

Testimony
Senate Bill 2107– Department of Human Services
Senate Judiciary Committee
Senator David Hogue, Chairman
January 28, 2015

Mr. Chairman, Members of the Senate Judiciary Committee, my name is Julie Leer and I am an attorney with the Department of Human Services (Department). The Department is not taking a position on Senate Bill No. 2107; however, the Department is proposing an amendment to the bill and is providing comments on how we see this bill working in conjunction with our programs and services. We appreciate the opportunity to share this information with the Committee.

On page 7, under proposed section 12.1-41-10, Victim Confidentiality, the Department reads subsection 3 as allowing law enforcement and state's attorneys to share information with the counties or the state as necessary. Based on feedback we received from some members of the Uniform Laws Commission, we understand our interpretation to be correct; this subsection intends that child welfare agencies (county social services offices, DHS Child Protection Services, foster care programs, etc.) will be able to access the information identified in 12.1-41-10 by virtue of subsection 3.

Also on page 7, under proposed section 12.1-41-12, Immunity of Minor, subsection 3 creates a presumption that a minor is a "child in need of services under chapter 50-25.1." While chapter 50-25.1, does not contain a definition of "child in need of services under chapter 50-25.1," the Department would consider "a child in need of services under 50-25.1" to be an "abused child," a "neglected child," or a "sexually abused child," all of which are defined for purposes of

chapter 50-25.1 and all of whom are eligible for "protective services" as defined under that chapter.

Under that same section, the Department envisions a scenario where a child would be too old to receive child welfare services under chapter 50-25.1; i.e., a situation where a child is 17 years and 11 months old when arrested or otherwise discovered, and is over 18 by the time the processes of the proposed subsections 1 and 2 to section 12.1-41-12 are complete. If this were to occur, the Department would refer those young adults who are legally their own decision maker upon reaching the age of 18, to a private provider or one of the human service centers for services.

On page 9, under proposed section 12.1-41-17, Eligibility for Benefit or Service, the Department is proposing an amendment to clarify what is meant by a "benefit or service available through the state." The Department administers a number of programs that provide benefits or services that are funded by federal funds. A number of those programs have citizenship requirements and other eligibility requirements. Failure to follow those requirements could jeopardize the receipt of future federal funding. The Department proposes the attached amendment to ensure that "eligibility for a benefit or service available through the state...regardless of immigration status" will not preclude the Department from following the federal statutes and regulations governing program eligibility. The proposed amendment is specific to the Department, but we would not object to it being more generic if other state agencies have a similar concern with the wording of the proposed section 12.1-41-17.

Thank you. I will answer any questions you have.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

Page 10, after line 5, insert:

- "4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program administered by the department of human services if the victim or minor does not meet other program eligibility requirements or if the program's eligibility requirements are based, in part, on immigration status."

Renumber accordingly