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Testimony of the Office of Protection and Advocacy for Persons with Disabilities
before the Public Health Committee

Presented by: James D. McGaughey
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March 5, 2014

Good morning, and thank you for the opportunity to comment on **Raised Bill 362, An Act Concerning Mandatory Reporting Of Abuse And Neglect Of Individuals With Autism Spectrum Disorder And The Definition Of Abuse.**

This proposal is intended to address a legitimate concern: there is currently no mechanism to require reporting or ensuring the investigation of suspected abuse and neglect of clients of DDS' relatively new Division of Autism Spectrum Services. In contrast, Connecticut has a well-established system for reporting and investigating allegations of abuse and neglect of people with Intellectual Disability, many of who receive services under DDS' auspices. It is our understanding that the impetus behind this proposal involves an actual situation where there was suspected abuse or neglect of a client of the Division of Autism Spectrum Disorder Services. So there is certainly more than a theoretical concern here. However, in creating a policy response, there are also a number of issues to consider.

When the legislature created the system for reporting, investigating and remediating abuse and neglect for adults with intellectual disability in 1984, there was considerable discussion about where the various components of that system should be housed. It was suggested by some that authority and responsibility for receiving reports from mandated reporters, investigating the allegations and evaluating the need for protective services interventions should all vest with DDS (then called DMR). Such a system would, in essence, have replicated the system for child abuse investigation and protective services remediation that existed, and still exists under the auspices of DCF (then called DCYS).

However, there were concerns and objections to that suggestion. At that time, a number of scandals involving longstanding patterns of abuse of clients in institutions and regional centers had surfaced, and it was clear that internal mechanisms for reporting and investigation had proven inadequate. In addition, the community-based service system was beginning to expand, and there were a number of concerns about whether the State agency that licensed and funded community agencies and placed clients into their programs would be perceived as sufficiently neutral to conduct truly objective investigations. Those concerns also applied to situations involving suspected abuse or neglect in family homes: was it good policy to authorize the same government agency to both investigate a family's conduct and to potentially take custody of, and

then have to find a placement and funding to provide residential and other services for intellectually disabled members of that family?

In studying these problems and dilemmas, it became apparent that the single most important component of successful systems for addressing abuse and neglect involved reporting – the willingness of people, many of whom are employed within service systems, to come forward and report what they had seen or otherwise had reason to suspect. History taught that simply having policies, or even statutes requiring “mandated reporters” to do this was not enough. In Connecticut there had long been requirements for people employed within the service system to report suspected abuse and neglect, but it was obvious that too many had turned their heads rather than do so. Experience in combating abuse in other systems indicated that there needed to be a way that people could report anonymously, and, just as importantly, there also needed to be assurances that once someone has mustered the courage to make a report, something would be done – that there would be a thorough, timely and objective investigation and that, if abuse or neglect was found, something would be done to stop it and prevent it from happening again. With the concurrence of various advocacy groups, the Legislature concluded that the best way to encourage reporting and to otherwise ensure that the new system would become an effective safeguard, was to assign primary responsibility for receiving all reports of suspected abuse and neglect, and ensuring high quality investigations and effective protective service interventions, to an independent entity. And so, the Abuse Investigation Division of OPA came into being. Much has changed during the thirty years since the abuse/neglect reporting and investigation system for people with intellectual disability was created. The configuration of the DDS service system has evolved in directions that were undreamed of in the 1980s, and we now see different, and in most ways much better possibilities for people with Intellectual Disability. In addition we have recently begun to develop much needed services for people who have Autism Spectrum Disorders. While much has also changed in the system for combatting abuse and neglect, in some ways we have been playing catch-up, trying to retro-fit a safeguarding system that was designed when most clients of the developmental service system lived in institutions or group homes with tools and capabilities to address the new realities of individual budgets and family support strategies. Yet, one theme has remained constant: the Legislature’s insistence on independent oversight as a foundation for our system of reporting and sorting out allegations of abuse and neglect, including, investigations into suspicious deaths.

The Bill before you recognizes a need – a very real need - to include clients of the DDS Division of Autism Spectrum Services within the ambit of Connecticut’s abuse/neglect reporting and investigation mechanism. Quite apart from that goal, it also recognizes that the circumstantial vulnerabilities that affect people may extend beyond our current definitions of “abuse” and “neglect”, to include situations where people may be subjected to unacceptable verbal, psychological and financial harassment, intimidation and exploitation. However, I have concerns about the mechanism that the Bill would establish, and how the new definition of

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“abuse” that it proposes would be operationalized in all the various contexts where investigations occur.

More specifically, I note that the central principle of reporting – potentially anonymously - to an independent oversight agency is not reflected in this proposal. This may operate to discourage reporting, potentially leaving someone in an abusive or neglectful situation. At a minimum, having two “front doors” for reporting will likely create confusion on the part of mandated reporters regarding where they should report particular allegations. I also note that there is no reference in the Bill to remedial actions (e.g. “protective services”) that should occur when an allegation of abuse or neglect is substantiated, or to ensuring that an individual who is perceived as a victim of abuse does, in fact, wish an investigation to go forward, consents to allowing access to records, etc. There are other foreseeable difficulties as well: What happens when an investigation leads to questions about circumstances that may exist beyond the boundaries of the service system, especially about conditions in family homes? Aside from the inherent problems in establishing objective criteria for determining when someone has been subjected to verbal or psychological abuse by family members, or by neighbors, relatives or family friends who may have been hired pursuant to an Individual Grant or some other individual budget or family support arrangement, there are also questions about the authority of the Department’s investigators to enter family homes in furtherance of such investigations.

Before establishing a separate, and arguably less effective system for responding to concerns about abuse and neglect of clients of the Division of Autism Spectrum Services, I would urge that an effort be made to reconcile the genuine need reflected in this proposal with the fundamental components of our existing system. Although our Office’s investigation resources are already stretched, we would be very willing to work with the Committee and the Department in furtherance of such an effort.

Thank you for your attention and interest. If there are any questions, I will try to answer them.