



DIVISION OF PUBLIC DEFENDER SERVICES

State of Connecticut

OFFICE OF CHIEF PUBLIC DEFENDER
55 FARMINGTON AVENUE, 8TH FLOOR
HARTFORD, CT 06105

ATTORNEY TASHUN BOWDEN-LEWIS
CHIEF PUBLIC DEFENDER
TEL: (860) 509-6429
FAX: (860) 509-6499

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

Committee on Children – February 16, 2023 Raised S.B. No. 1008 – An Act Concerning Legal Representation for Children in Certain Proceedings in the Superior Court

The Division of Public Defender Services (DPDS) supports the intent of ***Raised S.B. 1008, An Act Concerning Legal Representation for Children in Certain Proceedings in the Superior Court***, but this will result in a significant financial impact on this agency and cannot be implemented without additional resources. Pursuant to CGS Secs. 46b-120 and 46b-129a, DPDS oversees all Assigned Counsel representing children in child abuse and neglect proceedings in the Superior Court for Juvenile Matters. This representation is authorized by CGS Sec. 46b-120, which defines “child” for this purpose as any person under the age of 18. This bill, while well-intended, could extend that representation up to the age of 23, which would require additional resources and falls outside the scope of our enabling statutes.

Under existing law and policy, young adults over the age of 18 in the care of DCF are able to continue receiving services voluntarily from DCF up until the age of 23 under certain circumstances. In those instances, the court continues to have jurisdiction over the case to ensure that DCF is providing the appropriate services. These services include ongoing case management support, educational support to complete high school, college and vocational programs, financial support for a Driver’s License, life skills training, independent and transitional living programs, housing assistance, health services, mentoring and other support services.¹ Along with these DCF services, DPDS already provides resources to the

¹ See, DCF Policy Sec. 28.1.

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.

Center for Children's Advocacy to manage a pro-bono representation program where private attorneys are trained to represent young adults over the age of 18 in administrative hearings whenever DCF is seeking to terminate their services or benefits. In addition, there are other non-profit entities that can and do provide legal and other support for young adults who wish to remain involved with DCF.

DPDS does not dispute the benefit of additional legal advocacy for youth after they turn 18, but the attorneys doing this important work for up to five additional years must receive fair compensation. Currently, an attorney representing a child generally receives only **one flat rate payment of \$500 to represent the child (with some very limited hourly billing) for the *entire* life of the case, which can often last years with frequent and ongoing court hearings**. By way of example, if a child welfare case lasts three years, that would amount to \$166/year in compensation, which is clearly far less than what private attorneys would get paid for one hour of their time in other areas. Asking these attorneys to continue representing children for up to five *additional years* after they turn 18 cannot and should not be done without additional funding.

Given that these cases would be treated essentially as new cases, we would estimate the cost for just the \$500 flat rate to be approximately \$255,000 (there are currently approximately 450 youth remaining in DCF care over the age of 18). However, there would also be other expenses collateral to this representation, including, but not limited to, expert witnesses and transcripts and hourly billing for client visits, trial preparation, trial time, attendance at DCF meetings, administrative hearings and other advocacy. The current budget amounts allocated to DPDS for Assigned Counsel in child welfare cases is only for representation for children up to the age of 18. Our budget allocation does not allow us to provide any additional compensation to the attorneys without falling into deficit.

It should also be stressed that DPDS has seen extensive attrition over the last year within our Assigned Counsel panel due, in part, to the inadequate compensation they already receive to handle these complex and critical cases impacting children and families. Many have left this practice area to take other state positions, which can offer them fair compensation, and some have chosen to focus their practices on other areas of the law that will allow them to keep their offices open. Unfortunately, the Governor's budget did not include any increases in the DPDS budget to address this critical need, and this bill would add an additional unfunded mandate exacerbating this issue. Our most vulnerable, underserved and indigent citizens are directly and severely impacted by these funding decisions in disparate and unacceptable ways, and we remain hopeful that this will be addressed generally as the budget process moves forward this session.

In the meantime, there is no question that more attention must be paid to the young people who are exiting DCF care without a permanent family connection, particularly for those youth who do not meet the criteria to remain in DCF care voluntarily after they turn 18. Much of that advocacy and transition planning can and should be done well in advance of their 18th birthday so that children achieve the permanency and connections they deserve before they become adults. However, given that this isn't always possible, we remain committed to partnering with the non-profit community and private bar to maximize their ability to provide this post-18 representation in a pro-bono capacity or through the use of private funding streams.