



State of Connecticut
Department of Developmental Services

DDS

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Commissioner

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**DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY
BEFORE THE COMMITTEE ON PUBLIC HEALTH**

March 4, 2019

Senators Abrams and Somers, Representatives Steinberg and Petit and members of the Public Health Committee. I am Jordan Scheff, Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to testify on [H.B. No. 6365](#) **AN ACT ALLOWING PERSONS WITH INTELLECTUAL DISABILITY AND THEIR FAMILIES TO ACCESS THE REGISTRY OF DEPARTMENT OF DEVELOPMENTAL SERVICES EMPLOYEES WHO WERE TERMINATED OR SEPARATED FROM EMPLOYMENT AS A RESULT OF ABUSE OR NEGLECT.**

[H.B. No. 6365](#) seeks to expand access to the department's registry of former employees who have been terminated or separated from employment as a result of substantiated abuse or neglect of a person with intellectual disability. Current state law only permits access to the registry to (1) authorized agencies, for the purpose of protective service determinations; (2) employers who employ employees to provide services to an individual who receives funding or services from the department; (3) the Departments of Children and Families (DCF), Mental Health and Addition Services (DMHAS), and Social Services (DSS) for the purpose of determining whether an applicant appears on the registry; and (4) charitable organizations that recruit volunteers to support programs for persons with intellectual disability or autism spectrum disorder.

The Department of Developmental Services has an established record of protecting individuals with intellectual disability and individuals with autism spectrum disorder from persons, including employees and volunteers, who would abuse or neglect them. When the DDS registry was established in July of 1997, DDS created a mechanism to ensure that employees both in public and private settings who had been substantiated for either abuse or neglect of an individual with intellectual disability would not be able to find employment in another DDS-funded agency or with DCF, DMHAS or DSS.

The intent of the registry is specific to employment purposes only, except in the situations related to protective service determinations by DCF, DMHAS, and DSS. These former employees, who are being placed on the DDS registry, have UAPA hearing rights under sections 4-177 to 4-181a, inclusive, of the Connecticut General Statutes and, if they have exhausted all administrative remedies, can appeal to the Superior Court.

While DDS supports any effort to protect individuals with intellectual disability from abuse and neglect, the department has certain concerns with expanding access to the registry as outlined in this bill.

Specifically, DDS Division of Investigation (DOI) substantiates several types of abuse, such as verbal abuse, psychological abuse, sexual abuse, physical abuse, and financial exploitation as well as a range of issues that constitute neglect on the part of the employee. While certain types of abuse and neglect may rise to the level of being criminal, DDS, in substantiating abuse or neglect, only determines that the former employee should not be hired to work with persons with intellectual disability or in other direct service employment with vulnerable populations. DDS DOI makes no determination as to whether the abuse or neglect that has been substantiated would lead the former employee to be charged or convicted of a crime. The categories of abuse or neglect that DDS substantiates for are particular to DDS and do not correlate directly with any other agency's standards or with specific criminal law.

As former employees may have been substantiated as having abused or neglected an individual with intellectual disability, the abuse or neglect substantiated may not meet the legal definitions associated with a person being charged or convicted of such actions under criminal law. One example of an action that may lead to the termination of an employee and the placement of his or her name on the DDS registry is, if an employee was found sleeping while on duty and responsible for the health and welfare of an individual with intellectual disability. While this type of incident may not meet a legal threshold to charge the employee with a crime (unless the individual had been injured because of the employee's neglect) it may still result in the employee's termination and placement on the DDS registry.

In addition, an employee who is placed on the DDS registry for an egregious action may have been charged with a crime associated with the action that led to the termination, but the criminal proceeding and possible conviction has not yet concluded. This means the former employee listed on the registry may not have been charged or convicted of a crime associated with the action that has led DDS to place them on the registry.

The specific purpose of the DDS registry is to prevent former employees, who have been substantiated as having abused or neglected an individual with intellectual disability, from being hired by a provider, certain state agencies or volunteer organizations. In most instances, individuals and their families receive services from providers or through fiscal intermediaries, which are required to check the DDS registry before an applicant for employment can be hired.

Opening access to the registry to all persons with intellectual disability, their families or legal guardians would create, in effect, a public registry, not of persons who had been arrested or convicted of a crime, but of persons who had been terminated from employment and been placed on a registry through an administrative process. DDS does not have the mechanism or the staff in place to allow all individuals with intellectual disability and their families to have this type of access. In addition, expanding access to the registry outside of executive branch agencies and private providers could create greater exposure to misuse or misinterpretation of the information on the registry and therefore lead to additional legal challenges throughout the registry process.

Thank you again for the opportunity to testify on [H.B. No. 6365](#) **AN ACT ALLOWING PERSONS WITH INTELLECTUAL DISABILITY AND THEIR FAMILIES TO ACCESS THE REGISTRY OF DEPARTMENT OF DEVELOPMENTAL SERVICES EMPLOYEES WHO WERE TERMINATED OR SEPARATED FROM EMPLOYMENT AS A RESULT OF ABUSE OR NEGLECT**. Please contact Krista Ostaszewski, DDS Director of Legislative Affairs at (860) 418-6066 with any follow up questions.