

**TESTIMONY OF RICHARD D. STEELE, EXECUTIVE DIRECTOR,  
JUVENILE COURT JUDGES' COMMISSION  
TO THE AGING & YOUTH COMMITTEE OF THE PA SENATE  
AUGUST 16, 2021**

Good afternoon, everyone.

My name is Richard Steele, and I am the Executive Director of the Juvenile Court Judges' Commission (JCJC). I want to thank you all for the opportunity to speak today about portions of the proposed Child Protective Services Law amendments.

By way of background, the Juvenile Court Judges' Commission (JCJC) was legislatively created in 1959 and is an Executive Branch agency located in the Governor's Office of General Counsel. The Commission is comprised of nine juvenile court judges appointed by the Governor following nomination by the Chief Justice. The JCJC has broad statutory authority, including a primary duty to advise juvenile court judges in all matters pertaining to the proper care and maintenance of delinquent and dependent children.

I am pleased to speak with you today about the proposed CPSL amendment relating to sharing of information with juvenile court judges relating to incidents which may occur within a child residential facility.

For delinquent and dependent youth, the Juvenile Act requires that juvenile courts utilize the least restrictive alternative when determining dispositions of youth before them, and that these efforts occur "in a family environment whenever possible, separating the child from parents only when it is necessary for his welfare, safety or health or in the interests of public safety". Over the past decade or so, the use of out-of-home placements as disposition in juvenile delinquency proceedings has been reduced by over 60%, with the dependency system seeing similar reductions in this type of care response. In the case of delinquency proceedings, these reductions have occurred while also experiencing recidivism rate reduction and maintaining or increasing measures of public safety. The use of diversion and evidence-based programs has contributed greatly to this trend, as has the implementation of key prevention programming.

Despite these significant shifts, the reality exists that certain youth remain who are in need of out-of-home residential services in order to address any of a variety of presenting issues including delinquency, dependency and behavioral health. When this occurs, it is expected that the removal from home will be for as brief of a time as possible. Pennsylvania has had a long history of having private providers of services to youth at both the community-based level as well as residential, and services have been developed to provide a broad continuum available to meet the individualized needs of

youth. There additionally are state-operated residential facilities available through the Department of Human Services.

Juvenile Court judges have an extraordinary responsibility when determining the proper placement of youth, one that they take very seriously. It is their decision that determines when and where a youth may be placed out-of-home, and ultimately how long they will remain in care. One of the more frequent questions that I am asked by juvenile court judges is “How do I know that my decision to place a youth will, at a very minimum, assure me that they will be safe and well cared for while in placement”. The answer is not simple. The Department of Human Services is responsible for the licensing of most residential services for delinquent and dependent youth in Pennsylvania, but this annual licensing process does not necessarily guarantee quality services, even when the licensing process is successful.

Juvenile probation officers and child welfare caseworkers often provide “eyes and ears” for the court through mandatory visitation with youth in placement. Mandatory judicial review of cases where youth are in out-of-home placement allow for evaluations based on updated reports on progress and the ability for judicial inquiry of the child and those providing residential care. None of this, however, guarantees positive outcomes for youth.

The truth of the matter is that, despite the best efforts of everyone involved with the placement of youth in residential facilities, there are occasional reports of the mistreatment of these very same youth while in placement, as well as other “incidents” that would rise to the level of notification to appropriate parties.

One of my greatest ongoing concerns around youth in placement is the lack of information sharing at the time when incidents of concern occur at a residential facility, including physical and sexual abuse allegations. Currently, these incidents must be reported by the facility to the Department of Human Services, who is also responsible to investigate these incidents. The matter will also be directly reported to the child’s placing judge and county juvenile probation officer or the caseworker of the youth.

However, other counties with youth in placement at that same facility will not be informed of the matter, and thus cannot take these issues into account when making decisions for youth either currently in that facility, or those being considered for placement.

The JCJC, along with other stakeholders, has worked with DHS for the past several years to update a functional facility notification protocol that will meet the need of the courts and agencies entrusted with making placement decisions. In 2017 the JCJC members met with DHS leadership to express concern about the effectiveness of the notification protocol originally developed in 2001 and updated in 2003. These concerns focused on the fact that the existing protocol was: 1) inconsistently applied, 2) not timely, and 3) did not include notification of any issues at the state-operated Bureau of Juvenile Justice Services facilities. Following considerable efforts on the parts of many

to address these concerns, an updated bulletin was released in August of 2019 and modified again in May of 2020.

Unfortunately, the current bulletin addressing facility notification falls short in meeting the needs of courts and agencies entrusted with making placement decisions. As a result, the judge involved with a youth in placement directly involved when a serious incident has occurred may decide to remove the youth from the facility based on concerns, while a judge in an adjacent county will not have this information when making decisions about placing youth, or having them remain, in the same facility. It makes no sense that the individuals responsible for making these types of decisions are not afforded information that might substantially impact their decisions.

It is my understanding that interpretations relative to the confidentiality requirements in the current Child Protective Services Law (CPSL) have prevented DHS from providing a wider dissemination of the details of information related to facility incidents. The lack of the availability of this level of detail prevents judges from considering it when making placement decisions. It is important to note that the information critical to these decisions does not need to identify either a victim or alleged perpetrator, only that an incident has occurred and the details surrounding the matter. Many judges continue to inquire how it is that they can be kept abreast of incidents that occur in facilities that might influence them in their decision making.

The proposed amendment of the CPSL through the creation of § 6340.2 *Exchange of information for placement* only partially addresses these concerns. As proposed, it provides for notification of judges with placement decision authority the basis for the substantiated outcomes of indicated or founded reports of incidents occurring within juvenile residential facilities. This is certainly an improvement to current practice.

However, the proposed amendment does not specifically allow for the same notification to be provided to chief juvenile probation officers and county child welfare administrators. I believe that this is a serious flaw. While judges are ultimately responsible to authorize the placement decision and review the matter on an ongoing basis, they often rely on the recommendation of juvenile probation officers or child welfare workers as to the appropriate specific placement facility. Moreover, it is the juvenile probation and child welfare staff who are responsible for ongoing monitoring and visitation of youth in placement. Throughout the history of DHS' facility notification protocol, a central provision has been that chief juvenile probation officers and child welfare administrators also receive notification of these events. I strongly recommend that this practice be reflected in any amendment relating to the sharing of this information, and specifically within the proposed § 6340.2. It is of critical importance that this information be disseminated to all those in our system responsible for making recommendations and decisions about the placement of youth.

I would also like to mention my strong support for the quarterly report provision at proposed § 6340.2 (b) which would provide on a quarterly basis aggregated and

historical information related to child abuse allegations and substantiations in a variety of child service facilities to judges and others responsible for making placement recommendations. The increased transparency of the sharing of this information, along with the historic overview of any patterns of incidents, will be well received by the field.

In an effort to be mindful of the time limitations of this committee hearing, I want to thank you all for the opportunity to speak with you today and encourage anyone to feel free to contact me should you have any questions or wish to continue this discussion in more detail.

Thank you.