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STATE OF CONNECTICUT
OFFICE OF EARLY CHILDHOOD

Connecticut Office of
Early Childhood
David Wilkinson
Commissioner

Testimony of David Wilkinson, Commissioner
Office of Early Childhood
Before the Education Committee
Re: HB 5169 – An Act Implementing the Recommendations of the Office of Early Childhood
Monday, February 26, 2018

Good morning Representative Fleischmann, Senator Slossberg, Senator Boucher, Representative Lavielle and distinguished members of the Education Committee. I am David Wilkinson, Commissioner of the Office of Early Childhood. I am here today to testify on HB 5169 – An Act Implementing the Recommendations of the Office of Early Childhood, which sets forth statutory language proposed by the agency.

The Connecticut Office of Early Childhood advances a family-centered and results-driven approach to support young children and their families. OEC integrates early childhood services by providing a unified vision and institutional structure to support increased coordination between programs. Through our core programs, we support access to high-quality early care and education, evidence-based home visiting services for at-risk young families, health and safety assurances, and early intervention and parenting supports to help families address developmental challenges. These changes enable the agency to better support families with young children, within our existing appropriations, as we advance our mission.

Sections 1 and 2 would allow a child experiencing homelessness to immediately enroll in an early childhood setting by giving parents 90 days to submit health physical and immunization records. Families experiencing homelessness do not always have immediate access to these types of records. Their children are often very young, face a greater risk of experiencing trauma and need stability of child care during this difficult period. Families coming to Connecticut from Puerto Rico due to Hurricane Maria is a prime example why this 90-day grace period is needed.

Furthermore, the federal Child Care Development Fund (CCDF) new rules require that states must prioritize children whose families are experiencing homelessness for child care services, including providing families with reasonable time to comply with a state's immunization and health requirements. The Office of Early Childhood included a 90-day grace period provision in its current CCDF state plan.

The proposed language, as written in this bill, requires the OEC to adopt regulations to implement this policy change. I caution that the regulations review approval process is lengthy. Without putting this requirement into statute, effective July 1, 2018, Connecticut will be out of

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compliance with the federal CCDF requirement. We are willing to work with the committee on the current language in this bill.

Section 3 would ensure that child care is not unnecessarily disrupted when the provider makes legal ownership or operator changes. This proposal would remove the requirement that a licensing application waiver request must be made 60 days before a currently licensed person or entity changes the operator, ownership, or location of the licensed child care center or group child care home. The OEC prefers prior notification; however, in some cases (e.g. an operator changes from an individual to a corporation) an operator does not request a waiver prior to the change. Currently, if this happens, an operator must cease operation and submit a new licensing application before reopening. To avoid significantly disrupting care for families and children, this proposal would give the commissioner discretion to approve a request for an application waiver. In the absence of a waiver, OEC is bound by law to require that a provider cease operations, thereby causing children to lose care and introducing significant burden for parents, introducing significant child safety concerns.

This proposal is intended to reduce unnecessarily severe regulatory penalty and burden punishing administrative changes that do not influence quality of care. The waiver will enable OEC to avoid disruption in services for families and children, where law does not currently give us this option.

Section 4 includes three proposed statutory changes.

The first would allow a family child care provider to care for three additional children during the summer period as long as there is an approved assistant present. Currently, family child care providers are allowed to provide care for three additional school-age children during school vacation, but are not allowed to provide such care during summer vacation. This change would allow for continuity of care and the health and safety for these school-age children. This proposal would further enable the state's private child care system to address significant increases in child care needs in the summer, thereby increasing child safety and reducing family burden.

OEC endeavors to be responsive to the provider community, including our high-quality network of licensed child care providers who are on the front lines of child care, often at great personal sacrifice. We have recently conducted an in-depth constituent engagement and feedback process including provider surveys, engagement with provider associations, and multiple live customer feedback sessions across the state. Addressing this issue was a top request of home-based providers and response to broad parental feedback about lack of available, affordable care. We want to take steps wherever possible to responsibly reduce burden and increase economic stability for our private providers wherever it does not compromise quality or safety. In pairing an increase in children alongside a requirement of an approved assistant, this simple fix actually enhances quality and safety, while supporting the provider community.

The second would allow private schools to be license exempt only as long as the ages of the children served are covered by the accrediting body. Under current law, a private school accredited by an accrediting organization that focuses on the experiences of students in

elementary school and older may qualify for a licensure exemption and yet serve children in preschool and younger than preschool. The law would currently allow even a school only accredited at even higher ages, such as high school, to open and manage a license-exempt child care center. Such non-age appropriate accreditations are not adequate substitutes for licensure which addresses the health and safety for children of all ages.

The third would change the statutory definition of "relative" to align with the new federal Child Care Development Fund (CCDF) definition used for our Care 4 Kids child care subsidy programs. The federal law allows for grandparent, great grandparent, sibling, aunt, or uncle to be qualified care givers. Connecticut's current law also allows for nieces, nephews, and cousins. For matters of best practice for children and federal compliance, we put forward this amendment.

Section 5 changes the reference to School Readiness administrative funding to "at least 5 percent of the grant allocation." This change conforms to current payment policy and practice.

Section 6 would change police notification statutory language to codify OEC's current practice. The current statutory language requiring early care and education providers to individually provide contact information to the local or regional police is not practical and has not worked well. Through an agreement between the Office of Early Childhood, Department of Emergency Services and Public Protection (DESPP), and the United Way of Connecticut, a protocol has been developed and implemented that is more efficient and has proven successful. The United Way provides the necessary contact information directly to the state's mass notification system. Centers and homes are alerted in the case of local or statewide emergencies.

We have successfully collaborated with DESPP to implement the effective system that we are now using, and that agency concurs with legislative proposal. We want to thank Rep. Juan Candelaria for addressing this important public safety issue in 2015 with the passage of P.A. 15-161. The OEC worked with him on this legislation. Rep. Candelaria has indicated to us that he supports this proposed legislation that will build upon the intent of P.A. 15-161.

Section 7 would amend the fingerprint-based background check language requirement that passed in the 2017 budget implementer bill. The proposed language would remove the requirement that a relative – most typically a grandmother – be subjected to a federal, fingerprint-based, criminal background check in which a finger print sample is administered by local law enforcement and the background check run by the Federal Bureau of Investigation (FBI).

Child safety is our highest priority and in the unique case of relative providers, we are deploying alternative background check mechanisms that we believe are more effective than an FBI background check. While the federal government has no requirement whatsoever of background checks for relative providers, I am determined that OEC will institute the strongest possible background check measures to ensure child safety and wellbeing.

I have ordered, as a matter of agency policy, that the following three background checks be conducted on relative providers:

1. Child abuse registry check;
2. National sex offender registry check;
3. State criminal background check (using COLLECT).

We institute this triple background check policy for relative providers because we believe it is in the interest of child safety and wellbeing. Based on engagement with experts, we understand that it is the first two checks – a history of child maltreatment or sexual abuse – that is most associated with child risk. It is a logical and worthy question to ask why we might not also implement an FBI background check on relative providers in addition to the three background checks I just mentioned. It also our interest in child safety and wellbeing that suggests to us we may not want to require, by statute, an FBI background check for relative providers. Available evidence suggests that in the unique case of relative providers, requiring an FBI background check may not add value in terms of promoting safety. There also appear to be unintended consequences that suggesting that the FBI Background check policy may do more to compromise child safety and wellbeing than it does to advance those goals.

(As an aside, it is worth noting that in the absence of statutory requirement, OEC retains the authority to require an FBI check and would not hesitate to use it where relevant. Most notably, when a state COLLECT returns a hit, our policy is to then require and FBI background check.)

As a matter of context, the OEC has substantially reduced the population who may provide what has been historically known as family, friend and neighbor care to only family. Further, we have reduced applicable family members to the grandparents, siblings of parents, great-grandparent, aunts and uncles. Cousins and other extended family no longer provide care supported by Care 4 Kids.

Given the unquestionably vital goal behind background checks in child care – to ensure the child safety and wellbeing – it is important to closely consider the most effective means of achieving that goal.

We are developing a more detailed memorandum on this subject and any final conclusions we draw in terms of implementation will only be done be in consultation with Office of the Child Advocate, with the Department of Children and Families, and with this Committee. Until then, allow me to present some relevant questions and initial answers, that for now, leads us to the recommendation that the state not mandate an FBI background check for relative providers in statute:

1. **What additive information does the FBI background check provide?** Given the other three background checks we'll have in place – child abuse registry, national sex offender registry, and state criminal background check – the only additional information the FBI background check can potentially provide are crimes that occurred out of state that are not sex crimes. Nor does it provide us non-criminal child maltreatment or child welfare activity that occurred out of state.

2. **How likely is the FBI background check to surface past illegal activity?** Our best current information is a review of the last two years of random sample checks on 1/12th

of the relative provider population. Of 314 records, there were two FBI Background check hits. This represents a 0.6% hit rate of a fairly large representative sample. We are still analyzing, but we believe one or both of these relatives may have been identified by other mechanisms that are now becoming OEC policy.

3. **Is the policy denial of Care 4 Kids support effective at achieving its intended goal of stopping relative care provision?** FBI background check results typically take four months to be returned and cannot be effective during that waiting period, which is a long time in an infant's life. Beyond that, we suspect that in cases of relative care, parents may be likely to forgo Care 4 Kids subsidy in order to maintain care with a trusted relative. To the extent that occurs, the policy of denial does not achieve its core goal. In the two cases we have on record, upon revocation following the FBI finding, parents chose to end their Care 4 Kids subsidy, presumptively continuing with relative care. While we will continue to research, we have no example of a family member ending relative care and choosing an alternative provider. In other words, based on available information to date, the policy seems to fail at is primary goal.

4. **What are the unintended consequences of the policy?** We believe the FBI background requirement discourages a larger percentage of family members from enrolling in Care 4 Kids than the less than 1% who are flagged for criminal background. The $87 cost of a background check can be substantial for a low-income family and may be enough to discourage them from applying. On top of that, the logistical inconvenience and other complexities (whether insult at the notion a grandmother should be fingerprinted to care for her grandchild, other complex relations with law enforcement in low-income communities, or even an outstanding parking ticket) are factors that likely also discourage Care 4 Kids enrollment. Whether cost, inconvenience or other complexities, the creation of a barrier to Care 4 Kids for qualifying families presents unintended consequences that may negatively affect child safety. Most notably, in cases where the FBI check is a barrier to entry that prevents application and enrollment, it causes:
    a. **Loss of ability to conduct background checks for more relevant risk factors:** OEC will be unable to conduct background checks on the more relevant risk factors of child maltreatment and any sexual offender history.
    b. **Loss of ability to provide critical child safety training:** For the majority of families who have no illicit history, those who choose not to apply for Care 4 Kids because of the cost or complexity of the FBI check, will not receive the OEC safety training and other safety supports Care 4 Kids provides. This includes training on unsafe sleep, our biggest priority in child safety, and the most common cause of infant death, one that we've seen too much of in Connecticut.

In summary, our best current information shows that the additional value of the implementing the FBI background check – as a fourth background check beyond the three we will conduct – appears to be of minimal value in identifying relative providers we would not otherwise surface. When it does so, our policy action of revocation of the Care 4 Kids subsidy seems to fail at its aim of ending care. At the same time, the policy introduces unintended consequences that may reduce child safety, potentially preventing us from identifying more relevant risk factors and from providing vital safety trainings to families.

Finally, apart from child safety, there are child wellbeing implications as well. The mandated $87 fee is a non-negligible expense for low-income families who typically have little financial cushion and often live pay check to pay check. Requiring families to incur this expense is challenging to support, given our findings to date about the effectiveness of the policy.

At this time, we believe there is enough evidence to suggest that we should remove the statutory mandate requiring all relative providers undergo an FBI background check. We will study the matter more closely and with the feedback and engagement of the Child Advocate, DCF, and this Committee. We will also implement our new, triple background check alternative, which comes at no expense to families, and which we believe is more effective at preventing child risk.

At the time of passage of the statute we now propose for amendment, the legislature had not been made aware of the alternative background check approach we had selected, nor of our findings about the effectiveness of the FBI check policy among our relative provider population. I appreciate the opportunity to have shared these details with you now.

Thank you for your time and attention to these proposals. I am happy to answer your questions now and/or at a later date, as well as continue to work together to better serve our families with young children.