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TESTIMONY REGARDING DCF RAISED AND COMMITTEE BILLS

I am an Attorney practicing in the areas of Education and Appellate Law, and I routinely represent parents and children involved with DCF and Juvenile Court. I am here in support of **Raised Bill 955, but I am urging you to make additional changes to Bills 5416, 6399, 6403 and 6415** as follows:

1. **Committee Bill 5416:** While I do not oppose an interagency agreement between DCF and DMHAS, I suggest that you clarify certain portions of the bill. For example, can a transfer to the care of DMHAS be made before the child turns 18? Also, if the child needs the services of DMHAS immediately, the portion of the bill requiring referral information to be sent one year before the transfer is counterproductive and could delay treatment. In addition, the bill proposes that DCF shall "schedule a meeting" to "develop" and "discuss" the treatment plan and services, but it does not mandate that DCF actually implement the treatment plan or services immediately thereafter. It also contains no provision for a parent to have meaningful input and decision making in the treatment planning. Many parents have not had their parental rights terminated and/or voluntarily placed the child in DCF care and should retain the ability to direct the care of the child in a substantive, meaningful way, with the addition of appropriate appellate procedures should a dispute arise. I also question why DCF shall "provide services" if DHMAS is caring for the child. There should be a clear delineation of which agency has authority, and there should be an opportunity for parental input into which agency should have that authority. For example, if a parent has legitimate concerns about how DCF has interacted with the child in the past, or not provided appropriate services, if a transfer is made to another agency, DCF should not still have any authority for the treatment of that child. Past errors and biases of previous providers should not continue to haunt the child and the family. A new agency could take an objective look at the problems and present alternative, appropriate treatment, without DCF interference. It needs to be clearly spelled out that DCF is to continue to provide care until DHMAS has taken over the provision of those services or for the care of the child or youth. If an appellate procedure is to exist, that procedure must be held by an objective entity, not by DCF staff of any kind. It is not clear in the bill by whom any hearing shall be conducted. In addition, in Section (2), what is the point of directing the Commissioner of DHMAS to "attend" a meeting with DCF, to "discuss" , "make recommendations", and "monitor", if the Commissioner is not also directed to actually take any action about implementing any recommendations, correcting any errors, or resolving any disputes? Most importantly, there is no mechanism to hold anyone in DCF or DMHAS accountable for any violation of the statute or the rights of the parent or child. Without accountability, not much is likely to change.

2. **Raised Bill 6399**: I don't have any objection to the minor changes made to the statutes, but more work needs to be done to correct the inequities in the statute to balance the interest of the parents with that of the state. One example is in the beginning of the statute. There, it would appear that the entire statute is based upon the filing of a "verified petition" or whether "it appears from the specific allegations of the petition and other verified affirmations of fact accompanying the petition..." other action may be taken. That language is, and has been, inadequate to protect parents and children. **The facts of the allegations must to be verified <u>before a petition is filed</u>, in order to form a credible basis, with probable cause, for the filing of a petition.** Similarly, there is no definition of "specific steps", or "reasonable efforts". There are many other practical problems with this statute that I hope the Committee will consider also correcting.

3. **Raised Bill 6403:** Although I applaud the effort to make records more accessible, upon consent of the person involved, I do have some concerns with this bill. In Section 1(a)(1), the bill proposes to change the definition of "person" from "a parent" to "a parent whose parental rights have not been terminated..." I do not believe that change should be made. For example, an investigation may have taken place in which a parent believes some error or wrongdoing occurred and may seek to provide that information to others in order to

correct that error or wrong, but may be unable to do so because the ultimate result of that error or wrongdoing was the termination of that individual's parental rights. Any individual who is the subject of an investigation, no matter what the outcome of that investigation, should have the write to obtain and to disclose the records involving that individual.

Regarding disclosure of records: I also have some additional requests for revision. Because there has been confusion in the past, I would strongly suggest that language be added to clearly state that **the individual who is the subject of the records may release the records at will, and may obtain a copy of the records immediately upon request.** In addition, I would caution against putting in language that might prevent a parent whose rights were terminated from obtaining records, particularly because the parent may need them to address some error or wrongdoing in the process that led to the termination of rights. I would also **eliminate reference to allowing the Department to have the authority to determine what records should be limited from disclosure without the consent of the individual.** I would also urge you to **add a provision allowing a parent, or an individual who is the subject of the records, to consent to which records are released to providers, evaluators, and placement facilities.** This is necessary because if hearsay or disputed documents are contained in the records and are released without the consent of the individual, that individual may be adversely affected in the individual's treatment or placement. For the same reasons, I would also request that the **records not be disclosed to other state agencies without the consent of the individual.** If an individual has had hearsay, unverified information, erroneous information, or otherwise disputed information placed in the DCF records, and the care of the individual or his child is being transferred to another state agency, educational institution, or provider, the individual should have an opportunity to have only appropriate and undisputed records provided to the new agency or provider. In addition, **the Department should not be the only one to determine when disclosure is needed for diagnosis or treatment. The parent or individual also should have an equal say in that disclosure.** Quite frankly, all of the exceptions delineated in the bill allowing disclosure of the records without the written consent of the individual, have been problematical in the past and should be eliminated or reworked. There should be only very limited exceptions, to the rule that the individual must consent to the release of the records, such as cases in which investigation and prosecution of criminal conduct must proceed. **More importantly, the purpose of the entire bill is defeated by subsection (i) in which the Department is given the authority to refuse to disclose records. <u>The Department should not be allowed any authority to refuse to disclose records when the parent or individual who is the subject of those records wishes those records to be disclosed</u>. This provision also could be interpreted to grant authority to the Department to refuse to disclose the records to the individual who is the subject of those records.** If an individual cannot obtain his own records, he cannot know whether or not to allow them to be further disclosed, and he cannot know whether the other agencies and providers who have been provided those records have accurate information contained in those records upon which to provide treatment or placement. **It is imperative that the statute specifies that an individual may disclose any of the records pertaining to that individual to whomever that individual wants.**

4. **Raised Bill 6415:** While I applaud the pilot program, but I would suggest that you add a provision to **<u>place the children, first and foremost, with a blood relative of the child,</u>** and only after all possibility of placement of the child with a blood relative has been exhausted, then, and only then, to place the child in another family setting rather than in an institution.