

Judiciary Committee
JOINT FAVORABLE REPORT

Bill No.: SB-1133

AN ACT LIMITING A FINDING OF NEGLECT OR RISK OF INJURY TO A CHILD

Title: IN CERTAIN CIRCUMSTANCES.

Vote Date: 3/31/2023

Vote Action: Joint Favorable Substitute

PH Date: 3/3/2023

File No.:

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SPONSORS OF BILL:

Judiciary Committee

REASONS FOR BILL:

Children are smarter and stronger than culture sometimes gives them credit for so this bill would find a way to give kids the independence they need to grow into capable, confident, and happy adults. This bill would prohibit a finding of neglect if the allegation of neglect is based solely on a child's participation in independent activities.

SUBSTITUTE LANGUAGE:

The substitute language adds clarifying language to determining whether a parent or guardian put the child at substantial risk; the language also clarifies the definition of substantial risk. It strikes the changes to neglect and amends DCF's guidelines for leaving children unattended.

RESPONSE FROM ADMINISTRATION/AGENCY:

Commissioner Vanessa Dorantes, Department of Children and Families (DCF): She testified that DCF worked with several legislators on similar legislation in 2019. The Department supports efforts to allow parents to appropriately promote independence in their children however, they have concerns regarding how this bill attempts to do that, specifically by redefining "neglect" which is used throughout the child welfare statutes. Under current law, a child may be found to be neglected if, for reasons other than poverty, the child is being permitted to live under conditions, circumstances, or associations injurious to the child's wellbeing. Under this bill, the state would instead need to demonstrate that the living conditions were an "obvious danger" to the child's health or well-being. The bill also establishes a carve out to the risk of injury criminal

statutes by stating that a parent cannot be convicted for risk of injury for permitting a child to engage in "independent activities". As written, it appears that a parent could, for example, leave a child of any age at home unattended for any length of time and not face risk of injury charges. Also, this bill fails to reference C.G.S. section 53-21a, which is the statute that pertains to leaving children unsupervised in places of public accommodation and motor vehicles. DCF worked in prior sessions to draft an amendment that would have provided parents the ability to argue reasonable judgment in considering the age, maturity, physical ability, and mental ability of their children to engage in unsupervised activities. That bill did not pass.

NATURE AND SOURCES OF SUPPORT:

Diane Redleaf, Legal Consultant, Let Grow: She testified in support of the bill on behalf of the national non-profit Let Grow. Let Grow advocates for legislation supporting the children's right to engage in age-appropriate independent activities. Let Grow has been involved in supporting "Reasonable Childhood Independence" in the four states where such legislation has been passed: Utah, Texas, Oklahoma, and Colorado. She believes it is time to specify that independent activities that are considered age-appropriate are not neglect, and neglect should be limited to instances where parents willfully ignore obvious dangers, not any time they take their eyes off their child.

Professor David Pimentel, Professor Law, University of Idaho College of Law: He testified in support of the bill, stating that despite the repeated pronouncements by the United States Supreme Court that the rights of parents to make essential decisions about the care and custody of their children are fundamental, the ability of parents to make decisions supporting their children's health and success is undermined by multiple forces. He explained that those forces include media and popular culture that encourage parents to believe that only constant adult supervision will keep their children safe, and practices of cultural shaming of parents who fail to adhere to an unattainable norm of hyper-vigilance. He believes vague statutes exacerbate the problem, enabling law enforcement and child protection authorities to condemn parental choices that fail to adhere to the new hyper-protective norms.

Paul Chill, Associate Dean for Academic Affairs and Clinical Professor of Law, University of Connecticut: He testified in support of the bill, stating that he believes it puts sensible constraints on DCF's ability to interfere with parents' reasonable exercise of discretion with respect to how much independence and autonomy to give their children. He understands that these are obviously highly individualized and contextualized decisions, on which reasonable minds may differ and reasonable people may weigh competing values differently. This bill aims to ensure that such differences do not give rise to a DCF investigation, much less removal of a child, unless an appropriately high bar is met. He believes that the outdated definition of "neglect" should be narrowed to prevent overreaching by DCF and law enforcement and serve the best interests of children.

Vanessa Hoffman Elias: She testified in support of this bill, stating that she raised her children in Connecticut, Utah, London and Zurich, Switzerland. She explained that Swiss children walk to and from school on their own starting in kindergarten and parents are not only discouraged from walking with their children but are

scolded for coddling them if they are escorted after the first month. She stated that school authorities were very firm about children continuing to walk and not succumbing to fear. Instead, they talked about strategies kids could use if that happened to them. She has witnessed in her own family and amongst friends in town the joy, increased confidence, and assurance this project has given both parents and children. This bill, of defining what neglect and risk of injury are not, will have a similar positive outcome in that parents will allow their children to be out of their 24/7 supervision and have some much-needed independence and joy.

Julie-Ann Toalston, BA, IBCLC: She testified in support of this bill, detailing an incident that happened to her in 2021. Her daughter (then seven and a half) walked home from her sister's house in our neighborhood when a suspicious crossing guard at a nearby school stopped her. The guard called the police, who detained me and my child, involved my sister, and then called DCF, who opened a case against me and did not close it until making multiple home visits. She believes this bill isn't about nostalgia but about giving kids freedom and parents freedom from punishment for letting their kids spread their wings.

Jennifer Messina, Student Legal Intern, Center for Children's Advocacy: She testified in support, stating that the public has an understanding that the state should not intervene in family life unless a parent's actions cause a serious risk of harm to the child. She explained that as the law stands today, however, it is possible for a parent to be labeled neglectful if the decision is made that a child is exposed to "circumstances or associations injurious to the well-being of the child. This may impact children's freedom to occupy public spaces and play independently if parents fear they will be accused of neglect for deciding their child is mature enough to engage in unsupervised, age-appropriate activities for reasonable periods of time. By tightening the definition of neglect to be more specific, families will have the option, if they so choose, to make decisions and provide their children with opportunities to grow their independence.

Cindy Prizio, Executive Director, One Standard of Justice: She testified in support of this bill, stating that sometimes in the urgency to legislate protections, laws intended to protect can create new harms. She believes this is particularly true when law enforcement and/or child protective services are mandated to come between a parent and their child. This bill reduces the collateral harm to children and their families by requiring that willful and reckless disregard of obvious danger be established before criminal neglect is established.

Chandra Ring, Wilton Youth Council: She testified in support of this bill, stating that research indicates that play allows children to achieve goals, solve problems, manage worry, grow from within, be self-confident, responsible, resilient, independent, and empathetic. Free play has declined over the last few decades and across the nation, we are seeing the detrimental effects, including rising rates of anxiety and depression in youth. She states that we are facing unprecedented levels of mental health disorders in our youth, and we must create an environment that safely fosters independence, skill building, and resilience.

Lenore Skenazy, President, Let Grow: She testified in support of the bill, stating that she founded the book, blog, and movement Free-Range Kids, which has grown into the non-profit Let Grow. She explained that her organization believes in safety such as helmets, seatbelts, and car seats but they don't believe kids need a security detail every time they leave the house. She believes a reasonable childhood independence bill would reassure Connecticut parents that giving their kids some old-fashioned freedom - by choice or economic necessity - will not be mistaken for neglect. She states that neglect is when you blatantly disregard your child's safety and welfare, not when you trust them to start becoming part of the world.

Rosalie Witt, Co-Chair, Wilton Free Play Task Force School Committee: She testified in support of the bill, stating that research on brain development teaches us that very early on, children need to be immersed in environments that 'provide active, self-directed learning and life experiences that promote social and emotional growth and development'. She stated that education and life happen within the home, community, and school and numerous experiences in life contribute to this process. One of those experiences for young children includes participating in unstructured play. She explained that our society has placed a high value on academic learning to promote children's intellect, and the unfortunate outcome of this emphasis has been a decline in play. Trusting our children to venture away from us within the very community we live in should be something we cherish.

Maureen Aisel, Education and Program Manager: She testified in support of this bill, stating that research has shown an increased rate of mental illness in children and adolescents, including anxiety, depression, and suicidal thoughts. She states that while the causes of these changes are still up for debate, these conditions correlate to societal changes in parenting, the rise of the internet and accessibility of the negative news cycle. She explains that societal culture has moved to a place of oversight and scheduling for children and by creating this culture of constant oversight, we deprive our kids of the ability to learn for themselves, to run into a problem and develop a solution without the guidance of adults. She states that the current bill is defined as what can't happen, instead it should be written in the way of what can. She believes that each child is on a different trajectory, and their development is not the same so we should appreciate the spectrum and give the authority back to parents, guardians, and their children to raise a productive adult.

Pete Gray, Research Professor in Psychology and Neuroscience, Boston College: He testified in support of this bill, stating that his research and that of others convinces him that there is a cause-effect relationship between the two trends: one being that we have, as a society, increasingly deprived children of freedom to play, roam and in other ways act independently of direct adult supervision and control and the other being the huge increases in rates of anxiety, depression, and even suicide among children, teens and young adults. He explained that children need independent activity to develop the mental qualities that allow them to cope successfully with the inevitable stressors of life. He believes the best judges of what is safe or not for any given child are the child's parents, who know that child and the neighborhood in which the child might play or explore.

Carla M. Horowitz, Lecturer, Yale Child Study Center, Psychology

Department & Education Studies Program: She testified in support of the bill,

stating that she has been an educator in Connecticut for 50 years, teaching Yale courses in child development and early childhood education. She has seen the erosion of childhood, as well as trust in children and the families that raise them. She recognizes that the world is a very different place that it was, but while society has changed dramatically, children, and what they need to develop as healthy, caring, intelligent, responsible human beings has not. She believes parents in Connecticut have been harassed and even charged with neglect or child abuse for allowing their child to walk two blocks home alone from school, stay home for a brief time while the parent runs a short errand, or gather on a playground with peers in their neighborhood with no grown-ups in attendance. She states that this gives children the message that the world is a scary place (more than it is) and disrupts the trust children need to be able to have in their parents as nurturers and authorities about their well-being. She furthered that it inhibits the process of separation and individuation so crucial to the development of capable young people who will have the confidence and experience to become the next generation of competent adults.

Kendall Marlowe, Professor at the Kempe Center for the Prevention and Treatment of Child Abuse and Neglect: They testified in support of the bill as the former Bureau Chief of the Illinois Department of Children and Family Services, where they were responsible for the work of over 3,000 workers and a hotline that received over 250,000 calls each year, and as someone who has been training hotline workers and case workers in Colorado for nine years. They explained that child welfare has always struggled to define child neglect, especially when it comes to children reported to be alone or unsupervised. Current law and guidelines in Connecticut are well-intentioned, but include vague, subjective language and unfounded assertions that youth of a particular age are inherently incapable of functioning without constant line-of-sight supervision. They state that there is no empirical evidence to support this. This approach can inadvertently harm children and families while it simultaneously undermines the child protection agency. They believe that without clear and reasonable standards, individual workers make seat-of-the-pants decisions, and quasi-criminal investigations of innocent kids and parents strike fear into the lives of families.

Barbara Rhue: She testified in support of the bill, stating that it's important for there to be statutory language that articulates what is not neglect, because the statutory definition of neglect, in part, is vague and over broad. She included language changes in her testimony, along with recommendations for the term risk of injury.

Jess Zaccagnino, ACLU: She testified in support of the bill, stating that it creates reasonable guardrails on DCF's ability to interfere with parents' reasonable exercise of discretion in terms of independence and autonomy granted to their children. These decisions are unique to each child. Current Connecticut law broadly and vaguely defines child neglect and has not been updated for nearly fifty years. She believes this bill begins to address this flaw and is a good first step to reverse course against the over policing of children, mothers, and families.

C. Marcella Kurowski: She testified in support of the bill because parents know how astute their children are and she agrees with the boundaries written out in lines 25-47.

Anonymous: Testimony without attribution was submitted in support of the bill. This individual recounted a situation where she was confronted after her children were stopped by police while walking to a nearby Dunkin Donuts. She stated that the police asked them to pick up their children at Broad St and that he didn't think it was appropriate for them to be walking alone. She stated that her children were 7 and 9 at the time and that her husband was arrested. A very friendly sergeant visited a few days later to talk about the charge and said that the law was open to interpretation, but that they were all set and didn't need to go to court. DCF required that they had home visits, where a worker told them that children their age should not be allowed to cross the street along as they were putting their children at risk of abduction. She believes there is a much larger topic of who is recruited into law enforcement and how they are trained and monitored. She understands that that obviously cannot be addressed here, but maybe in the meantime something can be done so fewer parents have to deal with this kind of abuse.

NATURE AND SOURCES OF OPPOSITION:

None expressed.

Reported by: George Marinelli

Date: April 11, 2023