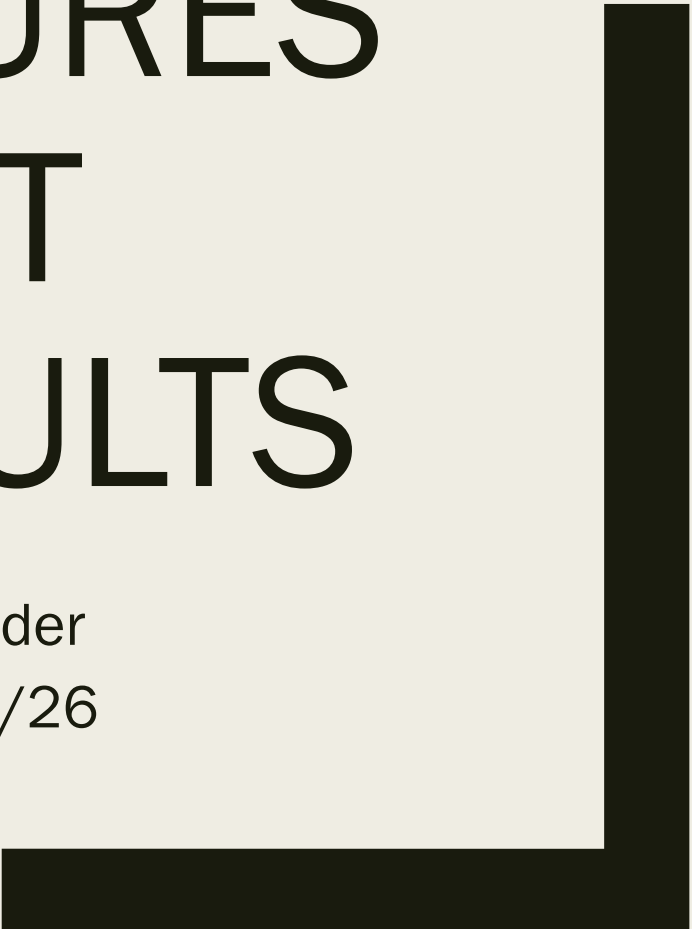




H.657 – MEASURES TO SUPPORT EMERGING ADULTS

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Office of the Defender General, 2/26/26



This bill does a lot...

- Removes administrative barriers for independent youth
- Protects social security benefits for children in custody
- Regulates the use of physical restraint and seclusion for children in custody
- Regulates the use of physical restraint in transporting children
- Examines aftercare agreements
- Examines the pregnancy surveillance calendar

Removing administrative barriers for independent youth

- The idea here is a fantastic one that has been decades in coming: we're recognizing that there are youth – particularly transition-age youth (15-17) – who have a de facto level of independence and responsibility because they do not have parents in a traditional “parental role” but they have resilience skills and support networks that allow them to get by (under the radar) *without* the involvement of the state.
- We only have one tool for engaging the government with a kid like that – the CHINS process. That means that the youth is alleged to be either “without proper parental care necessary for his or her well-being,” is “abandoned,” or is “beyond the control of their parent.”
- The only response to finding a child to be CHINS is to *force* the child back into a situation where they have a lot of parental supervision and not a lot of independence – either by reunifying them with their parents (who may not do as good a job caring for the youth as the youth did caring for themselves) or in custody in foster care or in a group home or residential setting.
- This bill creates a middle ground. Recognition that some youth don't need state help in the form of a really intrusive court process is great. We will recognize formally what has been recognized informally for years – that resilient youth often don't need full-bore DCF supervision to successfully transition to adulthood and DCF supervision can even get in the way.

A number of avenues of relief, starting with a certification.

- Before we look at what the bill does for independent youth, you have to look at who is an independent youth.
- Section 4 limits the benefits of the unaccompanied homeless youth provisions to children who are engaged with their school by requiring McKinney-Vento eligibility. That's very limiting because it ignores youth who are in the same position as children who are McKinney-Vento eligible youth but are not engaged with a school.
- For that reason, the “and” on p. 5, line 15 should be an “or.”
- In addition, the list of certifying individuals should include a licensed mental health professional, or a health care professional. A separate provision for youth who are not connected with any of those professionals should allow that any youth may seek assistance in getting certified by reaching out to some appropriate agency (we are willing but would require statutory authorization).
- In the alternative, just make the benefits of these sections available to all youth – allow all young people to get licenses, health care, government services, educational services without parental approval.

The relief is good...

- Drivers licenses, non-driver IDs, learners permits – no young person in a typical situation should be prevented from accessing this stuff just because they can't get parental permission. Turning 18 and suddenly being without parental support is impossible if you don't have a license – it's an essential part of adult life.
- Obtaining vital records – again, no young person should be denied the ability to get a birth certificate for themselves, death certificates of their parents, because they do not have parental consent.
- Consenting to health care is already an area where children are afforded rights to consent to certain care without parental approval, this just says that transition-age independent children can consent to all health care. That should be a right afforded to all emerging adult children.
- Housing is similarly a vital need that children should not be prevented from accessing without parental support. I have clients who can get apartments independently, but nobody will rent to their parents.

Other relief may not be necessary...

- Children in these situations are already entitled to high-school education through the McKinney-Vento act.
- I'm not aware of any provision in state statute that would prevent a child from getting automobile insurance before age 18 – that's private insurance company policy and not subject to legislation in this form.
- Same with student loans – there are (very prohibitive) federal barriers to getting a student loan (or even filling out a FAFSA) without your parent's permission, but none that I'm aware of in state statute.
- Same with opening a bank account – I can't find state statutory law that prohibits it and we have a law that requires banks to accept deposits from children and treat them "as if such minor were of age." 8 V.S.A. § 14206
- There is no prohibition on children receiving victim services without parental approval and they do.

Protection of Social Security Benefits for Children in Custody

- This is a long-standing problem and it is long overdue for a remedy. This bill does a lot of good things, but should go one step further.
- The problem is that some children (who are disproportionately likely to come into state custody) are entitled to social security income for only the most tragic of reasons – either their parents have died and they are receiving survivors' benefits or they are disabled and receiving disability benefits.
- In either case, DCF can and does take those benefit and spend them to pay for the cost of keeping the child in custody *even though they would not do the same thing to a similarly-situated child with a different form of income.*
- What that means is that a child whose parents tragically died and is thus eligible to receive survivors benefits of a couple hundred dollars a week may not see a penny of that money – it all may be put into DCF general funds to pay for foster care and related services. A child whose parents did not die, but did abandon them, who works at a garage a few days a week and makes a couple hundred dollars is not “responsible” for paying for the cost of their care. Their income is their own to spend. They are treated differently from the other kid just because of the source of their income.

The protection should be more broad.

- This bill prevents DCF from using those funds to pay to “offset the State’s cost for the child’s maintenance,” but it still allows the department to use the funds to pay for “the child’s unmet needs beyond the amount that the state is obligated, required, or agrees to pay.”
- I don’t fully understand what that means, but as a matter of fundamental fairness it should say something more like “the department will not use social security funds to pay for any service that the state would otherwise pay for without the use of social security funds.”
- In other words, a child’s social security income should be treated as their own and protected the same way that regular employment income would.

Seclusion and restraint (not transportation)...

- It's a really good step to put this in statute. We have an ad-hoc patchwork of licensing rules, contracting rules, internal policies that attempt to address the use of seclusion but what we see in practice is a complete lack of uniformity. There is not even a general principle or policy that is applied across settings.
- This provides that and does so in a manner that is consistent with the best practices around restraint and seclusion.
- This does not affect situations where solitary confinement is a de facto result of the fact that there is only one child being held in a unit – Section 11 on page 20 explicitly limits solitary confinement to room confinement, not to confinement on a unit or in a larger living area.

Seclusion and restraint (not transportation)...

- The bill also addresses restraints in a uniform manner, but it's not as effective as the section on seclusion.
- Rather than stating as a legislative restriction that, just like the seclusion section, there are restraint techniques that are unacceptable, this section says that DCF will engage in regulation to address restraints in the contexts that DCF is allowed to regulate. That still leaves a lot of area for children to be restrained in places that DCF does not regulate (schools, prisons, unregulated programs, DCF's own programs).
- This was a problem at Woodside. DCF's licensing body did not or could not enforce its own regulations effectively in the context of a facility that was owned and operated by DCF itself. That's why this should be a statutory law, not a regulatory policy.

Transportation of children...

- Boy do we need this law.
- Right now children are transported in completely arbitrary circumstances. The difference between being transported for 6 hours (Bennington to St. Albans) in the back of a police car in steel handcuffs and getting the same ride from another provider in a regular car, in the front seat, listening to the radio, stopping for food on the way is *not* the needs or conduct of the child – it's usually governed by bureaucratic convenience.
- The way we do it now is the worst way we could possibly do it. It's not predictable, it's completely arbitrary, it's many times more expensive than doing it right, and it is just fundamentally unfair.

Aftercare placements...

- Our office needs to do a bit more research before we comment on this section.
- Aftercare agreements are not subject to a lot of oversight or regulation, but we're not aware of many problems where aftercare support (in the form of an ECA) is improperly withheld or used wrong.
- We want to understand the problem a bit better before we comment on whether this is an appropriate solution.

Pregnancy surveillance working group...

- This is obviously a problem that warrants study by the legislature, so we support the creation of this working group.
- Our only suggestion is to add our office to the group.
- I can see why we would be excluded: the calendar primarily monitors people before a CHINS case has been filed and our office cannot be involved in a case until after a CHINS case has been filed – so there's some reason not to include us.
- But, these cases become our cases and we deal with the downstream results of the pregnancy surveillance calendar.
- We also represent people who have CHINS cases and are *also* on the pregnancy surveillance calendar.
- Finally, our office was involved in the CHINS case litigation (but not the ongoing civil litigation) about the pregnancy surveillance calendar and so we are pretty deeply versed in the subject.