

Voices  
for Vermont's Children



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Respectfully submitted to the Senate Committee on Health and Welfare

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Thank you for the opportunity to testify today. Considering where we are in this process, Voices would like to start by clearly acknowledging that we support this bill. It goes without saying that the Family Services Division (FSD) of the Department of Children and Families (DCF) is tasked with incredibly difficult work. Even at its best, this work happens within the context of conflict and pain. The tools available to DCF to create safety for children can be life changing and the utmost care and respect is needed to ensure that their work is implemented with transparency and accountability.

This bill is a step in the right direction. The FSD employees I have encountered came to their field because they wanted to help kids. When we ask them to substantiate an eleven year old (which is still possible within this bill), or put a single mom who is overcoming remarkable odds and truly loves her children and shows up every day for them on the registry - knowing that it will impact her current employment and could be the thing that tips the scales and brings her children into state care - we create what is now being called a moral injury. When these "injuries" stack up, we lose staff - staff we desperately need to retain.

Voices appreciates this opportunity to reflect broadly as we sometimes get lost in the details and forget to acknowledge why this work matters.

### **Process**

H.661 is before you - in part, because DCF took a risk. They took the opportunity to reflect, to lean into criticism from the Parent Representation Center, and to see feedback as an opportunity for growth. Putting aside one's ego can be tricky for all of us - but when you are engaged in work that can literally impact the life or death of a child - it is understandable to defend what you have been trained into. Believing in the process is essential to coming to work everyday. Yet - we also know that we are our best when we are adaptable. And this bill represents that.

When we ask our state employees to do difficult things, it is critical that they can point to a sound process. This avoids over responding and it also is necessary for appropriate responses to stand the test of the courts. We also need to balance the desire for consistent practice with our humanity and empower employees to be brave at the right moment - both systemically and when working with individual children.

Voices appreciates that individuals who have been substantiated as a child have a carve out in this bill and look forward to being a part of the next step of the process to examine if and when we want to substantiate youth within our state. We understand that this bill is one step in a very long process. We also understand the frustration when the lack of capacity slows down important work. As we wrap up this legislative session, we must name the importance of the Governor identifying the needs of his Departments in his recommended budget and we ask the Legislature to be as creative as possible in asking DCF what they would need to accomplish our collective goals without negatively impacting other areas of work.

The bill before you came from the House with seemingly unanimous support - but it isn't simple. 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, its expanded scope, current practice, and all the inconsistencies that are present - we came 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, and we see removing unnecessary barriers to economic stability as a necessary step forward.

Voices sees substantiation reform and registry reform as two distinct, yet intertwined topics. While Voices is not aware of a validated tool that predicts risk of harm over time, there is general agreement that certain types of harm 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.

## **Registry**

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, it is important to re-examine 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.

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 can 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 test their accuracy.
- 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.

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. 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.

To that end - the access to records portion of this bill gives me pause. We don't suggest making changes at this moment, but it is worth coming back to in the future. Voices hopes to be a part of continued conversations about balancing the rights of the accused with the safety of the child. In domestic violence cases, the moment of disclosure and the time immediately after a disclosure can be the most risky. Expanding unredacted access to records when there is still an open investigation shouldn't be done lightly. Identifying the child/children most at risk of harm and creating protections around them, while simultaneously creating a fair and transparent process for the person accused of doing harm is complex. Voices will lean into our partners who are experts in this field and will continue to work with the Department to offer opportunities to understand this delicate balance better.

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 also 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 understand and address and Voices looks forward to future conversations to address this issue.

## **Substantiation**

*To establish the existence or truth of by proof or competent evidence; to verify; as, to substantiate a charge or allegation; to substantiate a declaration.*

DCF might want to consider the language that it has used, including when and how it uses "substantiation" and "evidence". One challenge that we have heard from the community is the evidentiary gap between the Department and the Courts. This can cause confusion and more importantly - if the evidence (or information) that DCF gathers is not permissible in court, the entire case could be dismissed as a result. Voices recommends increasing communication

between DCF, the Judiciary, DCF's training partnership and the Judicial College. As DCF develops their new training modules, we ask them to be inclusive of all of the stakeholders they engaged in this process and to allow for flexibility as policies and practice evolves. This is one of our top priorities at Voices and we will continue to bring opportunities for reform to you in the years ahead.

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.

**Voices would like to conclude this testimony where we began by acknowledging that it is critical to give our state employees the space within their schedules to reflect and name when they think change is necessary. We appreciate the legislative process and the ability to agree and disagree respectfully in hopes of better outcomes for children.**