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Vermont Office of the Child, Youth, and Family Advocate (“OCYFA”)

H. 661 Testimony, House Committee on Human Services

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Central Principles and Questions

- We are concerned that the current registry system in Vermont neither sufficiently protects children from harm nor adequately ensures due process for those accused of abuse or neglect. To what extent will a new law remedy or perpetuate this tension?
- Registries, in general, disproportionately affect women, people of color, people with disabilities, and other marginalized communities. To what extent will a reform address these inequities?
- Children suffer harm through systems that overly restrict their caretakers’ ability to work, obtain licenses, and engage in community. To what extent do we understand this harm?
- DCF’s data systems create inequity within the current substantiation system and also make system reform challenging. What steps are necessary, both within the legislative process and outside it, to create a better system?

Recommendations

- Statutorily require individualized substantiation determinations and institute a statutory secondary level of consideration that only places people on the registry who pose an ongoing risk to children or youth.
- “Preponderance” standard is an improvement on “substantial evidence” standard and creates consistency with appeals process, but significant problems remain: Vermont’s broad definitions of abuse and neglect (33 V.S.A. § 4912), data system deficiencies, due process concerns. [Study](#): “An increase in the standard of proof resulted in a 14% decrease in the likelihood of substantiation, primarily among those cases that are harder to prove. (There was no change among cases that are easier to prove.)”
- Before initiating requirements like video recordings and unredacted records, ensure participation of, and sufficient protections for, vulnerable populations.
- Hear testimony on effect of new law on out-of-home, and child, alleged perpetrators.
- Make the new law retroactive and allow for auto-expungement.
- Strongly enhance notice and due process requirements for substantiated Vermonters.
- Require data collection for substantiations for, at minimum, race, disability, and gender.
- Bring in key implementation stakeholders immediately, to include at minimum digital implementation experts, DCF FSWs, and DCF supervisors.