

Voices for Vermont's Children



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Respectfully submitted to the House Committee on Human Services

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Voices has participated in a national research and policy discussion regarding child abuse and neglect registry reform this past year. Even among seemingly like-minded advocates, our work produced moments of tension - these are difficult conversations. Some advocates would like to abolish the registry completely, while others are focused on ways to narrow its scope and add due process and transparency to the registry process. As Voices learned about the registry in Vermont - its original intent, current practice, and all the inconsistencies - we began to see this reform as a critical component of our collective work. It is important to name the system that we strive to have - one that enhances wellbeing, rather than one that adds unnecessary barriers to economic stability.

Many of our child protection structures were set up with the best intentions in reaction to harm, but a few decades post implementation, many of these structures are being reconsidered. Our strongest, most effective systems are adaptive. There are certain types of harm that are more likely to be transferable to the general population than others, Voices agrees that adding a second layer of consideration allows for the substantiation process to be responsive to its many uses, while narrowing the scope of individuals who appear on the registry.

The testimony that you heard yesterday illustrates the due process concerns with our current practice. Voices believes that attention to due process is a necessary part of this reform.

This committee has already heard testimony about the impetus for this reform. In considering next steps, it is important to continuously ground ourselves in what the registry is and is not intended to do. Vermont's child abuse and neglect registry was designed to minimize opportunities for repeat harm. As a structure, the registry functions separately from the response to a child who was harmed. Voices sees the policies governing the state's response to harm that has occurred to a particular child as another area worthy of review.

This committee has heard from impacted people who report an outsized response to the needs within their family. Voices has also heard of people who have shared that DCF has not engaged when children are at imminent risk or continued harm. A parent who has been substantiated for abuse can be placed on the registry - effectively serving to increase stress within the home without taking any substantial steps to protect the child within that home. In doing this, the

state's policies place a greater value on other children's safety than the child that is most at risk of harm.

Vermont's registry was established in 1992, our practice cast a wide net with broad parameters for inclusion, because the registry was primarily used internally in order to place kids who had already been removed for abuse and neglect. When looking to place kids who experienced trauma, it made sense to be as cautious as possible. However, as the use of the registry expanded, the process for determining who was captured remained the same. Given this new, more expansive context, re-examining our approach to the registry to ensure that we continue to minimize opportunities for harm towards children and youth, while also limiting undue burdens to those named on the registry is necessary.

Vermont is not alone in this. The current iteration of registries as a tool to screen for employment has caused unintended and [disproportionate harm](#). Congress links states' access to critical funding that supports children and families (e.g., childcare) to employment screenings that rely on the registry. Yet, states have a great deal of discretion about the process and standards for its registry. Therefore, the design and application of child abuse registries vary significantly across states.

Registries create a false sense of security for employers. Registries don't predict risk of harm, they simply share a slice of some people's background. When someone seeks employment in Vermont and a registry check is required:

- Often the checks are only done within Vermont (which excludes a great deal of background information from other states - including traveling employees who often serve the most vulnerable)
- When they are required from other states, we don't consider the wildly different practices within those states, making the registry checks very inequitable
- Anyone who was eligible for the registry before 1992 would not be captured in Vermont's registry
- Voices knows of an individual who should be on the registry based on current standards, yet all background checks have come up clean thus far - it is unclear how accurate they are, or whether there are effective systems in place to ensure this.
- If the state makes these changes, there will be inequities for folks who are currently on the registry. Long term the state could consider an expedited expungement or automatic expungement process for people who meet certain criteria. Note - this would take staff resources.

With all of these contradictions and uncertainties, it seems clear that the tool we are using to name past harm may not be accurate enough to justify its impact on employment for some. Creating a more precise tool is a wise step in this reform process.

As you have already unearthed - the registry and substantiation discussions are important and filled with emotion. The stakes are high - in all directions. Voices appreciates the way the

Department has approached the registry and substantiation reform effort to date. DCF FSD held difficult conversations, created space for many perspectives, and worked at the speed of trust. Momentum for reform is growing - and the details matter.

Voices understands that harm to children within a household does not always pose a risk of repeat harm in an employment site. There are many clear examples of this from folks with lived experience. It is difficult to know what offenses are transferable to a professional setting and in what context. Voices fully understands the desire to be cautious, and yet - we also know that erring on the side of over representation can also harm children, youth, and families.

These reforms are missing a critical piece, which shouldn't hold up this process, but should be considered going forward. What are the best ways to reduce harm to children? One clear solution is to reduce stress. We know that economic stress does not bring out the best in people. It is also helpful to have safety plans for substance use and periods of instability. We need to continue to ask ourselves - *How are we investing in our families? How can we move Families First along? How can we all take responsibility for the safety of our children?*

We know that people who pose significant risk in employment settings are sometimes allowed to leave [one employment setting and gain employment somewhere else](#). This is a very sensitive topic as due process does matter. However, Voices has heard of other examples where significant harm has been identified and employees leave quietly, without treatment or accountability, with letters of recommendation, enabling the harm to continue elsewhere. This is a problem worth addressing. We also know from Woodside, that it can be difficult to hold folks accountable for their actions. If our goal is child safety- this is the problem we need to address.

After a great deal of effort there is a desire to begin taking actionable steps forward - and yet, there is still much work to do. Without seeing the draft language of the combined bill, it is difficult to make specific recommendations. However:

- The secondary considerations for substantiation matter and will take time to develop. Stakeholder engagement is critical. A possible path forward would be to ask the Department to share their secondary factors before they are implemented with the OCYFA, this Committee, and Senate Health and Welfare. The legislature can opt to codify them in statute if that is what is deemed best (or ask for shifts in the leg process) - or they can remain in rules and be monitored by advocates.
- Equally as important, task the Department with sharing the process of coming to their recommendations. Who was involved (stakeholders including impacted people), what was the process of finalizing the factors, who was a part of the decision making process. Were there areas of disagreement? If yes, name them. Explain the reasoning for the choices made.

Some of the other critical conversations that are connected to registry reform include:

- Revisiting definitions of child abuse
- The benefits and harm of mandated reporting structures
- The broadness of neglect
- The conflation of poverty and neglect
- Institutional and structural neglect (failing to meet standards to eliminate child poverty)
- Determining who can be a perpetrator
- Ensuring automatic expunction if juveniles are placed on the registry
- Particular attention to juveniles who are minor parents
- Particular attention to individuals identified with sexually problematic behaviors
- Due process
- Notification - which should be guaranteed and better documented
- Reconsider which employment and volunteer opportunities need a child abuse registry check
- Address when and whether registry checks should occur: For any potential contact with a child? Or would checks be better linked to situations involving direct contact and care of a child or children, particularly if unsupervised?
- Limit the trauma for child victims and witnesses
- Hearings or appeals that occur outside other court proceedings (e.g., criminal or family) need procedural safeguards for child witnesses
- Too little publicly facing data is reported. What data exists is insufficient to illustrate demographics of those on the registry.
- Are there any validated tools that predict risk over time? Could we invest in creating one?
- Funding for a CCWIS system will help immeasurably on many fronts, including this one!

Voices celebrates the work that brought this reform to the legislature and we also know that there is much more to do. Trust is built when decision making is transparent. There are many thoughtful leaders within DCF and in Vermont who have the ability to shape the system in a way that holds us all accountable to child well being. **It is critical to give our state employees the space within their schedules to reflect and name when they think change is necessary.**