
OLR Bill Analysis

sHB 5382 (as amended by House "A")*

AN ACT CONCERNING THE RECOMMENDATIONS OF THE OFFICE OF THE CHILD ADVOCATE.

SUMMARY

This bill makes several changes in statutes governing the Department of Children and Families (DCF).

Among other things, the bill:

1. generally requires, rather than allows, DCF to disclose records to any individual when the information concerns an incident of abuse or neglect that resulted in a child's or youth's death or near death (§§ 3-4);
2. requires DCF to include additional information in permanency plan documents (§§ 2 & 5-7);
3. allows the DCF commissioner to authorize a trial home visit of a DCF-committed child or youth before revoking the child's or youth's commitment order under certain conditions (§ 5);
4. creates additional notification requirements for permanency planning court proceedings (§ 6);
5. establishes certain requirements for a child's attorney or guardian ad litem (GAL) during a temporary custody or permanent guardianship proceeding (e.g., the court must confirm that they communicated regularly with the child) (§§ 7 & 8);
6. increases the State Advisory Council on Children and Families (SAC) membership, from 20 to 25, and expands the council's duties to include a quarterly review of certain DCF data and an

annual review of DCF's child protection responsibilities (§ 1);

7. creates two working groups, one to review data and information regarding the SAC's effectiveness in discharging its child protection responsibilities, and another to review the delivery of children's legal services in child protection proceedings (§§ 9 & 10); and
8. extends the (a) deadline under current law for the Title IX compliance toolkit working group's report and (b) date by which the State Department of Education (SDE) must distribute the toolkit (§§ 11 & 12).

Lastly, the bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2024, except the provisions establishing working groups are effective upon passage.

*House Amendment "A" replaces the underlying bill with similar provisions and in doing so it also (1) reduces, from quarterly to twice per year, the frequency with which the SAC must review DCF data on child safety and well-being and permanency plans (§ 1); (2) expands what may be included in DCF records disclosure (§§ 3 & 4); (3) expands the DCF commissioner's requirements when authorizing a trial home visit (§ 5); (4) changes the composition of the working group that the underlying bill creates to review the delivery of legal services to children in child protection proceedings (§ 10); and (5) extends the (a) deadline under current law for the Title IX compliance toolkit working group's report and (b) date by which SDE must distribute the toolkit (§§ 11 & 12).

§ 1 — STATE ADVISORY COUNCIL ON CHILDREN AND FAMILIES (SAC)

New Duties

The bill expands the SAC's duties by requiring it to conduct:

1. a review of DCF data on child safety, well-being, and permanency plans at least twice per year, and

2. an annual evaluation to determine the extent to which DCF is discharging its child protection responsibilities under state and federal law.

Council Priorities

The bill requires the SAC, in implementing these new duties, to prioritize the following:

1. protecting children from abuse and neglect by ensuring the state maintains an effective plan to prevent abuse and neglect and divert children from foster care;
2. reducing and eliminating preventable child fatalities and the unnecessary removal of children from their homes;
3. placing children in permanent and stable homes, including placing them with family members whenever possible, and successfully transitioning youth leaving the child welfare system from foster care;
4. reducing disparate outcomes between minority and other populations the child welfare system serves;
5. providing timely, appropriate, and adequate services to children and families to meet the children's physical and mental health and their developmental needs; and
6. collaborating among state agencies to further the council's duties.

Membership

The bill increases the council's membership from 20 to 25 by adding the following governor-appointed members:

1. three members of DCF youth advisory boards,
2. one member of an organization that advocates for the protection and advancement of children's legal rights, and
3. one member of an organization that advocates for policies to

promote child welfare.

As under existing law, the governor appoints 14 other members, and the remaining six members represent the regional advisory councils and are appointed one each by each council.

§§ 2 & 5-7 — PERMANENCY PLANNING

The bill requires DCF include specific information in certain documents or reports related to permanency planning. Under existing law, DCF must include certain information (1) in all documents entitled “Study in Support of Permanency Plan” or “Status Report for Permanency Planning Team,” and (2) when it submits a report to the court when a child or youth is placed in out-of-home care because of alleged abuse or neglect. Additionally, the bill requires DCF to file certain information with the court when it seeks to change an order of protective supervision.

The bill requires the permanency plan documents and the DCF reports to the court to include the following:

1. a description of (a) any new report alleging abuse or neglect related to the child or a child’s parent received through the DCF Telephone Careline, (b) whether the report resulted in an investigation, (c) the investigation findings, and (d) any new criminal charges pending against the parent; and
2. whether a child under age three was screened for developmental and social-emotional delays, according to the procedures for young children who are victims of abuse or neglect, and, if they were, whether they were referred to the Birth-to-Three program.

Permanency Plan Documents (§ 2)

The bill requires DCF to include additional information in all permanency plan documents, including whether the child was placed in a licensed home or the home of a relative or fictive kin caregiver eligible for licensure, and whether any applicable waivers have been obtained. By law, a “fictive kin caregiver” is a person who is age 21 or older and unrelated to a child by birth, adoption, or marriage but who

has an emotionally significant relation with the child amounting to a familial relationship (CGS § 17a-114).

Under the bill, these permanency planning documents must also include (1) the dates of administrative case review meetings and permanency team meetings and (2) whether the child has received services recommended by any of their medical, dental, developmental, and educational providers, and a description of any concerns the providers identify.

DCF Order of Protective Supervision (§ 7)

Under the bill, DCF must file documents with the court in any proceeding to review, modify, terminate, or extend an order of protective supervision. These documents must include the same health service disclosures as the permanency plan (see above).

DCF Out-of-Home Care Report (§ 6)

By law, DCF must submit to the court a list of items for its consideration regarding a child or youth placed in out-of-home care because of alleged abuse or neglect.

Under current law, this includes the child's or youth's medical, dental, developmental, educational, and treatment needs. To conform with the health service disclosure provisions above, the bill specifies that this information must include whether DCF has received or obtained the most recent information on the child's health needs from any relevant service providers. As under existing law, the information must include a timeline to ensure that these needs are met.

Additionally, this report must include the dates of administrative case review meetings and permanency team meetings.

Trial Home Visits (§ 5)

The bill allows the DCF commissioner to authorize a trial home visit of a DCF-committed child or youth in the home of his or her parent or guardian before revoking the child's or youth's commitment order if (1) the court approves a permanency plan that recommends reunifying the child with his or her parent or guardian, and (2) all parties agree.

The bill requires the DCF commissioner to:

1. provide the court and all parties written notice of her intent to authorize a trial home visit at least 15 days before the authorization; and
2. create a trial home visit plan that is provided to all parties and includes (a) announced and unannounced DCF home visits and (b) any services provided during the trial home visit that she deems necessary to promote the child's or youth's well-being.

Under the bill, the DCF commissioner must also file a motion for revocation of commitment within 30 days after the trial home visit begins, unless the commissioner removes the child or youth prior to that time pursuant to the department's responsibility and authority over children and youth committed to the commissioner's care and custody.

The bill requires an authorized trial home visit to remain in effect until the (1) commissioner removes the child or youth prior to the filing of a motion for revocation of commitment within 30 days after the visit begins, or (2) court grants a motion for revocation of commitment prior to approving a permanency plan.

Permanency Planning Court Proceeding Notifications (§ 6)

Existing law requires courts to notify a child's or youth's foster parents, prospective adoptive parents, and relative caregivers when it schedules a hearing concerning DCF's permanency plan or revoking its commitment.

The bill requires any notice provided to include the website address for any proceeding that will be conducted on a virtual platform. The court must confirm compliance with these notice requirements at the proceeding.

The bill also requires DCF to notify each attorney and any GAL for any child or youth of (1) any new report of abuse or neglect received through the DCF Telephone Careline relating to the child or youth or the child's or youth's parent or guardian, (2) whether the report resulted

in an investigation, and (3) the investigation results.

§§ 3 & 4 — DCF RECORDS DISCLOSURES

The bill generally requires, rather than allows, DCF to disclose records to any individual, upon his or her request, when the information concerns an incident of abuse or neglect that resulted in a child's or youth's death or near death. As under existing law, DCF may withhold disclosure if it interferes with a pending investigation. By law, under certain circumstances, DCF must disclose its records to certain entities without the subject's consent (e.g., to any individual or entity for the purposes of identifying resources to promote the permanency plan of a child or youth).

Under the bill, DCF may withhold disclosure of these records if the commissioner determines that it may result in harm to the safety or well-being of the child or youth who is the subject of the records, the child's or youth's family, or any individual who reported the child's or youth's abuse or neglect. Additionally, DCF must not make any disclosure prohibited by federal law, including Social Security Act provisions that provide funds that states can use to coordinate and provide child welfare services.

Current law allows DCF to disclose the abuse and neglect information in general terms. The bill specifies that the disclosure may only include the following:

1. the cause and circumstances of the fatality or near fatality,
2. the child's or youth's age and gender,
3. descriptions of any previous child abuse or neglect reports or investigations relevant to the child abuse or neglect that led to the fatality or near fatality,
4. any investigation findings, and
5. a description of any services provided and actions taken by the state on the child's or youth's behalf that are relevant to the child

abuse or neglect that led to the fatality or near fatality.

§§ 7 & 8 — ROLE OF ATTORNEY OR GAL DURING CHILD ABUSE AND NEGLECT CASES

Under current law, GALs are allowed to present information pertinent to the court's determination of the child's best interests. The bill instead requires GALs to be prepared to present at these determinations.

Under the bill, before issuing an order affecting the legal status or placement of a child in any temporary custody or permanent guardianship proceeding, the court must confirm that:

1. the child's attorney has obtained a clear understanding of the child's situation and needs, as described in the federal Child Abuse Prevention and Treatment Act;
2. the child's GAL has performed an independent investigation of the case and is prepared to present information pertinent to the court's determination of the child's best interests; and
3. any attorney or GAL for the child has (a) communicated regularly with the child, or the child's caregivers and service providers if the child is nonverbal, or (b) visited with the child frequently enough to be informed of the child's situation and needs.

§§ 9 & 10 — WORKING GROUPS

The bill creates two working groups: one to review data and information regarding the SAC's effectiveness in discharging its child protection responsibilities, and another to review the delivery of legal services to children in child protection proceedings in the state.

For both working groups, the bill requires appointing authorities to (1) make their initial appointments within 30 days after the bill's passage and (2) fill any vacancies.

The Children's Committee chairpersons must (1) serve as the chairpersons for both working groups and (2) schedule and hold the

first meetings within 60 days after the bill passes.

The bill requires the Children's Committee's administrative staff to serve as administrative staff on both working groups.

DCF Working Group (§ 9)

The bill establishes a 10-member working group to (1) review available data and information on DCF's effectiveness in discharging its child protection responsibilities, and (2) develop a plan to publicly disseminate the data and information on a regular basis. The working group must report its findings and recommendations to the Children's Committee by January 1, 2025. The working group terminates on that date or when it submits its report, whichever is later.

Under the bill, the data and information may include the following:

1. quantitative and qualitative information on the safety, permanency, and well-being of children served by DCF, aligned with federal Child and Family Service Review requirements;
2. quality assurance information regarding the assessment and management of risk and safety in child protective service cases, including cases open with DCF in ongoing treatment;
3. the availability, timeliness, and effectiveness of services for children and families, including developmental and educational needs;
4. information on differential response, including the outcomes for children served through state-funded diversion programs such as Community Support for Families and Integrated Family Care and Support;
5. disclosures regarding child fatalities consistent with the requirements of the federal Child Abuse Prevention and Treatment Act; and
6. a summary of findings, recommendations, and action steps arising from DCF's internal review of agency practice following

fatalities and near-fatalities of children where the department had an open case or a case closed within the previous year.

The DCF working group consists of the following members:

1. the Children's Committee chairpersons and ranking members;
2. the DCF commissioner or her designee;
3. the child advocate or her designee;
4. the SAC chairperson;
5. the chief public defender or her designee;
6. the Connecticut Alliance of Foster and Adoptive Families executive director or her designee; and
7. one member designated by the DCF commissioner, who represents an entity with expertise in data collection and analysis.

Working Group to Review the Delivery of Legal Services to Children in Child Protection Proceedings (§ 10)

The bill establishes a 16-member working group to review the delivery of legal services to children in child protection proceedings. The review must include models of legal service delivery previously used in the state or currently used in other states, and recommendations for improving the quality of legal representation provided to children in the state. The working group must report its findings and recommendations to the Children's Committee and the Chief Public Defender's Office by November 1, 2024. The working group terminates on that date or when it submits its report, whichever is later.

Membership and Appointments. The working group's 16 members must be appointed as follows:

1. two attorneys with expertise representing children in child welfare proceedings, appointed one each by the House speaker and Senate president pro tempore;

2. two attorneys with expertise representing parents in child welfare proceedings, appointed one each by the House and Senate majority leaders;
3. a representative of an organization dedicated to advancing children’s legal rights, appointed by the House minority leader;
4. a representative from an organization dedicated to improving children’s public policy, appointed by the Senate minority leader;
5. the Children’s Committee chairpersons and ranking members;
6. the chief public defender, child advocate, attorney general, or their designees;
7. the chief administrative judge of juvenile matters;
8. the DCF commissioner or her designee; and
9. the Connecticut Alliance of Foster and Adoptive Families executive director or her designee.

The bill specifies that the six legislative leaders and the Children’s Committee’s chairpersons and ranking members may appoint General Assembly members.

All initial appointments must be made within 30 days after the bill passes, and vacancies must be filled by the appointing authority.

Governance and Staffing. The Children’s Committee’s chairpersons must serve as the working group’s chairpersons and they must schedule the first meeting, which must be held within 60 days after the bill passes.

The Children’s Committee’s administrative staff must serve as the working group’s administrative staff.

§§ 11 & 12 — TITLE IX COMPLIANCE TOOLKIT

Working Group (§ 11)

PA 23-26 required the Commission on Women, Children, Seniors,

Equity and Opportunity (CWCSEO) to convene and lead a working group to identify or develop a Title IX compliance toolkit for use by local and regional boards of education, students, and students' parents and guardians. (Title IX of the federal Education Amendments of 1972 prohibits sex-based discrimination in education programs and activities that receive federal financial assistance.)

The bill extends the deadline by which the working group must submit the Title IX compliance toolkit to the Children's Committee by six months, from July 1, 2024, to January 1, 2025. Correspondingly, under the bill the task force must terminate on the later of the date it submits the toolkit or January 1, 2025, rather than July 1, 2024, as under current law.

Distribution to Boards of Education (§ 12)

The bill extends the deadline by which SDE must distribute the Title IX compliance toolkit to local and regional boards of education by six months, from October 1, 2024, to April 1, 2025.

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 17 Nay 0 (03/12/2024)