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## Testimony of Jeanne Milstein, Child Advocate Select Committee for Children February 19, 2009

Good morning Senator Musto, Representative Urban, and Members of the Select Committee on Children. Thank you for the opportunity to testify **in support of Raised Bill No. 6420**, An Act Concerning A Leadership Audit of the Department of Children and Families, and to testify about HB 6419, An Act Concerning Transparency and Accountability of the Department of Children and Families, which I support in part and oppose in part.

### **Raised Bill No. 6420, An Act Concerning A Leadership Audit of the Department of Children and Families**

I fully support **Raised Bill No. 6420, An Act Concerning A Leadership Audit of the Department of Children and Families**. In October and November of last year, this Committee, along with the Human Services Committee, held investigative hearings into the functioning and operations of the Department of Children and Families. At the hearing on October 20<sup>th</sup>, I shared my belief that DCF is an agency in peril. I described how the work of my office during my eight years as Child Advocate has documented a pattern of deficient leadership, management, and quality assurance. I testified that these deficiencies are echoed in the reports from the Juan F. Court Monitor and the Legislative Program Review and Investigations Committee and other oversight entities. Finally, I expressed my concern that many of the people in leadership positions at DCF during my investigations and the seventeen years under the Juan F. Consent Decree continue to guide the agency in leadership positions today.

To address these concerns, I recommended that Connecticut conduct an analysis of the present leadership at every level of DCF. I urged you to move beyond the idea of structural change and look at whether DCF has the organizational talent to develop and execute fundamental organizational change. Because Raised Bill No. 6420 would do just that, I fully support it.

Raised Bill No. 6420 would require the leadership audit to be conducted through the Legislative Program Review and Investigations Committee. The PRI staff have extensive experience with DCF, having completed a review in 1999 and most recently a review of contracting and oversight in 2007. They understand the structure of DCF and the many challenges facing the agency. Raised Bill No. 6420 would couple their expertise and experience with expertise in organizational leadership, organizational change, child welfare, and public agency management, ensuring a look at leadership that is both broad and deep.

The audit would identify all existing leadership positions within the department; the responsibilities of each position; the skills, experience, and training necessary to carry out those responsibilities; and whether the existing staff have the skills, education and experience to fulfill their responsibilities and implement the department's mission. DCF is a sprawling agency with layers of bureaucracy and hundreds of leadership positions. Often, these layers of bureaucracy inhibit the efficient and effective delivery of services and build barriers between DCF and external entities such as other agencies, providers, and families. It is critical to separate those leadership positions necessary to implement agency mission and those that are unnecessary and can be eliminated. It is also critical to develop performance measures for each leadership position within the department. Agency mission and expected outcomes for families and children served by the agency should drive those measures.

Many people have asked me why I would recommend another study, and why now. Others have argued that DCF needs to be dismantled. I can see no reason to believe that structural change alone can transform ineffective managers into effective leaders that can execute and sustain fundamental change in outcomes for our children. If anything, separately housing the programs and services needed to assess and address the needs of a "whole" child requires an even greater confidence in leadership talent to communicate and collaborate across state agencies. I firmly believe that an analysis of leadership and recommendations for talent enhancement is a necessary first step to getting it right. This is not just another study. It is a focused look at leadership at all levels to ensure that the agency has the right people with the right skills in the right places to bring about the kind of fundamental change that is needed. This kind of analysis of DCF has never been done and I believe it is a critical next step and the most effective action that we can take to address the agency's long-standing pattern of failure.

### **Raised Bill No. 6419, An Act Concerning Transparency and Accountability of the Department of Children and Families**

**I support in part and oppose in part Raised Bill No. 6419, An Act Concerning Transparency and Accountability of the Department of Children and Families.** I support efforts to increase accountability and transparency and would urge you to move forward on all but one provision of this bill without the need for a task force.

**I am strongly opposed, however, to opening juvenile court proceedings to the public, as proposed Section 1(a)(1)(F), and urge you to delete that section of the bill.**

There is no question that our system for caring for abused and neglected children is in need of significant improvement. It is critical that we improve accountability of all of the participants in juvenile court proceedings – of the Department of Children and Families (DCF), of attorneys appointed to represent children and indigent parents, of attorneys representing DCF, and of judges. It is also critical that we ensure that attorneys practicing in juvenile court have good training and provide good quality legal representation in what is an extremely complex legal environment. Finally, we must raise public awareness about abused and neglected children in our state.

There is simply no evidence, however, that opening juvenile court proceedings to the public will accomplish these goals and good reason to believe that opening such proceedings has the potential to harm children. Studies in Minnesota and Arizona are often cited as studies that show that opening juvenile court proceedings do not harm children. In fact, the methodology of those studies has been challenged and the findings regarding lack of harm to children have been called into question. Professor William Wesley Patton, a professor at Whittier Law School and an expert on the legal and pediatric psychiatric effects of opening child dependency proceedings, provided the Committee with an extensive analysis of both studies and I would urge you to read the information he provided. In addition, the Minnesota study noted significant evidence that opening the proceedings had no impact on public awareness, the quality of child protection hearings, or on accountability.

Having presumptively open juvenile proceedings has the potential to harm children. First, once proceedings are presumed open, there is little ability to protect the privacy of those children who may be harmed by publicity. While the bill proposes giving the court authority to exclude members of the public, it is not likely that this would occur. The Minnesota study found that once courts were presumptively open, decisions to close the court were rare. In those instances where courts would issue orders to exclude the public from a particular case, such exclusion would likely lead to motions for temporary injunctions and appeals as media attempts to gain access. Second, while the bill proposes granting the court the authority to prohibit the dissemination of any personally identifiable information disclosed during open proceedings, such orders would be difficult, if not impossible, to enforce.<sup>1</sup> Third, the evidence suggests that it is the fear of publicity that has the most significant impact on the child. I would refer you again to the information submitted by Professor Patton, which includes a discussion of a longitudinal study conducted in Canada.

Given the potential for harm to children, and the lack of evidence that public access will result in greater accountability or outcomes for children, I urge you to remove Section 1(a)(1)(F) from the bill.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have.

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<sup>1</sup> The United States Supreme Court has made clear that publication of lawfully obtained information is protected speech under the First Amendment. See *Bartnicki v. Vopper*, 532 U.S. 514 (2001); *Smith v. Daily Mail Publishing Co.*, 443 U.S. 97 (1979).