



# State of Connecticut

## DIVISION OF PUBLIC DEFENDER SERVICES

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**COMMITTEE ON CHILDREN**

**MARCH 9, 2021**

**S.B. 2**

**AAC SOCIAL EQUITY AND THE HEALTH, SAFETY AND EDUCATION OF CHILDREN**

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The Division of Public Defender Services (DPDS) supports the underlying intent of **SB 2 An Act Concerning Social Equity and the Health, Safety and Education of Children** but has some concerns and comments regarding Sections 22 and 24, respectively. As this Committee is aware, DPDS oversees the contracts with Assigned Counsel who represent children and parents in child protection proceedings in juvenile court, and our in-house public defenders also represent children in these cases. Accordingly, we have a vested interest in ensuring that children in DCF care, and their parents and siblings, are able to safely maintain meaningful and substantive connections. As currently written, **Section 22** of the bill, in part, would provide the Commissioner of Children and Families (DCF) with unilateral authority to eliminate in-person visitation between a child in DCF care and the child's parents and siblings in the event of a pandemic or outbreak of a communicable disease if DCF determines that in-person visitation would create a health risk to the child, parent or siblings. The bill as drafted would grant DCF this authority even when there has been *no* public health emergency declared by Governor and in that instance would allow DCF to withhold in-person visitation until the Commissioner unilaterally concludes that the risk has been abated.

Although arguably well-intentioned, this administrative discretion vested solely in the Commissioner under these circumstances is overly broad and should, consistent with existing law, require a court order unless

the Governor has declared a public health emergency *and* issued an Emergency Executive Order authorizing the suspension of this requirement. In addition to being overly broad, this new language is unnecessary. As the Committee is aware, under the current COVID-19 public health crisis, DCF has suspended in-person visitation between children and their parents and siblings pursuant to the Governor's Emergency Executive Orders. While DCF did develop a "triage" system for considering requests by parents and children to safely visit in-person, most contact has remained virtual for the past 12 months, which is an incredibly long time in the life of a child, particularly when a parent may lack the necessary technological resources and connectivity to "visit" in that way. DPDS supports and recognizes the importance of balancing in-person contact between parents and their children and any potential undue health risks that may pose, but any dispute about that balance under these limited circumstances should be resolved through a judicial or quasi-judicial process given the important and fundamental constitutional rights at stake.<sup>1</sup>

DPDS supports **Section 24**, which appears to codify the notice requirements for DCF's Considered Removal Meetings, which are held prior to any non-emergency removal of a child from home. While these meetings are generally held prior to the filing of any court proceedings and the appointment of counsel, they are sometimes held after a neglect petition has already been filed. Accordingly, DPDS would propose a friendly amendment requiring that the any such meeting notice provided to the parent also be provided to the parent's and the child(ren)'s attorneys, if any.

As always, DPDS appreciates this Committee's interest in promoting the safety, permanency and well-being of children, and we'd be happy to work with you and others on any amended or substitute language that might help to further promote these goals.

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<sup>1</sup> Section 22 further amends CGS Sec. 17a-10a by adding a new subsection (d) requiring DCF to develop a policy that would cease all in-person visits if a child or child's parent or sibling is seriously ill due to a communicable disease if the visit "could" result in exposure. Any such policy should treat this as a change to the child's case plan, which would trigger the right to an administrative hearing by the child or the parent.