



STATE OF CONNECTICUT DEPARTMENT OF CHILDREN AND FAMILIES

Public Hearing Testimony

Judiciary Committee

February 13, 2013



H.B. No. 5516 AN ACT CONCERNING THE REMOVAL OF INDIVIDUALS FROM THE STATE CHILD ABUSE AND NEGLECT REGISTRY

The Department of Children and Families **supports** H.B. No. 5516, An Act Concerning the Removal of Individuals from the State Child Abuse and Neglect Registry.

This bill establishes a removal procedure for individuals whose names have been placed on the Child Abuse and Neglect Registry (registry) by DCF for at least five years, to apply to have his or her name removed by showing good cause for removal. Under the proposal, the burden is on the applicant to prove: (1) the applicant has been rehabilitated; (2) the person has accepted personal responsibility for the acts or omissions that resulted in his or her being included in the registry; (3) a bona fide need to remove his or her name, and (4) at least two supporting letters from persons with knowledge of the applicant's successful rehabilitation. The bill also requires DCF to develop an application form. If DCF denies the initial request, the applicant is then entitled to appeal it further at an administrative hearing. Applicants who continue to be denied can reapply for removal, but must wait at least two years before doing so. Under current law, any applicant who has exhausted his or her administrative appeals can appeal to Superior Court.

It is important to note that this bill does not automatically remove anyone from the registry. Rather it establishes a due process right for individuals to demonstrate to DCF that they have rehabilitated themselves, and do not pose a risk to children. The Department would utilize the same process afforded individuals pursuant to the administrative hearings permitted under section 17a-101k of the general statutes and sections 17a-101k-1 through 17a-101k-16 of the Regulations of Connecticut State Agencies. That regulation includes specific criteria for placement of a person on the registry that could be easily adapted to apply to removal of a person from the registry. It is also important to note that the DCF registry is separate and distinct from the Connecticut Sex Offender Registry maintained by the Department of Emergency Services and Public Protection pursuant to sections 54-250 through 54-261 of the General Statutes. Placement on the DCF registry is a civil/administrative determination, while placement on the state's Sex Offender Registry results from a criminal conviction.

Last year, similar legislation passed the Senate and was voted on by the House at 11:59 PM on the last night of the 2012 regular session. While the Senate version of the bill was approved by the House, the House inadvertently approved a rejected Senate amendment so the vote was not in concurrence.

DCF Child Abuse and Neglect Registry

DCF regulations define the registry as the "confidential data file maintained as part of the department's computerized database, of persons who have been substantiated as individuals

responsible for an act or acts of child abuse or neglect and for whom the commissioner has made a determination, based upon a standard of reasonable cause, that the individual poses a risk to the health, safety or well-being of children."¹

Use of the Registry - Historical Perspective

Prior to May 1, 2000: All individuals who were "substantiated" as perpetrators of child abuse or neglect following a DCF investigation were placed on the registry. There were no notice or due process procedures in place prior to May 1, 2000.

From May 1, 2000 - October 1, 2005: DCF established a process to provide notice to individuals who were "substantiated" following an investigation of child abuse or neglect. The federal Child Abuse Prevention and Treatment Act² (CAPTA) required states to establish such a procedure if the information in the state's child abuse and neglect registry was being used for purposes of employment or other background checks.

Since October 1, 2005: Connecticut law was changed to require that in order for anyone to be placed on the registry, DCF must determine, following an agency investigation, that not only was the individual found to have abused or neglected a child, but also, poses a risk to child health, safety, or welfare³. The administrative appeal process was also delineated for the first time in statute⁴ and regulations⁵.

Legal Criteria

- 1) Determination of child abuse and neglect following an agency investigation - Reasonable cause standard.
- 2) Appeal at administrative hearing level - Fair preponderance of the evidence submitted at the hearing.

DCF Substantiation Appeal Statistics

Year	2005	2006	2007	2008	2009	2010	2011	2012
Number of substantiation hearings	216	482	649	613	496	398	370	369
Number of allegations addressed in those hearings *	458	1,079	1,498	1,346	1,135	936	865	895
Number of reversals of allegations	247	404	449	416	388	275	265	366
Percent reversals	54%	37%	30%	31%	34%	29%	31%	41%

* Each hearing may have several allegations addressed.

Note 1. The statistics are based on "closed date."

Note 2. Because 2005 was the first year the database was created and used; the numbers for that year may be less than complete.

¹ § 17a-101k-1 (14) of the Regulations of Connecticut State Agencies

² 42 U.S.C.A. § 5101 et. seq.

³ Public Act 05-207

⁴ § 17a-101k of the Connecticut General Statutes

⁵ §§ 17a-101l-1 through 17a-101k-16 of the Regulations of Connecticut State Agencies

H.B. No. 6342 AN ACT CONCERNING CRIMINAL PENALTIES FOR FAILURE TO REPORT CHILD ABUSE

The Department of Children and Families **supports** H.B. No. 6342, An Act Concerning Criminal Penalties for Failure to Report Child Abuse.

Section 1 of this bill would make the act of intentionally and unreasonably interfering with or preventing a mandated reporter from making of a report of suspected child abuse or neglect a crime under § 53-21, Injury or risk of injury to, or impairing morals of, children. Such offense would be a class D felony

Section 2 of the bill would make the penalty for mandated reporter failure to report suspected child abuse or neglect a class A misdemeanor. The current penalty is a fine in the range of \$500 to \$2,500.

Last year the DCF Careline received 45,748 reports of child abuse or neglect, and 27,354 of these reports were accepted for investigation. Approximately 70% of these reports come from mandated reporters, including: medical professionals; school officials; law enforcement; social workers; psychologists; clergy; day care staff; and others identified in § 17a-101.

The Department believes that most mandated reporters take their reporting responsibilities seriously and make reports to DCF in a timely fashion. However, we remain concerned that there are instances that mandated reporters are directed by superiors not to report. This was a problem in some school settings before the enactment of Public Act 11-93, which strengthened the reporting of child abuse and neglect by educational professionals, but non-reporting still remains a concern in some other professions.

DCF would also like to bring to your attention a similar bill that we have submitted. S.B. No. 821, An Act Concerning Responsibilities of Reporters of Child Abuse and Neglect has been raised by the Children Committee and it provides legal protection for mandated reporters of child abuse from retaliatory actions by their employers. We believe this language compliments H.B. No. 6342.