

CONNECTICUT GENERAL ASSEMBLY

January Session, 2011

Raised Bill No. 1179:

**An Act Concerning Interviews of a Child by the Department Of Children And Families
and the Removal of Individuals from the State Child Abuse and Neglect Registry**

REMARKS OF ATTY. JESSICA L. AUDET

Law Offices of Michael H. Agranoff

99 Stafford Road

Ellington, CT 06029

Tel: 860-872-1024

Fax: 860-871-1015

EM: Jessica@agranofflaw.com

Web Site: www.agranofflaw.com

Thank you for the opportunity to testify. I am an Associate Attorney at The Law Offices of Michael H. Agranoff. 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. Our office has been practicing DCF defense law since 1991.

Our office drafted two bills, which were combined into this one Bill that actually has two separate provisions: Section 1, parental rights concerning child interviews; and Section 2, concerning removal of individuals from the Registry.

PARENTAL RIGHTS CONCERNING CHILD INTERVIEWS

The Bill actually does nothing more than to explicitly state, in C.G.S. Sec. 17a-101h, what the law actually is. Current DCF policy, as written, does not comply with the statute.

The present law states that DCF may interview a child, without parental consent, if it reasonably suspects abuse by the parent. That is fine, except that it is ignored in practice. DCF routinely interviews children without parental consent, usually in intimidating school situations, even if only the barest neglect is suspected. The Bill makes clear the original legislative intent: child interviews without parental consent are permitted only if the parent is reasonably suspected of abusing the child. Furthermore, to avoid skirting this provision, DCF is required to document its reasonable belief in the case record.

The present law also states that an interview without consent must be held in the presence of a disinterested adult, unless that is not possible. In practice, the interview is often held at the school, without parental knowledge. The child is taken out of class into a room to be interviewed by an adult that he does not know, and sometimes a uniformed police officer will be present. A school representative is usually present, and that might in fact be the very person who made the DCF referral in the first place. The Bill makes clear that the adult present must truly be disinterested in the investigation.

The present law also states that another adult need not be present if there is an emergency situation. The Bill requires that, if such is the case, DCF file an affidavit of such circumstances in the case record, to ensure that the law is not being skirted.

The Bill, in other words, does nothing more than to ensure that C.G.S. Sec. 17a-101h means what it actually says. It requires DCF to follow the existing law and revise its policies

accordingly. I am also attaching the page from my web site that explains this problem to parents in plain language.

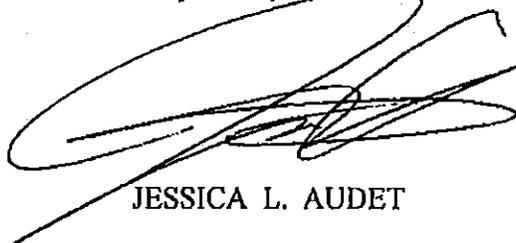
REMOVAL OF INDIVIDUALS FROM THE REGISTRY

The Bill corrects an oversight in the DCF Child Abuse/Neglect registry procedures. Under current law, once a person is placed on the Registry, it is impossible to be removed. There is no pardon, executive clemency, habeas corpus, or other action to remove them, even if they have lived blameless lives for years and have rehabilitated. Although persons may be pardoned from felonies, they cannot at present be removed from the Registry.

The Registry is a lifetime prohibition against holding certain employment. However, there certainly are circumstances in which a person should no longer be on the Registry. DCF agreed with our office on this approximately three years ago, and has indicated to us that it would support this Bill.

The Bill provides a sound administrative procedure that would give this right to individuals, while ensuring that children would remain protected from dangerous persons.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Jessica L. Audet', written over a horizontal line.

JESSICA L. AUDET

Attorney At Law

mha.LOB.kid.registry.testimony

Print This Page

WHEN DCF TALKS TO YOUR KID SECRETLY
Atty. Michael H. Agranoff

I am often asked, "DCF spoke to my kid without telling me. They grabbed him or her at school and grilled them. Can they do that?"

It's a tricky question. If the kid is accused of a crime, then the police cannot talk to the kid without a parent or guardian being present. If there is no suitable parent or guardian, then the Court will appoint a Guardian Ad Litem to take the place of the parent.

But what if the parents themselves are suspected of abuse or neglect, and DCF is investigating?

There is a Connecticut statute covering this, C.G.S. Sec. 17a-101h.

The statute says that DCF cannot speak to the kid without getting the consent of the parent or guardian. But there is a catch: DCF does not need this consent if DCF "has reason to believe" that the parent or guardian is the "perpetrator of the alleged abuse."

DCF skirts the issue by always claiming that it has reason to believe that the parent caused the abuse. It never explains the difference between "reason to believe" and "probable cause" or even "articulable suspicion". In other words, if there's a referral leading to an investigation, that's all DCF needs. The statutory caveat is meaningless. DCF, in other words, always has "reason to believe."

But there's more. The statute allows this non-consensual talk only for suspected "abuse." But DCF skirts that issue also, claiming that even the mildest suspicion of neglect is automatically suspicion of abuse.

In other words, DCF blatantly ignores the intent of the statute.

And there's still more. Even if the non-consensual interview of the child is allowed, DCF is required to conduct the interview "in the presence of a disinterested adult", unless there is imminent risk of harm to the child, and the disinterested adult is not available "after reasonable search."

In practice, however, DCF grabs the kid at school, and has a school teacher or counselor or Principal present. School personnel, however, are thoroughly intimidated by DCF, and are fearful of being charged with neglect themselves if they don't cooperate. The idea of a "disinterested adult" is a total myth.

This situation, of course, helps to explain why DCF so vehemently opposes home schooling. See [Home Schooling](#).

Thus, the answer to the question "Can DCF talk to my kid without my consent?" is "No, except in certain restricted situations; but they do it anyway, and they get away with it."

Our office is working with our lobbyist to try to get the law strengthened to say what it really means, and to provide penalties to DCF for violating the law. It's a long haul, but some day it may happen.

In the meantime, the best advice is:

Just as you tell your kids not to talk to strangers, you should also tell them that people who ask them questions about their family are also strangers. If someone wants to talk about private topics to you, tell them that you want your parents present.

DCF is of course wise to this, and uses every trick in the book to frighten the kids. I have had many complaints of DCF investigators telling kids that they were lying, and had better tell the truth.

Until and unless the law changes, with teeth put into it, this sad situation is likely to continue.