

*House Human Services
H.215 Office of Child Advocate
Christine Johnson Testimony
DCF Family Services
1.28.2019*

We understand from the testimony provided today that this bill may evolve. I'm happy to come back at a future time if that is helpful to provide thoughts on another version of the bill. DCF does not support the bill as introduced because of the following concerns:

- Concerns include funding the staffing and data infrastructure contemplated by the bill.
- Also concerned about overlapping oversight that already exists.
- Concerns about the language in the bill that gives authority for the child protection advocate to "investigate and resolve complaints" and how that could interfere with pending legal matters/appeals.

We strongly support the need for oversight.

- We understand that many other states have a child protection advocate, though it is not clear whether those states also have as robust of a defender general/legal representation system for child protection matters as does Vermont.
- These cases are very complicated.
- They involve subjective decision-making.

There are a few other important things that are happening now, which could impact decisions related to our child protection system:

- CHINS Reform Report and Recommendations
- UVM study that is looking into Vermont's custody entry rate.

The current child protection system includes other oversight in many different forms:

- Case plan reviews occur every 6 months for children in custody facilitated by an outside independent consultant (see FSD Policy 122) i. These reviews are required by federal law and include child, parents, attorneys, childcare providers,

educational surrogate, school personnel and others (see endnote below for more detail).

- Two-tiered appeal system for substantiations of alleged child abuse/neglect by the Commissioner’s Registry Review Unit and the Human Services Board, followed by a chance for appeal to the Vermont Supreme Court.
- Court review and appeal system for children who are alleged to be children in need of care or supervision (CHINS), with attorney representation by the Defender General’s office for each parent as well as a separate attorney representing the child involved in the CHINS proceeding in addition to a guardian ad litem assigned to the child.

❖ We want to note that we have concerns about the language in the bill that gives authority for the child protection advocate to “investigate and resolve complaints” and how that could interfere with pending legal matters/appeals

- Vermont Citizens Advisory Board, which is an empaneled board that may receive and review confidential DCF child protection information.
- Children’s Bureau, the federal agency out of the Administration for Children and Families which conducts periodic quality reviews of state child welfare system, with resulting program improvement plans.

Also reviewing our child protection system:

- Child Protection Oversight Committee, which reviews the system as a whole
- CHINS Reform Group provided a report and recommendations
- UVM Study on Vermont’s entry rate
- Justice for Children Task Force, formed out of the judiciary as a collaborative, interdisciplinary effort bringing together those who are in charge of decisions impacting outcomes for children who are not in the custody or guardianship of a parent

The Vermont Citizens Advisory Board (VCAB) performs much of the oversight function that is contemplated in this bill. VCAB is a requirement of the federal Child Abuse Prevention and Treatment Act (CAPTA). It is a citizen board (with DCF employees serving as “staff” to the board) that includes members who have expertise in the prevention and treatment of child abuse and neglect. VCAB functions include:

- examining the policies, procedures, and practices of state and local child protection agencies and evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with CAPTA;
- examining specific cases, including child fatalities and near fatalities;
- providing public outreach and comment to assess the impact of current procedures and practices upon children and families in the community and to evaluate the extent to which agencies are effectively discharging their child protection responsibilities;
- recommending improvements to the child protection system; and
- preparing an annual report.

The State has specific responsibilities in responding to requests and recommendations by VCAB, which include:

- providing members with access to confidential case information;
- providing staff assistance to the board (DCF staff are not members of VCAB); and
- submitting a written response no later than 6 months after receiving a recommendation that describes whether or how the State will incorporate VCAB recommendations.

On an individual and systemic level, there also already exists a fair amount of oversight:

- Opportunity for certain individuals to ask for a formal review of decisions made concerning case plans goals, plan for family time and placement decisions for children in custody (FSD Policies 123 and 94)ii. These reviews may be requested by parents or guardians, child/youth (and his/her attorney), guardian ad litem and foster parent. The review includes a district director level review followed by a commissioner review.
- For individuals, there is already a robust complaint and grievance system in place (CSTS).
- If a reporter of alleged child abuse/neglect is dissatisfied with the decision by DCF whether to open a child safety intervention, a reporter may call CIES and speak to the worker. If dissatisfied, they talk to a supervisor and they can escalate those concerns further if needed. It is not uncommon for them to come into the Commissioner's Office and for us to get involved at this level.

There are opportunities presented by the concept of an Office of Child Advocate if the focus is on the system as a whole and not just on the Family Services Division. It will be important that

the Judiciary, Office of the Juvenile Defender, State's Attorneys, Designated Agency system, Agency of Education, schools, communities, Parent Child Centers, and other State departments such as DOC, DMH, DAIL are included as partners.

***** ENDNOTES with more information if you need it *****

ⁱ **FSD Policy 122** - sets forth the independent 6 month review of cases with kids in custody (required by federal law)

<http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/122.pdf>

Title IV-E of the Social Security Act requires a case plan review meeting be facilitated by an impartial party, who is not responsible for case management or delivery of services to the child or parents. In addition, the following persons must be invited to participate:

- Child;
- Child's attorney;
- Parent's attorney;
- Guardian ad litem;
- Mental health provider;
- Both parents (unless parental rights have been terminated), and/or legal guardians;
- Social worker;
- School personnel, including special education administrator (if child has an IEP);
- Substitute care provider;
- Educational Surrogate;
- Child care provider; and
- Transitional Services Coordinator (for youth age sixteen and older).

Consideration should be given to inviting other people the child/youth or parents find supportive. Social workers and supervisors should use discretion in determining if other participants will be helpful to the process. For a case plan review meeting prior to a permanency hearing, invitations will also be sent to the state's attorney and any other party to the original disposition hearing, except for any parent whose rights have been terminated.

ⁱⁱ **FSD Policy 123** – formal review for case plan decisions.

<http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/123.pdf>

This review is available to parent or guardian, child/youth (and his/her attorney), guardian ad litem and foster parents. Case plan decisions that may be subject to review include:

- living arrangements for a child/youth;
- the plan for family time between a child and family members; and/or
- the long-term goal for a child/youth (e.g., returning home or being adopted)

Under Policy 123, a level 1 review is available with the district director, followed by a commissioner's level review. **Criteria for review decision is the best interests of the child.**

FSD Policy 94 - opportunity for foster families with whom a child was placed to request a formal review of DCF's change of placement decisions.

<http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/94.pdf>

The review includes a face to face meeting with the district director and chance for a second level review by the commissioner or designee of the commissioner (commissioner's decision is final).