



October 18, 2023

The Honorable Senator Robyn K. Kennedy
Senate Chair, Joint Committee on Children,
Families, and Persons with Disabilities

The Honorable Representative Jay D.
Livingstone
House Chair, Joint Committee on Children,
Families, and Persons with Disabilities

Dear Chair Kennedy, Chair Livingstone, Vice Chairs, and Committee members,

The Children's League of Massachusetts (CLM) is a statewide, non-profit organization of almost 60 members, comprised of children and family services providers, advocates, and individuals. Our providers and members with lived experience know first-hand how critical this bill is to enhance the rights of children in the child welfare system. Collectively, we urge you to advance "**An Act minimizing trauma to court-involved children and families**" (S.71/H.204) out of Committee to a vote on the floor.

The House bill (H.204) includes: "Consideration of the child's long-term well-being shall include consideration of how to best preserve and promote the child's cultural, racial, ethnic, religious, and linguistic identities," as well as placement with family, and sibling connections, which we fully support. These tenets are included in the proposed Bill of Rights for Children in Foster Care, and as we have shared, support evidence-based best practices to strengthen child wellbeing and interpersonal connections. Through being immersed in placements matching their present identities, a child can find comfort with a sense of belonging and form a healthy sense of self, which also help build a strong family foundation. To bolster sibling connections, this bill adds a requirement for the Department of Children and Families (DCF) to develop and implement a plan to increase the number of placements available for siblings and half-siblings and report on that progress annually. Supporting

sibling relationships promotes stability and decreases the extent to which child in the system will suffer from attachment injuries. By keeping children connected to their communities, living with known relatives and siblings, we can reduce their trauma and do our best to support healthy attachments.

We support that the House bill also promotes trauma reducing and healthy attachments by requiring the following: “the court shall consider the potential short and long term harms of transferring custody to the department or to another person or entity, including trauma caused by removal of the child from their home.” This directive addresses concerns, such as raised by the 2021 Mandated Reporter Commission, that “children who are removed from the care of their parents may be harmed more by their placement in the foster care system, particularly with the challenges and delays in achieving permanency, than they would be if they had been left in their parents’ care.”¹ It also serves to address another Commission discussion point: “the trauma of abuse and neglect is difficult to disentangle from the trauma of the experience with child protective services when evaluating the effect of child protective services, particularly when considering families that have child protective services involvement for multiple generations.”² This element of the bill’s responsiveness to these challenges truly supports the goal of this bill to minimize trauma to court involved children.

The House version also reinforces requirements for DCF to inform a child’s or young adult’s attorney of critical information, such as reports of changes in placement, hospitalizations, reports

¹ The Mandated Report Commission, The Office of the Child Advocate, June 2021

² *Id.*

under 51A, arrests, criminal investigations, and potential or actual school suspensions and expulsions. This helps an attorney do their job as an informed, zealous advocate, which they are obligated to be.

Complimenting the above noted provisions is how the House and Senate bills strengthen appropriate checks and balances on power; the stakes of child welfare are too high to give any one agency unchecked removal power. We know there are inevitable flaws in analyzing information that is shared in these fast-evolving situations, and the mandated reporter system has continued to result in disproportionate policing of families of color; these measures would help mitigate these deep-seated challenges. First, the legislation requires DCF to obtain judicial approval within four hours of taking a child into its immediate temporary custody. Secondly, the legislation clarifies that the emergency removals procedure (when the juvenile court is closed) can be conducted by a justice via telephone to an agent of the department who will record the order and provide documentation on the next-business day. This enhances both functionality and oversight. Prior, only next business day follow up was required, which has left DCF's removal power unchecked for at least one traumatic overnight. We owe it to the families and children of the Commonwealth to ensure we are getting these high-stake decisions right and judicial oversight enhances the protections our state provides to these individuals. While, in practice, DCF staff can be trained to better recognize biases and potential information gaps or issues than the general population, they are heavily reliant on the mandated reporter system, which is often influenced by limited facts, biased perspectives, and systemic racism. Requiring the courts approval of DCF's recommended decisions ensures more consideration and perspectives are applied to enhance due diligence and fact checking prior to a traumatic removal. The process is still expedited to protect children against imminent threats by allowing for over-the-phone

communications and giving DCF a four-hour window to contact a judge.

We support that both bills require quarterly data gathering and sharing by DCF to provide analysis and improved oversight on emergency removals. As we touched on above, removals are traumatic in and of themselves and our mandatory reporting system lends itself to disproportionate numbers of children of color ending up at the front door of the child welfare system. Inequities, such as related to conscious and unconscious biases, poverty and legal disadvantages, and cultures/traditions deviating from perceived norms feed parts of structural racism. Ultimately these factors affect the child welfare system and our utilization of mandated reporters. Emergency removals require quick judgments and lack due process, so they must be particularly scrutinized to ensure DCF is appropriately protecting children and families. More transparency and better data would help identify the best first questions our state should be exploring on this front, such as when the department took custody without first obtaining a court order, the number of kids over whom it assumed custody in those cases, and the time it took to receive court approval, including how many times DCF did not contact the courts within four hours. Diving deeper into data concerning the abrupt emergency removal practice can help ensure such situations are being handled fairly and expose additional aspects needing improvement.

While we support the legislation's elements above, the House bill includes a few premises we either disagree with or are not weighing in on. Though the House bill's codification of some limitations on rejecting foster parent applications seems reasonable, we do not agree with the presumption that a criminal record more than five years old is irrelevant to the question of whether the individual poses a risk of harm to the child. Further, the House bill adds language supporting

parent and child visitations and communications, which we support overall. However, the rebuttable presumption that parent-child visitation will be unsupervised is a guideline on which we do not take a position.

Overall, this legislation aids the Commonwealth to better oversee and investigate our state's emergency removals practice to ensure families rights are not being infringed upon any further than necessary. It is important to consider the critical interplay of factors, such as child wellbeing, structural racism, legal disadvantages, trauma, and safety. We ask that you consider the modifications noted above and support an updated version of these bills to move these critical protections for children and families this session.

Sincerely,



Rachel Gwaltney
Executive Director
Children's League of Massachusetts

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