

CONNECTICUT GENERAL ASSEMBLY

February Session, 2010

Raised Bill No. 5271

An Act Concerning Access to Records of the Department of Children and Families

Committee on Human Services

REMARKS OF ATTY. MICHAEL H. AGRANOFF

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Thank you for the opportunity to testify. I have been a DCF defense lawyer since 1991. At present, ours is the only law firm in the State of Connecticut providing full-service DCF defense to private-paying adults on a full-time basis.

C.G.S. Sec. 17a-28 contains the law for disclosure of confidential information by DCF. The present bill seeks to revise and update the law.

I support the bill in the main. Especially worthwhile is proposed C.G.S. Sec. 17a-28(g)(1)(B), which permits the disclosure of the name of an individual who knowingly made a

false report of abuse or neglect, provided that a court so determines. This important provision will permit individuals who are falsely and vindictively accused to have redress against the accuser, for financial and emotional damages. This right may be vindicated by utilizing the provisions of C.G.S. Sec. 52-146j.

As mentioned, I support the bill in the main, but with the exception of a few items which I feel will unjustly and unnecessarily release confidential information of parents without their informed consent. The specific items objected to, and reasons therefor, are now detailed.

1. Proposed C.G.S. Sec. 17a-28(g)(6):

There is no reason to disclose records of parents to the Child Advocate or her designee without the parent's consent. The Child Advocate is not a substitute for DCF, and is not a party in any court case. If it is essential that DCF disclose records involving a parent to the Child Advocate, then DCF should be required to obtain the approval of the Superior Court before doing so.

It is one thing to disclose statistics, and quite another to disclose confidential information to someone who is not an attorney in the case.

2. Proposed C.G.S. Sec. 17a-28(g)(7):

There is absolutely no reason to disclose records of parents to the Chief Child Protection Attorney (CCPA) or her designee without the parent's consent. The CCPA is an administrative agency, managing the contracts of Juvenile court-appointed lawyers. The CCPA is not itself an attorney in a court case, and has no reason to have confidential parent records in its files.

The CCPA may claim that she needs such data for management studies to better educate the lawyers with whom she contracts. I think that is speculative at best. However, I would be willing to see the justification for such disclosure, and then would be willing to work with the CCPA or her designate to draft appropriate legislation.

Another way of looking at it is this: even the AAG who is involved in a case gets personal information only if needed. Why should the CCPA have no limitations on the personal information that she may obtain?

3. Proposed C.G.S. Sec. 17a-28(g)(11):

This provision is totally unjustified, as it would permit confidential parent information to be disclosed by DCF to service providers that it selects, without the consent of the parent. The statement that disclosure would be “limited to information necessary to provide services to the child, youth or parent” is simply impossible to enforce.

In practice, DCF would give the provider whatever it wanted the provider to know; with predictable results. The purpose of requiring a release from the parent is, among other things, to let the parent’s lawyer know what releases have been signed, so that the parent’s lawyer may also provide information to the service provider, know what DCF has given to the service provider, and be able to evaluate and cross-examine any conclusions of the service provider. Allowing this subsection would give DCF the unfettered ability to guide the conclusions of the providers that it selects.

4. Proposed C.G.S. Sec. 17a-28(g)(19):

This provision should have appended to it the following notation: “provided that no information identifying a biological parent of a child or youth is disclosed without the permission of such biological parent, or by order of the court.” This appendage

would not harm the child. If a physician lacked necessary information, he or she would simply determine to keep the child or youth in protective custody.

5. Proposed C.G.S. Sec. 17a-28(g)(20):

There is no reason to disclose the status of an investigation to anyone, other than DCF personnel or attorneys legitimately involved in the case.

The apparent purpose is to satisfy the reporter that DCF did something. The effect, however, would invariably be to disclose personal information, and give the reporter another chance to add to his or her report. However, there is no requirement that the person being investigated would have a chance to comment on the reporter's additional information. There is simply no reason for DCF to disclose its investigation results to lay persons in a case.

6. Proposed C.G.S. Sec. 17a-28(g)(24):

This provision should have appended to it the following notation:

“provided that no information identifying a biological parent of a child or youth is disclosed without the permission of such biological parent, or by order of the court.” Otherwise, DCF has unfettered discretion to compromise confidential information without review. Again, no child would be harmed. If the organization lacked necessary information, it would simply report that the individual had not yet rehabilitated.

7. Proposed C.G.S. Sec. 17a-28(g)(26):

This subsection should be modified to state:

An individual, not employed by or under contract with the department, conducting bona fide research....

This is necessary to prevent DCF from skirting the law by declaring anything it wishes to be “bona fide research”.

8. Proposed C.G.S. Sec. 17a-28(h)(8):

This provision should have appended to it the following notation:

“provided that no information identifying a biological parent of a child or youth is disclosed without the permission of such biological parent, or by order of the court.” If DCF believes that this appendage is too restrictive, then the subsection should be revised to ensure that confidential information is not unnecessarily compromised.

With the caveats as noted, this bill is a positive step towards modernizing the DCF disclosure statute. If any person has any questions of me, kindly write or call, and I shall respond promptly.

Respectfully Submitted,

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