



STATE OF CONNECTICUT
EXECUTIVE CHAMBERS

DANNEL P. MALLOY
GOVERNOR

GOVERNOR'S OFFICE

June 13, 2018

BILL NOTIFICATION
RELEASE No. 16

For Immediate Release

Governor Dannel P. Malloy vetoed the following legislation of the 2018 Regular Session on June 13:

SB 188 AN ACT ESTABLISHING THE STATE OVERSIGHT COUNCIL ON CHILDREN
PA 18-140 AND FAMILIES.

This bill had an effective date of July 1, 2018. The Governor vetoed the bill.

***Scroll down to read the Governor's veto message.*

As of this date, the Governor has signed one hundred and sixty-three (163) bills, vetoed five (5) bills, and left unsigned one (1) bill of the 2018 Regular Session.



Dannel P. Malloy

GOVERNOR
STATE OF CONNECTICUT

June 13, 2018

The Honorable Denise W. Merrill
Secretary of State
30 Trinity Street
Hartford, CT 06106

Dear Madam Secretary:

I hereby return, without my signature, Senate Bill 188, *An Act Establishing the State Oversight Council on Children and Families*. This bill reconstitutes the State Advisory Council on Children and Families (DCF) and renames it the State Oversight Council on Children and Families ("Oversight Council"). The Oversight Council replaces an existing executive branch advisory council with a body that is legislative and whose responsibilities are to oversee the operations of an executive branch agency. The bill also mandates that the Oversight Council monitor the agency budget track and evaluate all DCF policies and progress, including the requirement to implement the recommendations of the Oversight Council.

An earlier version of this legislation, negotiated and agreed to between my administration and committee leadership of the Committee on Children, struck an appropriate balance between legislative oversight and executive branch authority. However, the bill as amended by Senate Amendment A, represents a significant intrusion by the legislative branch into the functioning and administrative authority of an executive branch agency in violation of the separation of powers doctrine. *Massameno v. Statewide Grievance Committee*, 234 Conn. 539, 551-52, 663 A.2d 317 (1995).

The doctrine recognizes the roles of each branch of government and that executive, legislative and judicial authority are not mutually exclusive, and of necessity overlap with each other. The reach into executive branch functions evidenced by this bill "...threaten[s] to undermine, either the independence and integrity of one of the branches ... or the ability of each to fulfill its mission in checking the others so as to preserve the interdependence without which independence can become domination." (Emphasis in original.) L. Tribe, *American Constitutional Law* (2d Ed.1988) § 2-2, p. 18.

Senate Bill 188 represents significant interference with the orderly conduct of the essential functions of the executive branch. See *Bartholomew v. Schweizer*, 217 Conn. 671, 676, 587 A.2d 1014 (1991). First, the bill establishes a legislatively controlled council that would govern the subject matter of child welfare in Connecticut. Second, the bill does not merely provide a report as to the adherence to DCF policy or statutory requirements, nor the progress of DCF in meeting its mission, but rather it micro-manages the operations of DCF. The Council is mandated to monitor, track and evaluate the policies and practices of DCF with respect to safety, permanency and well-being outcomes for children and youths, including, but not limited to, policies and practices of the department that span its entire child welfare responsibility. Third, the bill, as it was amended, infringes on the executive branch authority

and responsibility to make and execute decisions with respect to operational and fiscal management thereby violating the independence of the executive branch. The Council is to make recommendations on the agency budget to the Appropriations and Children's Committees, as well as ensure that DCF has implemented, as required, its recommendations.

DCF has hundreds of policies promulgated and revised frequently to conform to legislation at the federal level and national best practices; it would be difficult for an Oversight Council comprised of appointed volunteers to be informed and responsive to the degree needed to fulfill the obligations established by this legislation. Nor will it yield any benefit to the vulnerable children and families served by the Department.

Finally, the Department of Children and Families is subject to some the most exhaustive forms of oversight compared to any other state agency, including by the Office of the Child Advocate. There is also legislative oversight by the General Assembly's Committee on Children as well as 34 legislatively mandated reports. In addition, as Connecticut's child welfare agency, DCF has extensive federal oversight by the U.S. Administration for Children and Families.¹ And since 1991, the Department has been under federal court oversight pursuant to the *Juan F.* Consent Decree; however, this administration has seen significant improvement and recognition of DCF's progress in moving Connecticut closer to ending this oversight. On December 13, 2017, the U.S. District Court approved a new agreement to the *Juan F.* Consent Decree that will ensure adequate staffing and streamline outcome measures that make ending the 26-year-litigation far more achievable in the near future with an exit plan that recognizes the significant progress made by the department (reducing 23 measures actively measured to 6). The new plan also will allow DCF to focus efforts on case planning and better meeting the physical and mental health needs of children in the care of the Department. This bill would divert the Department's focus by requiring it to respond to significant information and data requests to comply with the Oversight Council mandate, including *any* information and data the council deems relevant.

I would urge the proponents to adopt a revised version of this bill, consistent with the draft agreed upon, that would avoid violating the separation of powers that insures a check and balance against overreach by the co-equal branches. For these reasons, I disapprove of Substitute Senate Bill 188, *An Act Establishing the State Oversight Council on Children and Families*. Pursuant to Section 15 of Article Fourth of the Constitution of the State of Connecticut, I am returning Senate Bill 188 without my signature.

Sincerely,



Dannel P. Malloy
Governor

¹ Federal oversight by the U.S. Administration for Children and Families includes, but not limited to: Child and Families Services Reviews (CFSR), Title IV-E reviews; the Community Mental Health Block Grant (CMHBG), the Adoption and Foster Care Analysis and Reporting System (AFCARs), the National Child Abuse and Neglect Data System (NCANDS), and the Comprehensive Child Welfare Information System (CCWIS).