

TESTIMONY OF JUDGE CHRISTINE E. KELLER

RAISED BILL NO. 5926, AN ACT CONCERNING FAMILIES WITH SERVICE NEEDS, CERTIFICATES OF BIRTH RESULTING IN STILLBIRTH, REENTRY AND DIVERSIONARY SERVICES FOR YOUTH, AND DRUG COURTS FOR YOUTHS

Good morning. I am Christine Keller. I am here to discuss **Raised Bill No. 5926, An Act Concerning Families With Service Needs, Certificates of Birth Resulting in Stillbirth, Reentry and Diversionary Services for Youth, and Drug Courts for Youths**. I am a judge of the Superior Court and the Chief Administrative Judge for Juvenile Matters. I also serve on the Family With Service Needs (FWSN) Advisory Board and the Juvenile Jurisdiction Policy and Operations Coordinating Council, which, respectively, are charged with implementing revisions to our family with service needs law and the law raising the age of delinquency jurisdiction from 15 to 17.

The FWSN Advisory Board recently released its final report and voted to recommend changes to the family with service needs legislation that was passed in 2005 and 2007. In addition, if adequate appropriations are made available, the Board recommended the implementation of pilot programs for truancy prevention in districts with high referral rates of truancy cases to court. The Judicial Branch supports all of the proposals contained in **Sections 1, 2, 3, 6, 7 and 10** of the raised bill.

Sections 1, 2 and 3 contain technical revisions in order to clarify that it is the child, not the family, who is adjudicated as a child from a family with service needs. To suggest an adjudication as to the entire family, when the statutory grounds relate only to the child's behavior and the child is the actual respondent, is unworkable. The permissible grounds for FWSN offenses are based on the conduct of the child, not the family. Moreover, the parent is often the complaining party, as a good percentage of FWSN cases are parents alleging their child is beyond their control.

Proposed new **subsection 2(i)** allows the court to modify or enlarge the conditions of a FWSN supervision, which is our current practice. This gives the court the authority to fine tune the conditions of a FWSN child's supervision to ensure the child is receiving appropriate services and presenting issues are being addressed. Oftentimes, as the period of supervision progresses and the child's behavior is improved, the court may wish to eliminate some conditions, such as an early curfew.

New language in **subsections (j) and (k) of Section 2** add provisions to review permanency plan for FWSNs children committed to DCF upon disposition. A permanency plan review is required by federal law but was not included in the recent revisions to the statute. In addition, motions, not petitions, for extension or revocation are now the procedural vehicle for extending DCF commitments of delinquent children and revoking DCF commitments in child protection proceedings. (See Sections 46b-141(b) and 46b-129(m)). It makes sense to have the procedure be the same for FWSN children.

The revisions proposed in **Section 3(a)** clarify that a new petition alleging a violation of a FWSN order requires proper service. It also establishes that the burden of proof for a finding that a violation of a court order has occurred should be consistent with the burden of proof for an initial FWSN adjudication: clear and convincing evidence and clarifies that a child found to have violated a court order and ordered returned home or to a placement still may be subject to an existing commitment to DCF.

Changes contained in **Section 3(b)** also establish a service of process requirement for imminent risk petitions, which are filed when a child already found to be from a family with service needs begins to exhibit behaviors that pose an imminent risk of physical harm to the child. Other revisions proposed clarify that a child found to be at imminent risk and ordered returned to the community may be subject to supervision or an existing commitment to DCF. Most importantly, the revisions in this subsection are essential to render the newly-created “imminent risk” petition consistent in its required allegations and findings, and to ensure the child is not denied due process. Without these revisions, the statute as it now reads allows a child to be committed to DCF only on the basis of a finding of probable cause, without an evidentiary hearing or any requisite findings based on clear and convincing evidence.

The Judicial Branch supports **Sections 7 and 11**, which require the implementation of pilot truancy reduction programs by the State Department of Education and provide funding for that effort. For too long, there has been a failure to involve the schools early and effectively. By the time the court received the truancy referral, far too much educational time had been lost. We believe the initiation of pilot programs assisting the schools in preventive measures at the first sign of a problem is a long overdue and most effective way to improve school attendance.

We would respectfully suggest an addition to the bill. The FWSN Advisory Board had proposed an important revision to Section 46b-129(j) to clarify that any information derived from mental health screenings or assessments performed by probation during the provision of diversionary services under the new FWSN law be confidential and only further disclosed for planning and treatment purposes. This insures that children who may not yet have legal representation aren't forced to incriminate themselves in order to receive services. I have attached the suggested language to my testimony for the Committee's consideration.

The Judicial Branch opposes Section 9, which creates another task force to consider a youth drug court in the juvenile division of the Superior Court. First, we have a functioning, very inclusive task force, the Juvenile Justice Policy and Operations Coordinating Council, (the “JJPOCC”) chaired by Secretary Genuario, Representative Walker and Senator Harp, to address all aspects of the impact of legislation passed last year raising the jurisdictional age of the juvenile courts to 17. There is another proposed bill, **Raised Bill No. 337, An Act Concerning Juvenile Justice**, which was approved by all the members of the JJPOCC, and which, if passed, will create new diversionary programs which could be utilized in ALL the juvenile courts, not just a selected pilot drug court in one jurisdiction. One, called the Community Service Program, will specifically be available to delinquents, not just 16 and 17 year olds, charged with drug offenses. Delinquents granted entry into the program would be required to engage in drug treatment and/or a drug education program and community service and receive a dismissal of their cases if they successfully completed the program.

The juvenile drug docket that the Branch operated in the past in Hartford was not always effective because the unmet need was for services, including drug treatment, dual diagnosis programs and drug education programs. We have seen improvement in services, and the need exists for many accused delinquents, not just those charged with a drug offense. Drug courts and other specialty courts in selected court locations, with a patchwork of services unique only to the community in which the single court district is located, deny many other children in this state equal access to services. Specialty courts often work on the concept that frequent court appearances, the imposition of numerous conditions, drug testing, zero tolerance measures, and frequent, short periods of incarceration for are effective in reforming substances abusers. This is not how we want to utilize our detention centers or serve our delinquent children and their families. Specialty drug courts with onerous processes have a disproportionate impact on inner city and minority children, who will receive harsher treatment than their suburban counterparts, whose typical drug of choice is alcohol rather than marijuana, and who don't usually have to resort to engaging in street sales for economic reasons.

The procedures in the juvenile courts should focus on the needs of the individual child and the family, not impose one size fits all solutions based solely on the nature of the crime committed.

At the very least, please don't create another task force. The JJPOCC has a subcommittee now investigating what additional services may be required to serve older youth when the "raise the age" law goes into effect in 2010. I am certain it will be addressing the needs of children and youth engaging in substance abuse, many of whom are experimenting and have not developed full-fledged addictions. Adjusting to the addition of the regional dockets that will handle the 16 and 17 year olds will strain our manpower and physical resources, and we would ask that you not ask us to add more specialty dockets at this crucial time.

Thank you for your consideration.

**Suggested amendment to
H.B. 5926, AAC Families with Service Needs, Certificates of Birth Resulting in Stillbirth,
Reentry and Diversionary Services for Youth, and Drug Courts for Youth**

Add a new section as follow:

Subsection (j) of section 46b-129 is repealed and the following is substitutes in lieu thereof:

Notwithstanding the provisions of subsection (d) of this section, any information concerning a child alleged to be delinquent or from a family with service needs that is obtained during any mental health screening or assessment of such child or during the provision of diversionary services pursuant to Sections 46b-149(b) or (g) shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the files of the entity performing such screening or assessment or providing such diversionary services. Such information may be further disclosed only for the purposes of any court-ordered evaluation or treatment of the child or provision of services to the child, or pursuant to sections 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such information shall not be subject to subpoena or other court process for use in any other proceedings or for any other purpose.