

Legislative History for Connecticut Act

PA 17-81

SB893

| | | |
|----------|---|-----------|
| House | 7517-7519, 7539-7542 | 7 |
| Senate | 2206-2209, 2276-2277 | 6 |
| Children | 1064-1065, 1091, 1092- 1097, 1124, 1229-1231, 1254-1255 | 15 |
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Transcripts from the Joint Standing Committee Public
Hearing(s) and/or Senate and House of Representatives
Proceedings

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2017**

**VOL.60
PART 18
7357 -7732**

jmf
HOUSE OF REPRESENTATIVES

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June 6, 2017

Calendar.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

The question before the Chamber is the placement of this item on the Consent Calendar. Do I hear or see objection? Is there objection of placement on consent? If not, so ordered. Thank you very much. (Gavel)

Would the Clerk please call Calendar 638?

CLERK:

On page 39, House Calendar 638, substitute
Senate Bill No. 893 - AN ACT CONCERNING REVISIONS TO
CERTAIN STATUTES REGARDING THE DEPARTMENT OF
CHILDREN AND FAMILIES; favorable report of the Joint
Standing Committee on Children.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

Representative Urban of the 41st District, you
have the floor, madam.

REP. URBAN (43RD):

Thank you, Mr. Speaker. I move acceptance of
the Joint Committee's favorable report and passage
of the bill in concurrence with the Senate.

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ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

The question is acceptance and passage in concurrence. Please proceed.

REP. URBAN (43RD):

Thank you, Mr. Speaker. This is in fact the agency technical bill and the purpose behind the bill is to increase the sharing of agent -- of information between DCF and other agencies and to improve agency efficiency. For example, it expands record released by DCF to attorneys. It expands record release by DCF to DPH, and it expands record releases by DCF for the purpose of assisting individuals in locating a missing family member. There are also issues here that improve efficiency of the agency. I move adoption.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

Thank you, Representative Urban.
Representative Zupkus of the 89th, you have the floor, madam.

REP. ZUPKUS (89TH):

Thank you, Mr. Speaker. This bill is a good

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bill. It does exactly what the good Representative said. It is some technical revisions for our child welfare statute. So, I encourage everyone to support it.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

Thank you, Representative Zupkus. Further on Senate Bill 893? Is there further comment on Senate Bill 893? Further on 893? Representative Urban.

REP. URBAN (43RD):

Mr. Speaker, if there is no objection, I move the bill be considered for the Consent Calendar.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

The motion before the Chamber is the placement of this item on the Consent Calendar. Is there objection to the motion? Is there objection? Seeing none. So ordered. (Gavel) Thank you.

Would the Clerk please call Calendar 639?

CLERK:

On page 39, House Calendar 639, substitute Senate Bill No. 895 - AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILY STANDARDS AND

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just so we have that correct.

REP. SAMPSON (80TH):

The bill no. is 7273.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

(Bill) 7273, Calendar 324.

REP. SAMPSON (80TH):

Yes. Thank you, Mr. Speaker.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

Thank you very much. That shall be removed from the Consent Calendar. So ordered. (Gavel) And we'll stand at ease for a minute or two.

Would the House please come back to order?

Would the House please come back to order? We are about to -- I'm about to request that the Clerk -- that he read the bills that are contained upon today's Consent Calendar. Mr. Clerk.

CLERK:

List of bills from Consent Calendar: Senate Bill 884 with Senate "A"; Senate Bill 826 with Senate "A"; House Bill 7278 with House "A"; Senate Bill 353 with Senate "A"; Senate Bill 968; Senate

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Bill 26; Senate Bill 930 with Senate "A"; Senate
Bill 911 with Senate "A"; Senate Bill 1020; Senate
Bill 983; Senate Bill 914; Senate Bill No. 4 with
Senate "A"; Senate Bill 941; Senate Bill 917 with
Senate "A"; Senate Bill 836 with Senate "A"; Senate
Bill 890; Senate Bill 893; Senate Bill 895 with
Senate "A"; Senate Bill 901 with Senate "A" and "B";
Senate Bill 904 with Senate "A".

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

Thank you, Mr. Clerk. Representative Albis.

REP. ALBIS (99TH):

Thank you, Mr. Speaker. Mr. Speaker, I move
passage of the bills on today's Consent Calendar.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

The question before the Chamber is passage of
the Consent Calendar. Would you remark on the
motion on the floor? The motion before the Chamber
is passage of the Consent Calendar. The motion
before the Chamber is adoption and passage of the
Consent Calendar. Further on this motion? If not,
staff and guests please retire to the Well of the

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House. Members take your seats. The machine will be opened. (Ringing)

CLERK:

The House of Representatives is voting by roll.

Members to the Chamber. The House of Representatives is voting by roll. Members to the Chamber.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

Have all members voted? If all the members have voted, please check the board to make sure your vote is properly cast. If all members have voted, the machine will be locked. Would the Clerk please take a tally? Would the Clerk please announce the tally?

CLERK:

Consent Calendar 1,

| | |
|-----------------------------|-----|
| Total number Voting | 150 |
| Necessary for Passage | 76 |
| Those voting Yea | 150 |
| Those voting Nay | 0 |
| Those absent and not Voting | 1 |

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ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

The Consent Calendar passes. (Gavel) Thank you
all.

Would the Clerk please call Calendar 324 again?

CLERK:

On page 13, House Calendar 324, substitute
House Bill No. 7273 - AN ACT CONCERNING LOCAL
EDUCATION AUTHORITIES; favorable report of the Joint
Standing Committee on Education.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

Representative Fleischmann, you have the floor.

REP. FLEISCHMANN (18TH):

Thank you, Mr. Speaker. I move acceptance of
the Joint Committee's favorable report and passage
of the bill.

ASSISTANT DEPUTY SPEAKER ALTOBELLO (82ND):

The question is acceptance and passage. Please
proceed.

REP. FLEISCHMANN (18TH):

Thank you, Mr. Speaker. I described this bill
before it went on the Consent Calendar. A good

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SENATE**

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Aye.

THE CHAIR:

All opposed? I guess not. I guess it's been adopted. Senator Gerrantana, any further on the bill?

SENATOR GERRANTANA (6TH):

Well, if there's no objections, Madam President, I would ask that this be placed on consent.

THE CHAIR:

See no objections. So ordered ma'am. Mr. Clerk.

CLERK:

On page 3, calendar 127, substitute for S.B. No. 893, AN ACT CONCERNING REVISIONS TO CERTAIN STATUTES REGARDING THE DEPARTMENT OF CHILDREN AND FAMILIES.

THE CHAIR:

Senator Moore.

SENATOR MOORE (22ND):

Good evening Madam President. I hope it's not because I'm a little shorter today.

THE CHAIR:

(Laughter) We talk about vertically challenged people.

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SENATOR MOORE (22ND):

Madam President, I move for acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

Motion is on acceptance and passage. Will you remark ma'am?

SENATOR MOORE (22ND):

Yes, thank you. So, this is to require or permit the Department of Children and Families to disclose certain records to certain individuals and entities with the consent of the persons who are the subject of such records. It would permit such departments to charge a fee for the disclosure of certain records, exceeding 100 pages in length, eliminate such department subsidy review board and replace such board with provision of hearing in accordance with the chapter 54 of the general statues. Madam President, it further requires such commissioner to adopt regulations setting forth standards for the licensing of child care facilities and child placing agencies.

THE CHAIR:

Senator Moore, I apologize, did you ask for passage and acceptance?

SENATOR MOORE (22ND):

Yes I did Madam President.

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THE CHAIR:

Thank you. Will you remark further on the bill?
Will you remark further on the bill? Senator Suzio.

SENATOR SUZIO (13TH):

We're having trouble getting your attention tonight
madam.

THE CHAIR:

Hello.

SENATOR SUZIO (13TH):

Start jumping up and down, thank you Madam
President.

THE CHAIR:

It's hard for me to look to the right, sir go ahead
[laughter].

SENATOR SUZIO (13TH):

Well, let's say it's only 9:30 Madam President
[laughter]. I rise in support of the bill. I want
to say that it has been a pleasure to work with
Senator Moore and Representative Diana Urban on the
Children's Committee where this bill originated.

This bill did receive the unanimous vote of the
Children's Committee, and I strongly urge my
colleagues to support it, and I want to thank
Senator Moore for all the work she did on it, and

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the collaboration that we had together. Thank you
Madam President.

THE CHAIR:

Thank you. Will you remark further on the bill?
Will you remark further on the bill? Senator Moore.

SENATOR MOORE (22ND):

Thank you Madam President. If there's no objection,
I ask that it be placed on a consent calendar.

THE CHAIR:

Seeing no objection, so ordered. Mr. Clerk.

CLERK:

On page 6, calendar 186, substitute for S.B. No. 317, AN ACT CONCERNING A PILOT PROGRAM ALLOWING EMERGENCY MEDICAL SERVICES PERSONNEL TO PROVIDE COMMUNITY-BASED HEALTHCARE SERVICES. There are amendments.

THE CHAIR:

The senate will stand at ease at this time. The
Senate will come back to order. Senator Gerrantana.

SENATOR GERRANTANA (6TH):

Thank you Madam President. I had to get my
paperwork in order.

THE CHAIR:

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| | |
|-----------------------|---|
| Those Voting Nay | 0 |
| Absent and Not Voting | 0 |

THE CHAIR:

The bill passes. (Gavel) Senator Duff.

SENATOR DUFF (25TH):

Thank you Madam President. I ask for suspension to immediately transmit to the House of Representatives please.

THE CHAIR:

So ordered sir.

SENATOR DUFF (25TH):

Thank you Madam President. If the clerk can now call the items on the consent calendar followed by a vote.

THE CHAIR:

Mr. Clerk.

CLERK:

Page 1 calendar 67, S.B. No. 754 page 3, calendar 127, S.B. No. 893 page 6, calendar 186, S.B. No. 317, also on page 6, calendar 177, S.B. No. 890, on page 9. Calendar 250, S.B. No. 903, page 12. Calendar 294, S.B. No. 904, on page 17. Calendar 357, S.B. No. 981, also on page 17. Calendar 347, H.B. No. 5452. On page 31, calendar 464, S.B. No.

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1051. On page 45, calendar 109, S.B. No. 895, and
on page 48, calendar 290, S.B. No. 602.

THE CHAIR:

At this time Mr. Clerk, will you call for a roll
call vote on consent calendar 2. The machine is
open.

CLERK:

Immediate roll call has been ordered in the Senate
on consent calendar No. 2. Immediate roll call has
been ordered in the Senate.

CHAIR:

Have all members voted? Have all members voted?
The machine will be called. Mr. Clerk will call the
tally please.

CLERK:

On consent calendar No. 2:

| | |
|-----------------------|----|
| Total Number Voting | 36 |
| Those Voting Yea | 36 |
| Those Voting Nay | 0 |
| Absent and Not Voting | 0 |

THE CHAIR:

Consent calendar passed. Senator Duff. Do you have
any good news for us sir?

SENATOR DUFF (25TH):

**JOINT
STANDING
COMMITTEE
HEARINGS**

**CHILDREN
PART 3
898 – 1309**

2017

PUBLIC HEARING

just if you'd introduce yourself and your team that'd be great. Good morning

MR. WILLIAMS: Good morning. Good morning, Senator Suzio and the absence of Senator Moore, Representative Urban, Representative Zupkus, and the members of Committee on Children. As mentioned, I'm Michael Williams. I'm the Deputy Commissioner of Operations for the Department of Children and Families and here with me this morning I have Kristina Stevens, who is the Central Office Administrator over the Division of Clinical Consultation and Community Supports, and also Barbara Claire, who is the Legal Director for the Department of Children and Families, and they are here to assist me in answering any questions you may have after this brief testimony is given regarding our position on the Bills that are being presented today for Public Hearing.

And actually we're gonna speak on five of the Bills today. Submitted to you already have been our lengthy testimony and I hope I would, in my summary, clarify our positions clearly that we're taking on each of these five Bills.

SB 894

SB 895

HB 7112

HB 7113

So the first Bill is Senate Bill #893. It's AN ACT CONCERNING REVISIONS TO CERTAIN STATUTES REGARDING THE DEPARTMENT OF CHILDREN AND FAMILIES. The Department thanks the Committee for Raising this Bill which obviously we support. This Bill makes a number of revisions to various DCF Statutes identified by the DCF Legal Division and some of these modifications are to address statutory or operational deficiencies while others are proposed

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for the purpose of efficiency. A Section by Section summary is included in our written testimony.

Next, we would offer comments regarding Senate Bill 894, which is AN ACT ESTABLISHING STATE OVERSIGHT COUNCIL ON CHILDREN AND FAMILIES. This Bill modifies the structure of the existing State Advisory Council known as a SAC, creating a new State Oversight Council on Children and Families. It expands the membership and changes many of the appointing authorities and the Department is generally supportive of utilizing the framework of the existing State Advisory Council as the mechanism to provide and enhance the level of oversight over DCF.

We do, however, suggest that the reporting requirements contained in Section D of -- Subsection D of Section 1, lines 82 through 103, be made a one-time rather than an annual report. Many of the concepts addressed in this Subsection reflect issues currently in the forefront but do not lend themselves to annual reviews and currently DCF has over 30 separate annual reports required by Statute and we are concerned about resources required to produce such reports but we would welcome the opportunity to discuss with the Committee other reporting and data requirements that may be appropriate to include in an annual report which reflect key priorities of the Department and the General Assembly and are appropriate for inclusion in the Children's Report Card.

Third Bill we'd like to address is Senate Bill 895, which is AN ACT CONCERNING THE DEPARTMENT OF

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COMMITTEE ON CHILDREN
PUBLIC HEARING

February 28, 2017
10:00 A.M.

public again. Welcome to today's Hearing,
Christine.

MS. RAPILLO: Thank you, good morning, Senator
Suzio, Senator Moore, Representative Zupkus, members
of the Children's Committee. I'm Christine Rapillo.
I'm the Director of Delinquency Defense and Child
Protection for the Office of the Chief Public
Defender and I'm here today to speak on three Bills.
I'm gonna go in reverse order.

SB894
SB893

The first Bill is Raised Bill 895, AN ACT CONCERNING
THE DEPARTMENT OF CHILDREN AND FAMILIES STANDARDS OF
REPORTING REQUIREMENTS. The Office of the Chief
Public Defender supports this in toto. We believe
the establishment of standardized protocols are
always helpful to provide a baseline of practice for
child abuse investigations and specifically with
regard to the lawyers who represent the children and
the parents. We believe protocols help them
determine whether what's going on is either in the
child's best interest or whether parents are being
given due process.

It sounds from the testimony from the Department
today that they have protocols in place and I would
actually look forward to working with them to try to
train our people on what's going on so they have a
better insight as they represent the children and
the parents.

With regard to the reports to the Court, we strongly
support reports related to child placement issues
and ongoing reports. We consider some of the things
in the proposal child wellbeing indicators and it's

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important that those are brought to the attention of the Court. You know, we've been in front of this Committee a few times as has DCF and the Office of the Child Advocate regarding cases where things didn't go well and where either tragic or near-tragic results came about.

I think all of us involved in this work try very hard to maintain good quality care. DCF is a huge agency. We have almost 200 lawyers out doing this work so as you can understand, you know, quality assurance in individual cases is a difficult thing and having reports to the Court with a Court with jurisdiction has eyes on this and can sort of call everybody into account. We think it's a very important step forward.

Regarding Raised Bill 894, AN ACT ESTABLISHING THE STATE OVERSIGHT COUNCIL ON CHILDREN AND FAMILIES, we support this. We thank the Committee for including us on this. I mean, again, we're trying to make people more aware of our role in the child protection system. It's, again, certainly not the first thing people think about when they think the Public Defender's Office but given that lawyers who work for us or contract with us represent all children and all indigent families in the child protection system, we think that we could be a valuable partner on that particular group.

Finally, regarding Raised Bill 893, AN ACT CONCERNING REVISIONS TO CERTAIN STATUTES REGARDING THE DEPARTMENT OF CHILDREN AND FAMILIES, the Office of Chief Public Defender is opposed to Section 1 of this Bill, which proposes to amend 17a-28 which is

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the Confidentiality Statute for DCF records, specifically, Subsection 4, which is lines 109 to 114. We believe this is problematic because it guts to some extent the confidentiality protections of Juvenile Court so what this gives is an attorney representing a client in Superior Court for juvenile matters or the Family Division access to DCF records. So we're concerned about that for all of our practice areas. We believe because it's not -- and this gives people access to records without notice or consent of the subject of the record.

So first with regard to the work that we do representing children accused in juvenile delinquency offenses, our concern is that an attorney representing a client could certainly be the State's Attorney or the Juvenile Prosecutor and at this point they don't get full access to DCF records. There needs to be a release just as if one of my children got arrested for something and they had educational records, mental health records, I would have to release that or there would have to be a court proceeding and it would be very unusual, in fact, where records like that could be turned over to the prosecutor. I think this has the potential of putting children who are committed to DCF at a disadvantage to a child who's still in the care of biological parents because this sort of as a right without notice or an opportunity to be heard gives other attorneys access including the State's Attorney.

With regard to the child protection cases, we have similar concerns. I think there's much more information sharing that goes on in the child

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protection cases. We've recently been trying to work with our lawyers and work with DCF to encourage people to sign cross-releases to make the exchange of records easier but I think you're still, by giving attorneys access to records other than their client's records, you're potentially putting somebody really at a great disadvantage and, you know, these all anticipate that there's a court proceeding going on and we believe it would be much more appropriate for -- if there's a need to share records that the subject of that record get Noticed and at least have an opportunity to object to it.

With regard to these things being released in Family Court, we really think that this could be potentially problematic because it's any lawyer representing a client so, you know, I'm getting divorced, my husband's divorce lawyer could go in and access anything, could access my DCF records and although it says they can't disclose it there's really no penalty for disclosing it. So I think that the language is just too broad.

Now my understanding is that this is designed to address a real issue the Department has of trying to be timely in giving records over to people. I know they have a backlog. I know they've been working extremely hard to clear out the backlog and I think what this does is it means they don't need to redact and there doesn't need to be as much process when records are being discussed but this idea that people have confidentiality in their DCF records is an important consideration. You want people to cooperate. You want people to let DCF have access to things that will help them provide good care to

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/jm

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COMMITTEE ON CHILDREN 10:00 A.M.
PUBLIC HEARING

people and people do that and, you know, we tell them in Court it's gonna be confidential and there's this long Statute that protects you. I just think the language in Subsection 4 goes much too far. We would be happy to work with the Department to try to come up with something narrower and certainly I'd be happy to answer any questions that the Committee has.

SENATOR SUZIO (13TH): Well thank you very much for your testimony. I can understand and appreciate some of the issues that you're raising and definitely I would say that we welcome your input in trying to reconcile these competing interests, if you will, between confidentiality and, you know, our ultimate goal of protecting children and doing what's in their best interest.

MS. RAPILLO: I really think a court process, although it will take longer, really provides the most due process for people and gives people an opportunity to have what are otherwise protected records to object in some manner because these are all situations where there's a court process going on so there's a Judge involved that ought to be able to balance what should be given out and what shouldn't be given out.

SENATOR SUZIO (13TH): Well, in a few minutes we're gonna be hearing testimony from the Office of Child Advocate and I'd be definitely interested to hear what they have to say about your suggestions and your concerns. Do any of my fellow Committee members have any questions? Representative Linehan.

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REP. LINEHAN (103RD): Thank you, Mr. Chair. I just have a really quick question. You started to talk about what would happen if these records were accessed in a divorce case. Can you just go a little bit further and explain something where you would see it as really problematic for the child if these records were to be accessed by someone's attorney?

MS. RAPILLO: So if there's a custody battle going on and sometimes there's interest in seeing the DCF cases and there's actually statutory authority that if there's a child welfare case going on where those cases can be combined and either the Family Court or the Superior Court for juvenile matters can take jurisdiction of both the custody issue and the child protection issue so the problem that I would see is, you know, these are very -- custody issues, divorce cases, very emotional. I think even more so sometimes than child welfare or delinquency cases. So there's the -- if a lawyer for my partner can go in and access my DCF records there's really no limit on how those could be used. Although this says you're not supposed to use them, there's no penalty. So that's the concern. It's a due process issue for the parents and you just sort of don't have any idea what could happen with the information.

REP. LINEHAN (103RD): By saying what could happen with the information, do you mean further dissemination of the information or do you mean using it for someone else's personal agenda and gain?

MS. RAPILLO: I think it could be used in a Family Court proceeding not for the purposes that it was prepared at DCF. I mean there's notes from caseworkers, they give opinions, and I'm not saying that in every situation the Family Court and the attorneys representing parties in a Family Court proceeding shouldn't somehow get access to that because I think it happens now, they go through that process. But there needs to be a process but what this does is it says without the consent of the person it can be turned over to an attorney representing a client in Family Court. I think it needs to be more narrowly tailored so in a situation where there's a concern like when there's an ongoing child protection case there would be a process for the Court and the parties to discuss the turning over of those records, but what this does is it gives them really a right to go in and get it without consent of the holder of the records. I think it's more of an issue for the parents but it's still an important issue they have due process rights for the proceeding as well.

REP. LINEHAN (103RD): Okay, thank you very much.

SENATOR SUZIO (13TH): Are there any further questions from anybody in the Committee? If not, thank you very much, Christina. We will now go to our first public speaker and I do want to say, reiterate, that I know that people can be anxious when they're speaking in front of a Committee and I know that Representative Urban, I think, has offered to bring a pet companion to future Hearings [laughter] to make people feel more at ease.

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I think that's all I put into my written testimony today. I'm happy to answer any questions.

SENATOR SUZIO (13TH): Well thank you very much for your testimony. I did not see in your written testimony any reference to Raised Bill 893. Am I overlooking that and do you have any comments about that -- the Public Defender had actually given us some testimony earlier today about some concerns regarding confidentiality and the disclosure. Would you care to comment on that?

MS. EAGAN: So I was listening to the Public Defender and I took a look at the language as well and I support the intent of the information sharing. I did agree, looking at the language, was probably written a little overly broad but I think it's probably fixable maybe in the redrafting, so I agree with the comments from the Public Defender.

HB7111
SENATOR SUZIO (13TH): Well we invite collaboration to work out the wording that's acceptable by everybody on that. Certainly intent is there and we want to make sure it's effective and doesn't step on anybody's rights of confidentiality, that's for sure. When you were commenting about the restraint and seclusion you mentioned "underreporting". I just want to make sure I understand, were you talking about underreporting of events of restraint and seclusion or were you talking about suspected abuse cases that there are mandatory reports and not reporting that or was it both, if you could explain.

MS. EAGAN: Both. A good question, Senator. So we were talking about both really, and that

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COMMITTEE ON CHILDREN 10:00 A.M.
PUBLIC HEARING

reporting the matter to the Department of Children and Families, and also as Representative Urban pointed out, the unique frailty of an infant who is substance exposed and how their presentation once returned home actually increased their risk of being abused or neglected.

I think these are some of the hardest and trickiest cases. I also think that one of the challenges in creating discretion about how such cases are reported, though I give merit to and acknowledge all of the issues brought up by the Department is that oftentimes we find that the more discretion points there are in terms of reporting can have an unintended consequence of disproportionate reporting of minority families so that's something that I know the Department is very mindful of in its racial justice work and is, I think, overlaps with some of how to best standardize reporting regarding substance exposed infants.

So I think it is an issue that is worthy of urgent attention of this Committee. I'd like to keep looking at the language and talking with our colleagues about what the best solution is for Connecticut.

SENATOR SUZIO (13TH): Thank you, Sarah. Before I turn it over to my Co-Chair for her questions, Senator Moore, my staff has reminded me that because time is of the essence here I've been inviting people to submit their suggestions in terms of wording on some of this legislation. We absolutely must have it by tomorrow given the time deadlines we're on so if you are going to work together with

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us and with one another we'll need that in the next 24 hours. Now I'll turn it over to my Co-Chair, Senator Moore.

HB 7111

SENATOR MOORE (22ND): Thank you. Thank you for your testimony and your wisdom and your knowledge. It's encouraging to know that you have your arms around this and you understand the needs of the children. I have some just questions about restraint. So are there spaces that are sanctioned as a place that you can seclude a child?

MS. EAGAN: That's an excellent question, Senator Moore. One of the things we found when we did our investigation -- in 2015 we published our report, also available on our website, is that different programs, educational programs, utilized all different kinds of spaces, some that I found to be more therapeutic for restraint or seclusion, meaning the restraint has to take place where it's gonna take place, right, so that's an emergency intervention, but in terms of seclusion we found one place that has a therapeutic program that used sort of -- they didn't really use a space with a door. It was a sort of carve-out in the wall that was fuzzy and they tried to, you know, would sort of corral a youth into that general space until the youth had de-escalated with time and intervention.

But we saw other places in a public school program that was designed for children with special needs, something that I think fairly can be characterized as a concrete cell. I saw utility closets. I saw a padded cell. By state regulations, spaces are supposed to be developmentally appropriate. Now

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with new regulations they're supposed to be where a child can see out but yet we did a site visit at a program in this past year for a program for children with special needs where it was -- where the seclusion space had a door with no window where the child -- had a peephole only for someone to see in but for no one to see out and we immediately brought that to the attention of the administrators and also to the State Department of Education and it rectified it, but I think what we were seeing is people do it differently and the state is very limited in its capacity to know, oversee, and correct because of the resources that it has. So I think it's fair to say that we've had significant concerns when we did our investigation about the spaces that are being used to seclude children.

SENATOR MOORE (22ND): I think maybe we should be thinking about if you're gonna have seclusion where we allow them to seclude the child. And then the other is I see you have some suggestions. I didn't -- I looked through the testimony and I see you say therapeutic timeout but I don't see it in the legislation.

MS. EAGAN: So there is -- so the legis -- the proposed Bill does have language about timeout. I think the purpose is to distinguish between timeout and seclusion. I do have some suggested proposed language on what will constitute a therapeutic timeout that our office worked on with multiple partners and consultants and I can send that today. Today, that I have ready to go to the Committee. I think it's an important distinction. I actually think the definition of seclusion could be tightened



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COMMITTEE ON CHILDREN
FEBRUARY 28, 2017

**RAISED BILL 893, AN ACT CONCERNING REVISIONS TO CERTAIN
STATUTES REGARDING THE DEPARTMENT OF CHILDREN AND
FAMILIES**

The Office of Chief Public Defender is opposed to Section 1 of *Raised Bill 893, An Act Concerning Revisions to Certain States Regarding the Department of Children and Families*, which proposes to amend C.G.S. 17a-28, which are the confidentiality statutes for DCF records. This proposal would allow any lawyer representing any party in a juvenile or family matter to access anyone's DCF records without their consent. The only protection accorded to the subject of the record is that the lawyers not redisclose the records to anyone else. There is no penalty for disclosure however.

This is very problematic as it guts the confidentiality protections of the juvenile court. As written, this proposal would give prosecutors in juvenile matters full access to a delinquency defendant's DCF records. That would include whatever educational mental health, medical or other information was contained in the file. Children who are committed to DCF would be at an unfair disadvantage compared to children who were not involved with DCF, since the juvenile prosecutor would not have access to those types of records if a child was in the custody of his or her parents or guardians. DCF records often contain statements that children make to social workers prior to the appointment of counsel. A blanket release of the file to the prosecutor is a violation of the child's right to counsel and their right to avoid self incrimination.

In child protection matters in the juvenile court, cross releases are required before a parent's records can be shared with the other parent's counsel. In the event that a parent does not sign the releases, parties have access to a court process where the judge determines if the records need to be released in the best interest of the child. This process is appropriate, as it encourages cooperation with the Department. Parents need to be confident that the information they release is used only by DCF to help them reunite with their children.

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Allowing unfettered access by all the lawyers in the case will only cause parents to be cautious about signing releases.

Under this proposal, lawyers in a divorce case could gain access to the opponent party's DCF records without their permission and without any review by a court. Lawyers in family matters currently do not have access to opponent party's records. There would need to be a release or a court order after a showing of some type of compelling need and an in camera review by the court. These processes are necessary to ensure the fairness of the court proceedings. DCF records contain medical, mental health and education records that are protected by both state and federal law. A lawyer for a party to a family matter should not be able to access this information without some type of notice and procedural due process being given to the subject of the records. Unfettered access almost ensures that this information will be used as a weapon against a former partner in a custody battle. The Office of Chief Public Defender strongly urges this committee to reject this proposal.

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