

To: Members of House Government Operations
From: Ken Schatz, Commissioner of the Department for Children & Families
Date: February 10, 2016
Re: H.522

Thank you for the opportunity to speak to you about H.522, an act relating to establishing an Office of the Child Protection Advocate.

We strongly support the need for oversight. Cases in our child protection system are complicated and involve subjective decision-making. Vermont already has a number of different forms of oversight in place. We have concerns about the potential redundancy with existing oversight and resource load this proposal entails.

We understand that many other states have a child protection advocate, though it is not clear whether those states also have as robust of a defender general/legal representation system for child protection matters as does Vermont; and whether those states have the level of individual and systemic oversight that exists in Vermont's system.

For your review, below is a list of the individual and systemic forms of oversight with an explanation of each:

- Internal complaint system:
 - o The DCF Commissioner's Office runs a Consumer Concern call in number; calls from constituents are received, a summary of their concern and who they have already spoken to is entered into a closed database system. This system allows the Commissioner's Office to send the complaint to the appropriate Operations Manager in the appropriate Division and tracks when and what response the constituent received. These entries are monitored for thoroughness and timeliness. Please see the attached information regarding the calls we've responded to in the last three years.
 - o The Commissioner takes and responds to calls, emails and letters directly.
 - o The Governor's Office accepts complaints which are passed to our office and that we respond to.
 - o If a reporter of alleged child abuse/neglect is dissatisfied with the decision by DCF on whether or not to open a child safety intervention, a reporter may call Central Intake &



Emergency Services and speak to the worker. If they continue to be dissatisfied, they speak to a supervisor and can escalate their concerns further if needed. It is not uncommon for these complaints to reach the Commissioner's Office.

- The opportunity for certain individuals to ask for a formal review of decisions made concerning case plan goals, family time plans and placement decisions for children in custody (FSD Policies 123 and 94)ⁱ. These reviews may be requested by parents or guardians, child/youth (and his/her attorney), guardian ad litem or foster parent. The review includes a district director level review followed by a Commissioner level review by the Commissioner or Commissioner's Designee.

- **Additional Oversight:**

- **Two-tiered appeal system** for substantiations related to the child protection registry of alleged child abuse/neglect. These occur through the Commissioner's Registry Review Unit and the Human Services Board, followed by an opportunity for appeal to the Vermont Supreme Court.
- **Court review and appeal system** for children who are alleged to be children in need of care or supervision (CHINS). These occur with attorney representation by the Defender General's office for each parent as well as a separate attorney representing the child involved in the CHINS proceeding in addition to a guardian ad litem assigned to the child.
- **Case plan reviews** every six months for children in custody facilitated by an outside independent consultant (see FSD Policy 122)ⁱⁱ. These reviews are required by federal law and include child, parents, attorneys, child care providers, educational surrogates, school personnel and others (see endnote below for more detail).
- **Vermont Citizens Advisory Board**, (VCAB) is a requirement of the federal Child Abuse Prevention and Treatment Act (CAPTA). It is a citizen board (with DCF employees serving as "staff" to the board) that includes members who have expertise in the prevention and treatment of child abuse and neglect. Their role includes the following duties:
 - examining the policies, procedures, and practices of state and local child protection agencies and evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with CAPTA;
 - examining specific cases, including child fatalities and near fatalities;
 - providing public outreach and comment to assess the impact of current procedures and practices upon children and families in the community and to evaluate the extent to which agencies are effectively discharging their child protection responsibilities;
 - recommending improvements to the child protection system; and
 - reports out annually.



- **Children's Bureau**, the federal agency out of the Administration for Children and Families which conducts periodic quality reviews of state child welfare system, with resulting program improvement plans.

- **Also reviewing our child protection system:**
 - The Joint Legislative Child Protection Oversight Committee, which reviews the system as a whole.
 - CHINS working group consisting of stakeholders in the family court process. This group was formed out of S.9 (Act 60).
 - Justice for Children Task Force, formed out of the judiciary as a collaborative, interdisciplinary effort bringing together those who are in charge of decisions impacting outcomes for children who are not in the custody or guardianship of a parent.



ⁱ **FSD Policy 123** – formal review for case plan decisions.

<http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/123.pdf>

This review is available to parent or guardian, child/youth (and his/her attorney), guardian ad litem and foster parents. Case plan decisions that may be subject to review include:

- living arrangements for a child/youth;
- the plan for family time between a child and family members; and/or
- the long-term goal for a child/youth (e.g., returning home or being adopted)

Under Policy 123, a level 1 review is available with the District Director, followed by a Commissioner's level review. **Criteria for review decision is the best interests of the child.**

FSD Policy 94 - opportunity for foster families with whom a child was placed to request a formal review of DCF's change of placement decisions.

<http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/94.pdf>

The review includes a face-to-face meeting with the District Director and chance for a second level review by the Commissioner or designee of the Commissioner (Commissioner's decision is final).

ⁱⁱ **FSD Policy 122** - sets forth the independent 6 month review of cases with kids in custody (required by federal law)

<http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/122.pdf>

Title IV-E of the Social Security Act requires a case plan review meeting be facilitated by an impartial party, who is not responsible for case management or delivery of services to the child or parents. In addition, the following persons must be invited to participate:

- Child;
- Child's attorney;
- Parent's attorney;
- Guardian ad litem;
- Mental health provider;
- Both parents (unless parental rights have been terminated), and/or legal
- Guardians;
- Social worker;
- School personnel, including special education administrator (if child has an IEP);
- Substitute care provider;
- Educational Surrogate;
- Child care provider; and
- Transitional Services Coordinator (for youth age sixteen and older).



Consideration should be given to inviting other people the child/youth or parents find supportive. Social workers and supervisors should use discretion in determining if other participants will be helpful to the process. For a case plan review meeting prior to a permanency hearing, invitations will also be sent to the State's Attorney and any other party to the original disposition hearing, except for any parent whose rights have been terminated.



**Consumer Concerns
based on concern**

2013

Case Concern Summary in DCF

Adoption	8
Arrearage	4
Child Abuse	11
Child Custody	22
Child Placement	26
Child Safety/Welfare	65
Child Support	27
Child Visitation	12
Dental Access	1
Emergency Services	14
Food Stamps	53
Foster Care	5
Fraud	2
Fuel	25
General Assistance	37
Medicaid/VHap/DrD	63
Other	55
Reach Up	13
Staff Conduct/Performance	31
Visitation	1
Weatherization	1

Other Concerns:

abuse substantiation Fair Hearing	1
All benefits	1
Appeal of QC Process	1
Benefits application	1
Child Abuse Registry	1
Child Visitation	1
Concerned with losing her home	1
contact information for daughter	1
Damage Reimbursement	1
Denied Disability	1
Disability Payment	1

2014

Case Concern Summary in DCF

Adoption	2
Arrearage	3
Call Center	1
Child Abuse	15
Child Care License	1
Child Custody	46
Child Placement	98
Child Safety/Welfare	152
Child Support	21
Child Visitation	21
Confidentiality Breach	1
Emergency Services	16
Food Stamps	57
Foster Care	3
Fraud	6
Fuel	29
General Assistance	43
Medicaid/VHap/DrD	38
Other	69
Reach Up	16
Staff Conduct/Performance	56
Visitation	3
Weatherization	5

Other Concerns:

Abuse Investigations	1
All services	1
allegation on potential sex offender	1
Annual benefit review	1
Application Process	1
Back Rent	1
Child care center worker	1
concern about a friend's FSD case	1
Concerns about her sister	1

2015

Case Concern Summary in DCF

Adoption	2
Arrearage	1
Child Abuse	17
Child Care Subsidy	2
Child Custody	41
Child Placement	96
Child Safety/Welfare	86
Child Support	9
Child Visitation	31
Confidentiality Breach	1
Emergency Services	19
Food Stamps	29
Foster Care	8
Fraud	3
Fuel	11
General Assistance	28
Medicaid/VHap/DrD	19
Other	71
Reach Up	13
Respite	1
Staff Conduct/Performance	55
Visitation	1
Weatherization	2

Other Concerns:

2 disabled adults	1
abuse allegations	1
abuse investigation	1
allegations	1
Case closed letter, husbands removal from registry	1
Case closure	1
Child abuse registry	1
Child clothing	1
Child Medical Paperwork	1

**Consumer Concerns
based on concern**

2013

Discrepancy on a form	1
Family records from 1930	1
FSD Open Case	1
Guardianship	1
Has personal items of former foster child he would like to return to her	1
Housing	1
Lifeline	1
Long Term Care (Medicare)	1
Lost Documents	1
Needs assistance filling out forms for ESD (constituent is deaf and can not read)	1
Nursing Home/Long Term Care	1
Over-payment of Food Stamps	1
placement/staff	1
Property Return	1
PSE, Car Repair, 3Sq	1
Rent	1

2014

Conflict of Interest with Case Worker	1
Court Paperwork	1
DCF Barre Staff	1
DDS	1
disagrees with open case	1
Discrimination	1
District Office Notification Process	1
DO visit for UA	1
EBT equipment at a retail location	1
Emergency cash support	1
Emergency HOusing	2
Family reunification voucher	1
Family situation	1
Forms	1
FSD and substance abuse	1
FSD Case inquiry	1

2015

Child Therapy	1
Child's School	1
Civil rights violation by DCF	1
Communication	2
Computer Assistance	1
Conflict	1
Corruption of DCF Investigator	1
CRRU	2
DCF Order	1
Disability	1
Disability benefits increase for 3 kids.	1
discrimination	1
Discrimination Case	1
Electricity	2
ESD Hotline	1
Essential Person Prgm	1

**Consumer Concerns
based on concern**

2013

Rental assistance	1
Rental payments	1
report of child care earnings	1
reunification	1
RLSI	1
services	1
Several benefits issues	1
Sexual Assault Allegation	1
Social Security Benefits	1
Social Security Number compromised	1
Son's Driver's Education	1
staff not following through	1
took in FSD mother when GA housing ran out	1
Transportation to medical appointment	1
TS Irene	1
Unknown Benefits	1
verification of complaint filing	1
Wants a new Case Worker	1

2014

FSD Family Plan	1
FSD Investigation	1
FSD recommendations for reunification with recently incarcerated parent	1
FSD Systems Issues	1
Guardianship Case	1
Housing	1
Investigation	1
investigations	1
lack of communication	1
LTC	1
medical expense claims	1
Medication transport between foster placements	1
Not sure what benefits he's referring to	1
personal safety	1
Registry Review Unit	2
Registry Review Unit Question	1
Rental assistance	1
Repayment of Benefit's Rec'd	1

2015

Family Services	1
Family Services case concern	1
Form 202H Shelter Expense Form	1
Foster Care Payments & Vouchers	1
FSD Case	1
Harassment and defamation of character	1
Harassment from DCF	1
Insurance Premium	1
Intake	1
LIHEAP	1
Long Term Care	1
LT Care	1
LTC	2
Medication for foster child	1
Need to Remove Child from her home	1
not investigating	1
Parental Rights	1
Payment for Services	1

**Consumer Concerns
based on concern**

2013

2014

Response Letter Needed	1
Review & Recompute of Benefits and Right to inspect Case File request	1
Settlement money	1
Sex Offender Registry	1
Truancy	1
Unpaid Rent	1
unsubstantiated accusations	1
Utility Assistance	1
Voucher payment at TJMaxx	1
VPharm	1

2015

Policy Issue	1
PSE	1
Registry	1
Registry/living arrangements	1
Respite	1
Risk Assessment	1
sexual risk determination	1
SSI money	1
supervised phone calls	1
Systems in FSD	1
Systems issue	1
The closing of Sprouts Early Learning Cooperative	1
TPR	1
Treatment Situation	1
unfair treatment, disabled	1
Unknown	1
Utilities	1
V Pharm	1
VPharm	2
Welfare repayment plan	1
youth abuse investigation	1
Youth Jobs Program	1