H.B. No. 5221 AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES.

The Department of Children and Families **supports** H.B. No. 5221, An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses.

As the state agency responsible for child welfare, behavioral health and juvenile justice for children, youth and families, DCF is well aware that adolescent brain development continues for young adults well into their mid-20's. Many of the individuals who have received lengthy sentences for crimes committed as a youth were involved with DCF at a young age through one or more of our service mandates. Many experienced trauma at a very young age. They are certainly capable of rehabilitation and have the ability to live productive lives.

STATE OF CONNECTICUT
DEPARTMENT OF CHILDREN AND FAMILIES

Public Hearing Testimony

Judiciary Committee
March 3, 2014

H.B. No. 5062 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. 5062, 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. The individual would be afforded the opportunity 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 <u>not</u> 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.

<u>DCF Child Abuse and Neglect Registry</u>

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 <u>and</u> 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]

---

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

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 Act[2] (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 welfare[3]. The administrative appeal process was also delineated for the first time in statute[4] and regulations[5].

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	2013
Number of substantiation hearings	216	482	649	613	496	398	370	369	278
Number of allegations addressed in those hearings *	458	1,079	1,498	1,346	1,135	936	865	895	681
Number of reversals of allegations	247	404	449	416	388	275	265	366	299
Percent reversals	54%	37%	30%	31%	34%	29%	31%	41%	43.9%

* 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.

---

[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