

CONNECTICUT GENERAL ASSEMBLY

February Session, 2010

**Raised Bill No. 5310**

**An Act Concerning Placement of Children and Youth When There is Serious Risk of**

**Danger to Health and Safety**

Select Committee on Children

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.

I must speak out strongly against the passage of this bill. The bill seeks to amend C.G.S. Sec. 46b-129(j) by stating that if the Juvenile Court, after a hearing on a child subject to the Court's jurisdiction, orders a specific placement of the child, with any necessary conditions, then DCF can object, delay the placement for 24 hours, and ask the Court to reconsider its decision.

Apart from violating traditional ideas of separation of powers by permitting an administrative agency to delay a court decision on its own initiative, the bill is an insult to the judiciary.

The bill actually offers that if a contested evidentiary hearing is held, and DCF does like the result, that it can so declare, and force the court to delay implementing its own order and to reconsider the matter. This, to my mind, is unprecedented in Connecticut jurisprudence.

If DCF, or any party for that matter, objects to a court decision, it has the option to file an appeal, to file a motion for reconsideration, or to file an emergency appeal with an appellate court. In addition, regardless of any court order, DCF has the additional option of seizing a child on a 96-hour hold, filing a motion for an OTC (order of temporary custody) supported by an affidavit, and again asking the court to consider the matter.

The present bill is incomprehensible. At bottom, it states that if the Assistant Attorney General representing DCF has not presented DCF's case adequately, as shown by an adverse court decision, then DCF itself may stay the court's order.

The bill, if enacted, would set a precedent to give DCF powers heretofore held only by federal authorities under the Patriot Act. It would, in effect, create a state Child Patriot Act, by circumventing judicial decisions; and no doubt, additional restrictions upon the judiciary would follow.

DCF may state that this bill is necessary for child protection. It is not. The traditional methods for objecting to a court decision, as outlined three paragraphs above, are more than sufficient to ensure child protection.

Further, if DCF may stall a court decision, then why may attorneys for the parent or the child also not stall a court decision? I am personally appalled that this bill was actually raised in the Connecticut State Legislature.

Respectfully Submitted,

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