



Public Children Services Association of Ohio

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Senate Health, Human Services & Aging Committee

Supportive Testimony

SB 238 – Child Welfare Update Legislation

Senator Tom Niehaus, Sponsor

Greg Kapcar
January 18, 2006

Good afternoon Chairman Coughlin and members of the Health, Human Services and Aging Committee. My name is Greg Kapcar and I am the Assistant Legislative Director of the Public Children Services Association of Ohio. PCSAO represents the 88 public child protection agencies here in Ohio, working for safe children, stable families and supportive communities.

Thank you for this opportunity to come before you to submit supportive testimony on the “Child Welfare Update Bill,” Senate Bill 238.

As you have already heard in testimony by Senator Niehaus and Deputy Director Smith, this piece of legislation serves multiple purposes which include bringing Ohio’s child welfare related statute in line with federal mandates of the Child Abuse Prevention and Treatment Act (CAPTA); creating the Statewide Automated Child Welfare & Information System (SACWIS) in code and clarifying confidentiality of the SACWIS system, along with accommodating the needs of SACWIS so it can be fully implemented by counties to protect children.

I would like to take this opportunity to thank Senator Niehaus for all of the energy and hard work he is committing to this bill. In preparation for introducing SB 238, Senator Niehaus spent a morning with the Director, Deputy Director, and several staff of the Children’s Protective Services division of the Clermont County Department of Job & Family Services to see first-hand, the child welfare system in action. His visit included an in-depth look at the process and issues of how cases move through the child welfare system from beginning to end – starting at the initial report of child abuse or neglect, moving to the investigation and referral process, onto the court systems and disposition, and through the opening and closing of cases. The morning ended with the Senator accompanying a caseworker on a home visit, pre-approved by the family of course, to a young couple about to close their protective supervision case with the agency.

I would also like to thank Deputy Director Smith and staff at the Ohio Department of Children and Family Services for partnering with PCSAO on this bill. I look forward to continuing our work throughout this process.

Rather than repeat the items already reviewed for you in previous testimony, I'll take a brief moment to share some examples of updates in SB 238 that strengthen the laws protecting children from abuse or neglect.

Mandatory Domestic Violence Training

Senate Bill 238 mandates that during the first two years of employment at a Public Children Services Agency (PCSA), a caseworker must complete at least 12 hours of training in recognizing signs of domestic violence and its relationship to child abuse. This bill also requires training for a PCSA casework supervisor in recognizing signs of domestic violence and its relationship to child abuse. It is important to note that this requirement for PCSAs used to be in the law and was inadvertently removed after changes to Ohio laws related to Welfare Reform in the late 1990's. Interestingly, the requirement for domestic violence training has remained in Ohio Administrative Code. We are supportive of returning this requirement to law through SB 238.

Definition of Person and Legal Custody Disposition

It is also interesting that the word "person" is not defined in Chapter 2151 of the Ohio Revised Code. The Child Welfare Update Bill adds that definition to code. Under current law, in order to be considered as a legal custodian in a child abuse, neglect or dependency case, a parent or any other person who is interested must, prior to the dispositional hearing, file a motion requesting legal custody of the child. Since "person" is not currently defined in Chapter 2151 of the Revised Code, a PCSA technically cannot file a motion on behalf of a relative who wants legal custody. Instead the prospective legal custodian must file him or herself. This would require the prospective legal custodian to first file a motion to intervene as a party and – assuming that motion is granted by the court – then file the appropriate motion for legal custody. SB 238 clarifies that a PCSA can file a motion on behalf of a relative who has been identified as a proposed legal custodian.

Dual Role of Guardian Ad Litem

The current language in the guardian ad litem (GAL) statute presents a serious conflict of interest upon the happening of a certain event. It provides that an attorney may function in a dual capacity in an abuse and neglect case; and the court may appoint the attorney to serve in a dual role as the GAL and attorney for a child. If a conflict arises wherein the child's wishes conflict with what the dual role individual believes is in the child's best interest, the court appoints a new GAL and the dual role individual continues to serve in the sole capacity as the child's attorney. Generally speaking an attorney is supposed to zealously advocate his/her client's cause, within the bounds of the law. If the dual role individual has a contrary view to that of the child about what is best for the child, then a more egregious conflict arises when the court appoints this dual role individual as the child's attorney. It would be far more appropriate for the dual role individual to remain as the GAL, and the court appoint a separate attorney for the child, to represent the child's wishes. SB 238 provides for this change in law to protect the child's best interest.

Chairman Coughlin and members of committee, I appreciate the opportunity to testify before you this afternoon. SB 238 is an important piece of legislation strengthening the infrastructure for

the child welfare system in Ohio by updating language in statute, meeting federal mandates, and making SACWIS a reality. I will be happy to answer any questions you or members of the committee may have.