



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

**Testimony of the Honorable Christine E. Keller
Chief Administrative Judge for Juvenile Matters**

**Select Committee on Children Public Hearing
February 22, 2011**

S.B. 323, An Act Concerning Department of Children and Families Reunification Plans

On behalf of the Judicial Branch, I am here to testify concerning significant problems with **Senate Bill 323, *An Act Concerning Department of Children and Families Reunification Plans*** as it is presently drafted. The bill attempts to prevent DCF from doing anything to move forward with plans for children that seek termination of parental rights and adoption if DCF wants to reunify the parent with a child, unless the parent has **refused** to participate in the reunification plan. This proposal conflicts with numerous requirements of federal and state law, including the required findings a court must consider in ruling on a petition for termination of parental rights. If adopted, it will only prolong for many children the time they are set adrift in foster care placement without achieving a permanent, reliable home arrangement.

In 1997, Congress passed the Adoption and Safe Families Act, 42 U.S.C. 620 et seq, to address the problem of children remaining in foster care for years without ever finding a permanent home. A year later, Connecticut passed a number of statutes to insure compliance with this law. Such compliance is required in order to receive federal reimbursements of costs incurred by our child protection system. Title IV-E foster care funding is guaranteed funding for all eligible children in state foster care, paying the costs of keeping the child in foster care, the administrative costs associated with the child in foster care, and related training costs. This funding is directly tied to Connecticut's compliance with ASFA.

ASFA requires that a child's health and safety be the paramount concern in formulating any permanency plan. It requires much greater judicial oversight in the entire placement process, mandated the delivery of services and required DCF to identify children in need of adoption within 12 months. It created greatly reduced and very specific timelines for the progress of cases. If appropriate, termination of parental rights is to be accomplished within 18 month of the child entering out of home placement.

ASFA put more responsibility on parents by requiring that they not only participate in the reunification play, but that they *comply with any case plan, make significant measurable progress toward achieving the goals established in the case plan, and diligently work toward reunification*. This required standard is not set forth in this proposed bill. The standard set by this proposal in fact undermines the federal requirements and cannot be passed as presently drafted without jeopardizing Connecticut's federal foster care reimbursements.

Since the passage of ASFA, appellate case law in Connecticut interpreting the failure to rehabilitate ground for termination of parental rights has repeatedly held that participation in services alone does not constitute rehabilitation to a useful role as a parent if the parent has not *benefited*, after a sufficient period of time, from the rehabilitation efforts. Parents who consistently attend services often never achieve the expected goals of the services, e.g. abstinence from illegal drugs, stabilization of serious mental health issues or avoidance of domestic violence. Sadly, we also see parents whom everyone knows can never adequately take care of a child due to severe cognitive deficiencies.

There are numerous appellate cases that note that reasonable efforts does not mean doing everything possible, only what is reasonable. Many of these cases involve parents who, for a variety of reasons, have not been able to achieve rehabilitation, at times through no fault of their own, within a reasonable period of time.

In addition, the proposed bill directly contradicts the federal requirements for concurrent planning for any child by prohibiting DCF from “implementing or facilitating” any permanency plan for termination of parental rights and adoption. ASFA also encourages DCF to concurrently engage in efforts to secure a permanent adoptive placement or long term placement while making reasonable efforts to reunify. Currently, with a federal grant, the Judicial Branch and DCF are engaging in developing an extensive training program to bring our compliance with concurrent planning requirements to a higher level.

The Judicial Branch and DCF just completed a review with Health & Human Services’ Child Welfare Bureau, in which we were required to demonstrate what efforts we were making to achieve the goal of moving a child to permanency within 18 months. We were criticized by federal reviewers for the failure of some courts to approve a plan of termination of parental rights and move the child toward adoption in accordance with federally mandated timelines.

A most serious issue is that this proposed bill throws a huge and unrealistic obstacle into the path of children having permanent homes. Essentially, an inadequate parent, although shown to be incapable of rehabilitation, can hold up the resolution of a child protection case for years simply by continuing to demand services already shown to be ineffective.

Having considered all these matters and my experience in the courts, I simply do not see the need for this bill to remedy any recurring problem. Currently, if DCF makes the wrong call or is acting in a vengeful manner, there are sufficient safeguards in place for parents who believe they have cooperated with specific steps and have made sufficient progress for reunification to occur. If the department files a plan other than reunification, the parent has the right to object and request an evidentiary hearing before the court approves the plan. They are entitled to submit documentary evidence and testimony during these hearings. The ultimate decision is made by the judge, not DCF. The law as it presently exists provides significant safeguards and discretion for the courts to ensure that where parents are on the right path to addressing their difficulties, their rights to their children will not be terminated.

Thank you for your time and consideration of my comments.
