



House of Representatives

General Assembly

File No. 590

February Session, 2010

Substitute House Bill No. 5143

House of Representatives, April 19, 2010

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING INVESTIGATIONS BY THE DEPARTMENT OF CHILDREN AND FAMILIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2010*) (a) (1) Upon receiving a
2 complaint of abuse or neglect of a child, the Department of Children
3 and Families shall, at the time of initial contact with the child's parent
4 or guardian, provide the parent or guardian with written notice, in
5 plain language, that: (A) The parent or guardian is not required to
6 permit the representative of the department to enter the residence
7 without a warrant that gives such representative authority to enter the
8 residence; (B) the parent or guardian is not required to speak with the
9 representative of the department at that time; (C) the parent or
10 guardian is entitled to the representation of an attorney and to have an
11 attorney present when the parent or guardian is questioned by a
12 representative of the department; (D) any statement made by the
13 parent, guardian or other family member may be used against the
14 parent or guardian in an administrative or court proceeding; (E) the

15 representative of the department is not an attorney and cannot provide
16 legal advice to the parent or guardian; (F) the parent or guardian is not
17 required to sign any document presented by the representative of the
18 department, including, but not limited to, a release of claims or a
19 service agreement, and is entitled to have an attorney review such
20 document before agreeing to sign the document; and (G) a failure to
21 communicate with a representative of the department may have
22 serious consequences, including the department's filing a petition for
23 the removal of the child from the home and, therefore, it is in the
24 parent's or guardian's best interest to either speak with the
25 representative of the department or immediately seek the advice of a
26 qualified attorney. The department shall make reasonable efforts to
27 ensure that the notice provided to each recipient is written in a manner
28 that will be understood by the recipient, including, but not limited to,
29 being written in a language understood by the recipient.

30 (2) The representative of the department shall request the parent or
31 guardian to sign and date the notice described in subdivision (1) of this
32 subsection as evidence of having received the notice. If the parent or
33 guardian refuses to sign and date the notice upon such request, the
34 representative of the department shall specifically indicate on the
35 notice that the parent or guardian was requested to sign and date the
36 notice and refused to do so and the representative of the department
37 shall sign the notice as witness to that fact. The department shall
38 provide the parent or guardian with a copy of the notice at the time of
39 the department's initial contact with the parent or guardian.

40 (b) If the Department of Children and Families does not comply
41 with the requirements of subsection (a) of this section, any statement
42 that the department obtains from the parent or guardian, or a child
43 who is a member of the parent's or guardian's family or household,
44 prior to the provision of such notice shall be deemed inadmissible in
45 any administrative or judicial proceeding.

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2010	New section
-----------	--------------	-------------

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Children & Families, Dept.	GF - Cost	less than \$500	less than \$500

Note: GF=General Fund

Municipal Impact: None

Explanation

The Department of Children and Families will incur a minimal cost (estimated to not exceed \$500 annually) to procure a form sufficient to satisfy the bill's mandate that agency staff provide a signed copy of a notice to the signatory (parent/guardian) at the time of initial contact following a report of child abuse or neglect. Approximately 23,000 such contacts are made annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Administrative Services Contracting Portal

OLR Bill Analysis**sHB 5143*****AN ACT CONCERNING INVESTIGATIONS BY THE DEPARTMENT OF CHILDREN AND FAMILIES.*****SUMMARY:**

This bill requires the Department of Children and Families (DCF), when it begins to investigate an abuse or neglect complaint, to provide the child's parent or guardian written notice that outlines the parent's or guardian's rights, as well as implications for his or her failure to communicate with the department. The parent or guardian must be asked to sign and date the notice.

If DCF fails to provide the notice, statements made before it is provided are not admissible in any administrative or court proceeding.

EFFECTIVE DATE: July 1, 2010

NOTICE OF PARENTAL RIGHTS

The bill requires the notice to (1) within reasonable DCF efforts, be written in a manner that will be understood by the person receiving it, which would include being written in a language that the recipient understands and (2) state the following information in plain language:

1. the parent or guardian is not required to permit DCF's representative to enter his or her residence without a warrant;
2. the parent or guardian does not have to speak with the DCF representative at that time;
3. the parent or guardian has the right to an attorney and to have that attorney present when DCF is questioning him or her;
4. any statement that the parent, guardian, or other family

member makes generally can be used against the parent or guardian in an administrative or court proceeding;

5. DCF's representative is not an attorney and cannot provide legal advice;
6. the parent or guardian does not have to sign any document that DCF presents, such as a release of claims or a service agreement, and is entitled to have an attorney review such a document before agreeing to sign it; and
7. a failure to communicate with the DCF representative could have serious consequences, including DCF's filing a petition to remove the child from the home, and that it is in the parent's or guardian's best interest to either speak with the DCF representative or immediately seek the advice of a qualified attorney.

The bill requires DCF to provide a copy of the notice to the parent or guardian when DCF first contacts him or her. The DCF representative must ask the parent or guardian to sign and date the notice as evidence of having received it. If the parent or guardian refuses, the representative must (1) indicate on the notice that the parent or guardian was asked but refused and (2) sign the notice as witness to that fact.

If DCF does not comply with the notice requirement, the bill provides that any statement that DCF obtains from the parent, guardian, or a child who is a member of the parent's or guardian's family or household before the notice has been provided is not admissible in any administrative or judicial proceeding.

DCF currently provides a written "Parents Right to Know" brochure at the start of every investigation of abuse or neglect. It includes some of the information that the bill requires, such as letting the parent know he or she does not have to speak with the DCF social worker.

BACKGROUND

Legislative History

The House referred the bill (File 15) to the Judiciary Committee on March 31. That committee favorably reported it but added the language requiring the parent or guardian to be asked to sign the notice and indicating what DCF must do if he or she refuses to do so.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 14 Nay 5 (02/25/2010)

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 3 (04/07/2010)