



DIVISION OF PUBLIC DEFENDER SERVICES
State of Connecticut

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Testimony of the Office of Chief Public Defender
Susan Hamilton, Director of Delinquency Defense and Child Protection

Committee on Children – February 2, 2023
Proposed H.B. No. 5853 – An Act Concerning the Disclosure
of Certain Records by the Department of Children and Families

The Division of Public Defender Services (DPDS) provides representation for indigent parents and children when abuse, neglect and termination of parental rights petitions are filed by the Department of Children and Families (DCF) and when children have been arrested and charged with a delinquency offense in the Superior Court for Juvenile Matters. In both roles, DPDS supports the important confidentiality protections that apply to DCF records concerning children and families. To that end, DPDS offers the following comments regarding **H.B. 5853, An Act Concerning the Disclosure of Records by the Department of Children and Families**. This bill seeks to amend DCF's confidentiality statute to require DCF to disclose otherwise confidential DCF records without consent and in unredacted form to *any* employee of the Judicial Branch for *legitimate purposes*. As currently drafted, this bill is overly broad and arguably duplicative of existing language in CGS Sec. 17a-28.

More specifically, CGS Sec 17a-28(g) already requires DCF to disclose confidential DCF records without consent to a host of individuals and entities, including, but not limited to, a Superior Court judge for purposes of determining the appropriate disposition of a child in a delinquency case and in any criminal prosecution for purposes of an in camera inspection if the court has ordered the record or the record has been subpoenaed by a party to the case. In addition, DCF is also required under current law to disclose confidential records concerning family violence to a Superior Court judge and all necessary parties in a family

Mission Statement of the Division of Public Defender Services

Striving to ensure justice and a fair and unbiased system, the Connecticut Division of Public Defender Services zealously promotes and protects the rights, liberty and dignity of all clients entrusted to us.

We are committed to holistic representation that recognizes clients as individuals, fosters trust and prevents unnecessary and wrongful convictions.

violence proceeding involving the subject child or the child's parent. The existing statutory language also requires DCF to disclose certain confidential records without consent to the Court Support Services Division (CSSD) of the Judicial Branch to determine and provide appropriate supervision and treatment services to children in delinquency cases and to track recidivism.

Along with the mandatory disclosures outlined in CGS Sec. 17a-28 (g), DCF is also authorized to disclose otherwise confidential records without consent to additional individuals and entities under the discretionary disclosure language in CGS Sec. 17a-28 (h). This includes, but is not limited to, professional service providers working with the child and/or parent if such records are necessary to accomplish the treatment objectives. In addition, DCF can always disclose records with consent in addition to both the mandatory and discretionary disclosure authority absent consent outlined above. It's also important to note that DCF records often contain confidential information protected by superseding federal law that would require consent, redaction and/or a court order for disclosure, including, but not limited to, protected health information under the Health Insurance Portability and Accountability Act (HIPAA) as well certain substance abuse treatment records.

While the intent of the current bill is unclear, the existing statutory language governing the confidentiality of DCF records strikes the correct balance between privacy and access. Any language requiring DCF to disclose confidential records without consent to "any employee" of the Judicial Branch for any "legitimate purpose" is overly broad and would likely give rise to unintended collateral consequences.

Accordingly, the Office of Chief Public Defender of the Division of Public Defender Services respectfully requests that the Children's Committee take no action on this bill. As always, the Office of Chief Public Defender appreciates this Committee's interest in promoting fairness, justice and equity in both the child welfare and youth justice systems, and we remain available to answer any questions you might have on these important issues. Thank you.