



STATE OF CONNECTICUT
DEPARTMENT OF CHILDREN AND FAMILIES

HUMAN SERVICES COMMITTEE
MARCH 11, 2008

**H.B. No. 5908 (RAISED) AN ACT CONCERNING PROCEEDINGS AND OPERATIONS
OF THE DEPARTMENT OF CHILDREN AND FAMILIES.**

The Department of Children and Families is opposed to **H.B. No. 5908 (RAISED) AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF THE DEPARTMENT OF CHILDREN AND FAMILIES.**

Section 1 of this bill requires any state agency seeking to license or contract with a person or entity to operate a residential program in a facility, institution or home previously licensed by DCF to notify the chief executive officer of the applicable municipality about the change in the operation of the facility and to permit the legislative body of the municipality to approve the change.

The Department opposes this language and brings to the Committee's attention the existing provision of Section 17a-145 of the General Statutes that sets forth a similar requirement. It reads: "*If the population served at any facility, institution or home operated by any person or entity licensed under this section changes after such license is issued, such person or entity shall file a new license application with the commissioner, and the commissioner shall notify the chief executive officer of the municipality in which the facility is located of such new license application, except that no confidential client information may be disclosed.*" The Department and its providers fully comply with this statute when there is a proposal to change the existing population. The proposed bill, however, would essentially give veto power to a municipality for any change to the facility, including management structure and program modifications that are strictly internal to the facility. Thus, a municipality could use this language to cause the closure of a facility that is otherwise fully in compliance with state and local laws.

In addition, the language of the proposed bill appears to be driven by the same concerns that often surface when agencies attempt to appropriately open small group homes in neighborhoods so that abused and neglected children and disabled adults can be safely served in their communities and in the least restrictive settings possible. As the Committee may be aware, it was this type of opposition and often misplaced fear of certain populations that resulted in the passage of Connecticut General Statutes Sec. 8-3a in 2005, which forbids municipalities from treating facilities with six or fewer residents any differently than it treats family residences, and which conflicts with the language of this bill.

As research with special needs children has developed, best practices have evolved which suggest that they are often best served in small community-based settings. The Department is committed to working with communities so they can comfortably co-exist with the child caring facilities in their

areas. However, the Department must strongly object to language that permits municipalities to ban any changes in the operation of such facilities within their borders.

Section 2 of this bill requires DCF to include a provision in any contract with a residential provider requiring compliance with any state statute, regulation and local ordinance concerning the safety of residents and noise levels. The Department points out that Section 17a-145-54 of the Regulations of Connecticut State Agencies, which outlines the licensing regulations for these programs, already requires that these facilities comply with all state and local laws, ordinances, rules and regulations relating to building, health, fire protection, safety, sanitation and zoning. The Department regularly monitors all facilities' compliance with this regulation. The proposed language is duplicative and unnecessary.

Section 3 removes language in the definition of "records" in the DCF confidentiality statutes relating to "activities related to a child while in the care or custody of the department." The Department is unclear why this language is being considered for removal. This language protects the confidentiality rights of our clients, both children and parents, who may be involved with us for reasons other than "child protection," but are nonetheless in our "care and custody." These populations include delinquent children and children with mental health needs who have not been neglected by their parents. The Department objects to removing this language as it is not in the best interests of Connecticut's children and families.

Section 4 adds a requirement to the DCF confidentiality statute that requires Department employees to report unauthorized disclosure of confidential records by co-workers to the commissioner. While DCF has no objection to this modification, the intent behind the proposal is not entirely clear. Presently, Department employees are expected to maintain the strictest confidentiality, and there are multiple and redundant systems in place designed to prevent and/or identify such breaches. When such breaches do occur, they are swiftly dealt with through discipline of the involved employees. We would also like to draw your attention to HB 5131, An Act Amending the Statutes Concerning the Department of Children and Families, which has been favorably referred to the Human Services Committee from the Select Committee on Children, and suggest that this provision be discussed in the context of those amendments to DCF's confidentiality statute.

Section 5 includes whistleblower protections for individuals that report unauthorized disclosure of confidential DCF records pursuant to section 4 of this bill. The Department supports this language.

Sections 6, 7 and 8 of this bill create a rebuttable presumption that custody of a child to a grandparent or other "blood relative" in neglect/abuse proceedings in juvenile court is in the child's best interests. It also requires the Department (or parent) to prove by "clear and convincing evidence" that custody to a relative is not in the child's best interests. The Department wholeheartedly supports the concept of placement of children with relatives whenever this is safely possible. In fact, Department policies and procedures require social work staff to diligently search for and assess relatives in every case where an out-of-home removal is necessary. However, the language of this bill as written will present some difficulties and confusion in practical application that will not necessarily be in the best interests of the children and families we serve.

First, there is no definition of "blood relative" and no provision for non-blood relatives, such as stepparents, who may play a more significant role in a child's life. Additionally, the bill seeks to award "custody" rather than "guardianship" to a relative. Currently, "guardianship" is a well-understood concept in the juvenile court, while "custody" implies a legal relationship far more temporary and fraught with ambiguities, including, but not limited to questions regarding authority to make major decisions for the child. Further, this bill awards intervention in juvenile proceedings to certain parties as a matter of right. This is unnecessary as there are statutes, court rules and case law which clearly set forth the parameters of intervention and are routinely applied by the juvenile courts to accommodate third persons who are interested in providing care for a child who is the subject of a neglect/abuse petition. Finally, the standard of "clear and convincing" evidence set forth in this bill is not currently used in neglect/abuse cases; the proper standard of proof in such cases is "fair preponderance of the evidence."¹

In addition to our concerns with the specific terms used in this bill, we must also point out that the language is unclear as to whether the drafters intended for the Department to provide foster care funds or guardianship subsidies when children are placed in the care of a relative under one of the proposed provisions. If that is the intent, the Department cannot support this bill as currently drafted. Numerous federal and state statutes and regulations control the process of licensing and paying foster care dollars to out of home care providers. Unless a relative who is awarded custody under this bill is in full compliance with these laws, the Department cannot financially support the placement which may, in turn, lead to additional difficulties for the family.

Section 7 applies similar changes to guardianship and termination proceedings in probate court. While the Department is not usually a party in these cases and, therefore, has no position on the proposed language as it relates to those cases, we would like to note that there may be similar difficulties with some of the terms used in this bill.

Again, the Department fully supports the concept of placing children with relatives whenever safely possible and consistent with the child's best interests. We are very willing to work with the Committee members and others who are similarly supportive to develop language that will reflect our mutual goals. To this end, we suggest simply amending the existing statutes to require the Department to give preference to specifically defined relatives or to present a detailed, written reasoning to the court specifying why such placement is not in the best interest of the child.

Again, thank the Committee for the opportunity to provide this testimony and would be happy to answer any questions you might have.

¹ "Clear and convincing" is a standard used in termination of parental rights cases in juvenile court. This bill deals only with neglect/abuse/uncared for proceedings.