



CONNECTICUT LEGAL SERVICES

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TESTIMONY OF CONNECTICUT LEGAL SERVICES, INC. REGARDING RAISED BILL NO. 833, AN ACT ADDRESSING THE MEDICAL AND EDUCATIONAL NEEDS OF CHILDREN

Good afternoon Senator Bartolomeo, Representative Urban and members of the Select Committee on Children. My name is Catherine Williams and I am an attorney in the Children at Risk unit of Connecticut Legal Services, Inc. (CLS). The Children at Risk unit at CLS provides legal representation to low-income families to assist in obtaining appropriate educational and behavioral health services and, through our Child and Youth Advocacy Team, to represent children and parents in child protection proceedings. I have worked in the Children At Risk Unit for nearly 23 years.

Due to the fact that CLS represents parents and guardians in educational matters as well as both children and parents in child protection matters – we have a unique perspective and appreciation for striking a balance between preserving the rights of parents and guardians to make decisions about their children's health and education when they are the legal guardian, and the need for children to access necessary services as quickly as possible. As a result of that perspective, **I am here today to testify regarding our concerns with the far reaching scope of the provisions of SB 833. We oppose the language as currently written and urge this committee to modify the language to preserve parents' rights to make decisions regarding their children's education and health care, unless an emergency situation exists or the parent has failed to respond and it is in the best interest of the child for another decision-maker to step in.**

An order of temporary custody is intended to protect a child from immediate physical danger. It does not grant guardianship to the Department of Children and Families. That is because there has been no finding that the parents or guardians have neglected the child or youth. Therefore, the parents and guardians should be recognized as the people in the child or youth's life who know the minor best. DCF should not have the same power to make decisions as it has when it stands in the place of guardian as it does when a minor has been adjudicated abused or neglected and committed to DCF.

SB 833 basically should be considered in five separate parts. They are:

1. The obligation of care and control;
2. The authority to makes decisions regarding routine medical treatment;
3. The authority to make decisions regarding education and school counseling;
4. The authority to make decisions regarding emergency medical, psychological, psychiatric or surgical treatment; and



5. Such other rights and duties that the court having jurisdiction may order.

The first and last parts can be addressed quickly. The first - the obligation of care and control - is already given to DCF when the OTC is granted. Any person or agency in whom the custody is vested, takes that duty of care and control through DCF. The last – such other rights and duties that the court having jurisdiction may order – is something DCF may request anytime through a motion before the court. So, neither the first nor last provision requires new legislation.

The fourth part – the authority to make decisions regarding emergency medical, psychological, psychiatric or surgical treatment – is less controversial. After all, if a minor has appendicitis, or a minor mother is giving birth and requires an emergency cesarean section there is not enough time to either locate the parent or go to court get an order authorizing the needed medical treatment. Likewise, if a minor under an OTC is decompensating emotionally or threatening suicide, there is often not enough time either to seek the parents or guardians consent or go to court for an order of authorization. They are, however, major life decisions and to the extent there is time for DCF to obtain the agreement of its medical staff and medical experts outside the agency through its medical review board, this seems the best course of action. So, if DCF is given that authority, the legislation should at least, specifically include a requirement that DCF utilize those experts in line with its policies and any pertinent current state regulations.

The second part – the authority to make routine medical decisions – is unnecessary precisely because they are routine and not emergency or urgently needed services. If DCF is unable to obtain the consent of the parents or guardians, it can file a motion in court to address the issue. If the matter is urgent, DCF can file the motion as an emergency motion and it will be heard within a few days. Otherwise it will come up on the calendar in a week or so, which is not a very long period of time to wait in either case.

The third part – the authority to make decisions regarding education and school counseling – is more nuanced. The issues can run the gamut from being fairly urgent such as responding to a student being suspended or arrested at school to meeting with the teacher to discuss poor grades and school resources for counseling to making decisions regarding whether a student should remain in the school he or she was attending when taken into custody by DCF or move the school district where the student is placed while in DCF's care. However, state and federal law is extensive in this area regarding the protection of parental rights. Accordingly, new legislation risks being contrary to existing state and federal law and violating the many protections of parents' rights. At the same time, if a parent or guardian is not engaged and a student needs prompt advocacy regarding the student's educational needs or to address matters such as being bullied or harassed, then the student deserves to have someone who has the authority to come forward on the student's behalf before matters further deteriorate. Therefore, CLS recommends that requirements be included in SB 833 before enabling DCF to make decisions regarding education and school counseling. For example DCF might be required to give written notice of the issue to the parent or guardian, the counsel for those parents or legal guardians AND the Attorney for the Child, seeking the consent of the parents or guardians. There might also be a timeline requirement of a specified number of days in which parent or guardian must be provided the opportunity to consent or object. Alternatively, DCF might be required to file a motion establishing it has given notice and can go forward. We would welcome the opportunity to draft

specific language for the committee to consider. Thank you for consideration of our concerns.
Unless this proposed legislation is modified as requested, we urge you to oppose SB 833, An Act
Addressing the Medical and Educational Needs of Children.

