circumstances of the children at issue and their families. The names of the parties are omitted from these decisions, but anyone with any contact with the family will easily know who is being talked about, and others can easily enough figure it out with minimal investigation. Yet no one has suggested that this is in any way problematic.

Two years ago, we held a symposium at UConn Law School on opening up child protection proceedings at which leading national figures on this issue spoke, including the very impressive Chief Justice Blatz of the Minnesota Supreme Court. Officials in the 19 states that have moved to open up some or all of their child protection proceedings, including Chief Justice Blatz and Chief Judge Judith Kaye of the New York Court of Appeals, seem uniformly pleased with the results. In these jurisdictions, open child protection proceedings have become as much an accepted and welcome fact of life as closed proceedings are here in Connecticut. Here, for example, is what New York's chief administrative judge said four years after child protection proceedings in that state were opened up: "It has been 100 percent positive with no negatives. There is not a negative I could think of, and believe me, I am very sensitive on this issue. Our worst critics will say it was the best thing we ever did. Their fears were unfounded.... I wish other states would do it."

Child protection cases involve some of the most precious rights and interests known to any society – those of children to be free from abuse and neglect, as well as to be left alone, along with their parents, from unwarranted and harmful inference in their private family affairs. It is a sad commentary on our legal system that a person charged with a petty misdemeanor today will be entitled to defend himself in open court, with the assistance of a highly competent public defender, while children and parents threatened with the extinction by judicial order of their very relationship will have their case heard in the shadowy realm of a closed courtroom, with the assistance of the cheapest lawyers money can buy. The General Assembly took a vital first step toward solving the second problem by creating the Commission on Child Protection two years ago. It is high time the legislature solved the first by allowing the light of day to shine on child protection proceedings. As Chief Judge Kaye declared in 1997 when she unlocked the doors to New York's child protection courts: "Sunshine is good for children."

Thank you for your consideration.