Bill as Introduced

2003 SESSION

03-0958
05/01

SENATE BILL ***86-FN***

AN ACT relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services.

SPONSORS: Sen. Martel, Dist 18; Sen. O'Hearn, Dist 12; Sen. Cohen, Dist 24; Sen. Estabrook, Dist 21; Sen. Below, Dist 5; Rep. Hallyburton, Hills 45; Rep. Alger, Graf 14; Rep. Emerton, Hills 48; Rep. Wallner, Merr. 40

COMMITTEE: Public Institutions, Health and Human Services

ANALYSIS

This bill requires the department of health and human services to publicly disclose certain information regarding abuse and neglect cases if the disclosure would not be contrary to the best interests of the child and if there has been a fatality or near fatality resulting from abuse or neglect of a child.

The bill also requires the department of health and human services to submit a plan to obtain accreditation by the Council on Accreditation for Children and Family Services by July 1, 2007.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03-0958
05/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Statement of Purpose.

I. The purpose of this act is to ensure that the department of health and human services both receives the resources necessary and is held accountable for requesting and using those resources so that it may perform the child protection duties required of it in RSA 169-C, the Child Protection Act, and RSA 170-G, Services for Children, Youth and Families.

II. By this act, the general court resolves to provide the resources for the department of health and human services to meet higher standards for child protection. The general court finds that those standards set by the Council on Accreditation for Children and Family Services, Inc. are nationally recognized as the best practices for protecting abused and neglected children. The general court further finds that achieving and maintaining these standards require solid commitment from the legislative and executive branches of government.

III. The general court also finds that public access to limited information about child fatalities and near fatalities will create greater accountability, both for the department of health and human services and for other organizations and systems charged with protecting vulnerable children.

2 Commissioner of Health and Human Services; Mandatory Disclosure of Certain Abuse and Neglect Cases. Amend RSA 126-A:5, XII(a) to read as follows:

(a) Notwithstanding any other provision of law to the contrary, the commissioner [~~may~~] ***shall***, upon request, publicly disclose certain case specific information regarding the abuse or neglect of a child as set forth in this paragraph, and the investigation of such abuse or neglect and any services related thereto, if it is determined that such disclosure shall not be contrary to the best interests of the child, the child's siblings or other children in the household and there has been a fatality or near fatality resulting from abuse or neglect of a child. In determining whether disclosure will be contrary to the best interests of the child, the child's siblings, or other children in the household, the commissioner shall consider the privacy interests of the child and the child's family and the effects which disclosure may have on efforts to reunite and provide services for the family. [~~In evaluating the request for disclosure, the commissioner shall consider the source of the request, and whether the disclosure will promote public accountability of the department.~~] As used in this section, "near fatality" means an act or event that places a child in serious or critical condition as certified by a physician.

3 Commissioner of Health and Human Services; Mandatory Disclosure of Certain Abuse and Neglect Cases. Amend RSA 126-A:5, XII(c) to read as follows:

(c) For the purposes of this paragraph, the following information [~~may~~] ***shall*** be disclosed:

(1) The name of the abused or neglected child, provided that the name shall not be disclosed in a case of a near fatality unless the name has otherwise previously been disclosed.

(2) The name of the parent or other person legally responsible for the child.

(3) The date of any report to the department of suspected abuse or neglect, provided that the identity of the person making the report shall not be made public.

(4) The statutory basis and supporting allegations of such report, provided that the identity of the person making the report shall not be made public.

(5) Whether the report was referred to a district office for assessment and, if so, the priority assigned by central intake.

(6) The date the report was referred to the district office for assessment.

(7) The date and means by which the district office made contact with the family regarding the assessment.

(8) The date and means of any collateral contact made as part of the investigation provided that the identity of an individual so contacted shall not be made public.

(9) The date the assessment was completed.

[~~(3)~~] ***(10)*** The fact that the department's investigation resulted in a finding of either abuse or neglect and the basis for the finding.

[~~(4)~~] ***(11)*** Identification of services and actions taken, if any, by the department regarding the child named in the report and his or her family as a result of any such report or reports.

[~~(5)~~] ***(12)*** Any extraordinary or pertinent information concerning the circumstances of the abuse or maltreatment of the child and the investigation of such abuse or maltreatment, where the commissioner determines such disclosure is consistent with the public interest.

4 New Paragraph; Powers and Duties of the Department of Health and Human Services: Accreditation by the Council on Accreditation for Children and Family Services. Amend RSA 170-G:4 by inserting after paragraph XIX the following new paragraph:

XX. Submit a plan for the department to achieve accreditation by the Council on Accreditation for Children and Family Services, Inc. no later than July 1, 2007. The plan shall contain staffing requirements, a timetable for achieving those requirements, projected budgets for achieving those requirements and any other costs associated with achieving accreditation. The plan shall be submitted no later than 90 days after passage of this paragraph to the governor; the president of the senate; the chairs of the finance committee and of the public institutions, health and human services committee of the senate; the speaker of the house of representatives; the chairs of the children and family law committee and finance committee of the house of representatives; the

legislative budget assistant; the advisory board established in RSA 170-G:6; and the New Hampshire child fatality review committee. Annually thereafter, on or before August 1 of each year, the department shall submit an updated plan, which includes the current status of the original plan, and any changes necessary to achieve accreditation on or before July 1, 2007. Reports from the Council on Accreditation shall be public documents. Copies shall be submitted to the president of the senate; the chairs of the finance committee and of the public institutions, health and human services committee of the senate; the speaker of the house of representatives; the chairs of the children and family law committee and finance committee of the house of representatives; the legislative budget assistant; the advisory board established in RSA 170-G:6; and the New Hampshire Child Fatality Review Committee.

5 New Section; Legislative Budget Assistant; Audit of Plan for Accreditation of Department of Health and Human Services by Council on Accreditation for Children and Family Services. Amend RSA 14 by inserting after section 31-c the following new section:

14:31-d Audit of Plan for Accreditation of Department of Health and Human Services by Council on Accreditation for Children and Family Services. The legislative budget assistant shall review each plan submitted by the department of health and human services pursuant to RSA 170-G:4, XX. The legislative budget assistant shall determine whether the plan, if implemented, will achieve or is likely to achieve, accreditation on or before July 1, 2007. In making this determination, the legislative budget assistant shall assume the facts as laid out in the plan, and shall not make an independent determination as to whether the current or prior plans are being implemented. The legislative budget assistant shall further make a determination as to whether the budget proposed by the department of health and human services pursuant to RSA 9:4 is sufficient to implement the plan submitted pursuant to RSA 170-G:4, XX. The conclusions of the legislative budget assistant shall be submitted to each recipient of the plan submitted by the department of health and human services.

6 Effective Date. This act shall take effect 60 days after its passage.

LBAO
03-0958
1/29/03

SB 86-FN - FISCAL NOTE

AN ACT relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services.

FISCAL IMPACT:

The Office of Legislative Budget Assistant indicated this bill will increase state expenditures by $55,496 in FY 2004, $14,061 in FY 2005, $14,695 in FY 2006 and $15,357 in FY 2007. There will be no fiscal impact on state, county and local revenue or county and local expenditures.

METHODOLOGY:

The Office assumed in FY 2004 an Audit Manager and a Staff Auditor would work for 6 months to collect the information and data necessary to evaluate the Department's accreditation plans. Salaries are at the minimum step in FY 2004 with annual step increases added in the following years. In subsequent years, the Audit Manager would have the background information and would be able to review the plans over a three-month period. The Office estimated the costs as follows:

	FY 2004 (6 months)	FY 2005 (3 months)	FY 2006 (3 months)	FY 2007 (3 months)
Audit Manager	$19,630	$10,263	$10,726	$11,211
Benefits @ 37%	7,264	3,798	3,969	4,146
Staff Auditor	17,228	0	0	0
Benefits @ 37%	6,374	0	0	0
Equipment	5,000	0	0	0
Total	$55,496	$14,061	$14,695	$15,357

The Department of Health and Human Services stated the required disclosure of case specific information would have no fiscal impact, and development of a plan to obtain accreditation by the Council on Accreditation for Children and Family Services can be accomplished using existing appropriations.

Committee Minutes

CC

Date: February 18, 2003
Time: 4:15 PM
Room: Room 101, LOB

The Senate Committee on Public Institutions/Health and Human Services held a hearing on the following:

SB86-FN relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services.

Members of Committee present: Senator Andre Martel, Chairman
Senator Robert K. Boyce, Vice Chairman
Senator Jane E. O'Hearn
Senator Iris Estabrook
Senator Joseph D. Kenney

The Chair, Senator Andre Martel, opened the hearing.

Senator Robert Boyce was asked to open the hearing, as Senator Andre Martel is the prime sponsor.

Senator Robert K. Boyce, D. 4: I open this hearing on Senate Bill 86 and call on the prime sponsor, Senator Martel.

Senator Andre Martel, D. 18: **(begins reading from written testimony attached to hereto and referenced as Attachment #1)**
Thank you very much Mr. Chair, and members of the committee. I am introducing Senate Bill 86 today, because I am proud to speak to all of you as the prime sponsor of this bill. Also, thank each and every one of you who co-signed on this bill.

I am pleased to speak to you a the prime sponsor of Senate Bill 86-FN and I also thank all those who co-signed on the Senate's version of the Kassidy Bortner Bill, which passed in the House Committee unanimously a few weeks ago.

The purpose of this act is to ensure that the Department of Health and Human Services both receives the resources and using those resources so that it may perform the child protection duties required of it RSA 169:C, the Child Protection Act and RSA170-G Services for Children, Youth and Families.

This act, we resolve to provide the resources for the Department of Health and Human Services to meet higher standards for child protection. We who sponsor this bill have a firm trust that those standards set by the Council of Accreditation for Children and Family Services, Inc. are nationally recognized as the best practices for protecting abused and neglected children.

As I stated during the press conference a few weeks ago, announcing the House bill for the Kassidy Bortner Bill, we can no longer turn our cheeks allowing our children's lives to be at high risk each day.

Prior to the unfortunate and terrible death of Kassidy Bortner we have come to find out how the Division of Child and Family Practices were warned several weeks in advance of that vicious attack and death. The excuses of the Division is short staffing even though they received 8 warning calls which were documented as true. Never again can we allow this to happen. In fact I believe little Kassidy Bortner's grandmother, I don't think she is here now, she was having trouble making it here because of the storm. She couldn't make it today, but I she could have.

She is very steadfast in wanting us to pass this legislation. And I am sorry she is not here, but it is understandable. We will continue to fight this battle on her behalf and the rest of her family.

That is all I have to say other people will follow me and discuss the strategy of the bill and the technicalities. If you have any questions, I would be willing to answer any.

Senator Robert K. Boyce, D. 4: Any questions, Thank you very much. I will now call upon ... before I call on any of the witnesses, I will point out that so far nobody has signed up opposed, since everyone wants to speak is speaking in favor, we probably don't need the lots of the same information over and over. And as the weather is not getting any better just ask everyone to be brief.

First on the list in co-sponsor Representative Hallyburton.

Representative Marge Hallyburton, Dist. 45: **(begins reading from written testimony attached to hereto and referenced as Attachment #2)**

Thank you Mr. Chairman, members of the committee, for the record my name is Marge Hallyburton. I represent the constituents in District 45, which is in Hillsborough County.

We in the legislature really want to do what is best for children, it doesn't really need to be said, but there it is.

Certainly, there isn't one among us, who would want a child in an abusive situation one moment longer than necessary. And there isn't one of us who believe that people take jobs at DCYF for any reason other than wanting to protect children from harm. But it is really really hard to know what the right thing to do is. On the one hand, we have agency whose administrators and workers alike tell us there case loads and worker turnover rates are sky-high. On the other, we constantly hear from aggrieved parents claiming DCYF is using it's precious resources to harass them and take their children without reason. And when we read reports like those from the Eric L. Panel and LBA report on foster care, which tell us that DCYF has both resource and management problems. With all of these opinions swirling around us, and confidentiality laws keeping us from digging much deeper, we have often been hesitant to support DCYF.

This bill would at long last, give us in the legislature the tool we have needed to measure the effectiveness of our child protection system. The Council on Accreditation for Children and Family Services is an international authority on best-practice standards and DCYF's policies and practices would be measured against those standards as they move toward, and hopefully achieve accreditation.

This bill would promote DCYF accountability in another way. When things go horribly wrong, as they sometimes will in any system run by humans, and a child is killed or almost killed, this bill requires DCYF to reveal publicly whether it had received a report of this child's abuse, when it received that report, and what it did about it.

If we're going to continue to write, and pass laws, and budgets related to DCYF, we need the information. It's long overdue. Let's improve DCYF's work and at the same time make it more accountable to New Hampshire's representatives, senators, governor, and most importantly the citizens, the families of New Hampshire.

And just as a footnote, I calculated the fiscal note, this biennium is around $65,000 which is less than one half of 1% of the discretionary $15,000,000 which has been awarded to the legislature by the governor. I think it would be a very well spent one half of 1%.

Thank you and I would be happy to take questions.

Senator Iris Estabrook, D. 21: Thank Mr. Chairman, do you know whether the New Hampshire Child Fatality Review Committee has the authority to access that information or do the confidentiality issues prevent them from accessing?

Representative Marge Hallyburton, Dist. 45: I believe Senator, that they did get some enabling legislation in the last biennium, which allows them at least to look at that information, I could stand to be corrected by people who know better.

Senator Iris Estabrook, D. 21: Thank you,

Senator Robert K. Boyce, D. 4: I have a question. You mentioned confidentiality, and I, as I read this, this would allow that the names of the parents of the child to be disclosed. Other people's names and even the child's if the press picked up the name and disclosed it. The child's name could be disclosed. But I see that you were providing that the identity of anyone making a report shall not be made public. And I think that we need to have a double-edged sword. If somebody is making bogus claims, I think that needs to be made public as well. So, I have a problem with that being in here on line 8.

Representative Marge Hallyburton, Dist. 45: I appreciate that, but Senator however in this particular case the threshold is that the child has either killed or bodily injured, so the concern that it may be a bogus report would certainly lessened. Because we have a rather, either the child was killed or is close to being killed.

Senator Robert K. Boyce, D. 4: I understand, I just...

Representative Marge Hallyburton, Dist. 45: I also appreciate what you were saying about the concern there.

Senator Robert K. Boyce, D. 4: I am just concerned that not all the cases that will be disclosed will really be necessarily be exactly that. I think that, I have a concern that they will be, there will be cases under everybody purview of cases of near death. And the definition of near death is pretty broad here.

So I am concerned that there would be releases of information about families and somebody that was claiming that there were, that there was child abuse where there might not have been, that might, the identity of the person claiming might not even disclosed and there could be a personal vendetta by somebody, a grandparent of an ex-spouse, or something.

Representative Marge Hallyburton, Dist. 45: I understand.

Senator Robert K. Boyce, D. 4: I am concerned that this is not all that there is. I just have concerns.

Representative Marge Hallyburton, Dist. 45: That's fine. I appreciate that, thank you.

Senator Iris Estabrook, D. 21: I will follow up on that. On the other side of that issue, do you think that perhaps, other than the fact that our current statute is general on reporting is to allow it to be anonymous, in the case that would be covered by this bill, a near death or a fatality, it would be clearly be a case of severe violence. And do you think that the protection of the reporting party might be more appropriate under that kind of a circumstance. Where there is clearly a case of severe violence and the protection of the identity of the reporter might be an issue of safety.

Representative Marge Hallyburton, Dist. 45: In terms of witness protection of some sort. That is not something I had thought about, but I think that deserves further thought. Thank you.

Senator Iris Estabrook, D. 21: Thank you.

Senator Robert K. Boyce, D. 4: Okay, next we have Representative Kennedy.

Representative Richard Kennedy, Dist. 34: I am here in support of this bill for a number of reasons. About ten years ago, I served on the old Judiciary and Family Law, for four years, and on it were three people over that period, that I have a firm amount of respect for their abilities in those fields. Marge is one of them. The other two, I am sorry to say, unfortunately, and I wish I didn't have to are both Democrats. One of them is Pratt, and the other is Lionel. As I said, both of them are beyond belief for their care and concern of children, and not of bureaucracy or government or anything else. They are good people, I wish there was more of them.

I support this bill for a number of reasons. Number one, secrecy of its own trends is dangerous. I don't trust it. Every time you have secrecy, somebody is going to use it improperly. I have a very great suspicion that most of the time; secrecy is not used to protect the child, but in fact to protect the perpetrator and the incompetent bureaucrat.

This bill would perhaps give us more competent bureaucrats, and perhaps we could get more perps that shouldn't be on the street loose, locked up. My feelings are of most of the time when they find things, they worry about diddly this and diddly that instead of calling the cops and having somebody arrested for assault. You beat the hell out of a kid; it's a crime. It's assault

whether that person is three or four years old or ninety years old, don't make a damn bit of difference. They are all entitled to lives their lives and not be abused and not be punched. The constitution is stated very clear, you can only use force and violence in the defense of yourself, your family, or your property if it is taken. I don't see anyone excused for what has happened.

I would also at this time, before I go any further ask when this report comes back, I would hope you would send a copy of it to my committee, Criminal Justice and Corrections. The idea that this, I don't know what the hell you want to call her, got off with a slap of the wrist, as far as I am concerned, abated and abetting murder, with two years in the pokey. It is beyond belief, it is obscene. It is the mention of this law, that it reeks, and something must be done to straighten it out.

As far as the secrecy is concerned, I absolutely agree there is a problem with the abuse. Two cases immediately come to mind. One was Craig Peterson's, when he was going to make a run for the Senate, I had to (inaudible) down on his wife, the second and the most famous one was one that was done to Representative Wheeler when he ran for the Senate. Can it be used as a filthy weapon, yes? How do you prevent it, I don't know, unless you permit the identity to be released by the courts, court order, or something along those lines? But um, even with that, there is always an anonymous phone call that can take care of most things.

As far as the cost is concerned, if we can prove to the bureaucracy so they are doing what they are suppose to do, instead of shuffling papers, then we have saved ourselves a tremendous amount of money. The amount of money that goes into this is so great, that it is a great percentage of the state's budget. We are trying to protect people who are basically unable to protect themselves. We have an obligation to protect them and we are not. So let's see what we can do. I hope that you will pass this, I hope it will be funded. And if there is anything I can do to help along the line, I am at your disposal. But I have stewed over this thing now since, ten, twelve, ten years ago, eight years ago, when I was on the committee run the other two versions. You sit there and you see these things and you know nothing happens and nothing does happen and it just continues. Business as usual. Don't ruffle the papers. Don't ruffle any feathers, don't rock the boat, I'm a crazy Irishman, I don't mind rocking the damn boat.
That's all I got to say, I don't suppose I can any answers, but I got a lot of questions.

Senator Robert K. Boyce, D. 4: Thank you.

Representative Richard Kennedy, Dist. 34: Okay.

Senator Robert K. Boyce, D. 4: Appreciate it. Next on my list in Candice Leonard.

Candice Leonard, Director of Research and Community Development for Prevent Child Abuse, New Hampshire: **(begins reading from written testimony attached to hereto and referenced as Attachment #3)**
I am the Director of Research and Community Development for Prevent Child Abuse, New Hampshire, which was formerly the New Hampshire Task Force to Prevent Child Abuse, and the New Hampshire State affiliate of Prevent Child Abuse America.

New Hampshire's child abuse reporting law is one of the best in the country. It requires every citizen to report suspected instances of child abuse. We should be proud that our share community and responsibility for keeping our children safe is embodied in this law. Through our training and public awareness campaigns, Prevent Child Abuse New Hampshire is working to ensure that the citizens of our state understand their responsibility and the importance of acting on that responsibility. We believe that making the public aware of this law could substantially reduce child abuse in our state.

However, DCYF is lacking the resources to respond effectively to the calls it currently receives, if the public and child-serving professionals acted on their responsibilities to report, DCYF would become even more overburdened than it currently is.

SB86, The Kassidy Bortner Accountability Act, would enhance the effectiveness of DCYF and prevent more tragedies like that of Kassidy Bortner, as well as the near tragedies and maltreatment that don't get media attention, but that occur in New Hampshire every day.

SB86 requires that DCYF meet national, proven research-based standards, standards that include mechanisms for ongoing quality improvements, adequate and appropriately trained staff, and greater accountability to the public and our elected officials. And it requires careful, systematic monitoring of the progress towards accreditation. In short, it requires us to do what is necessary to protect New Hampshire's children; it requires us to act on the commitment embodied in our universal reporting law.

Prevent Child Abuse New Hampshire believes in the community child protection model, and is working on several statewide projects that will move us towards the culture shift, where civic engagement and personal responsibility result in stronger, safer communities and safer children...

Senator Robert K. Boyce, D. 4: Can I interrupt?

Candice Leonard, Director of Research and Community Development for Prevent Child Abuse, New Hampshire: Yes

Senator Robert K. Boyce, D. 4: Since it seems that you have written testimony,

Candice Leonard, Director of Research and Community Development for Prevent Child Abuse, New Hampshire: Do you want me to submit it?

Senator Robert K. Boyce, D. 4: you're going to read it. Why don't you just submit it and we will read it?

Candice Leonard, Director of Research and Community Development for Prevent Child Abuse, New Hampshire: Okay, I have one sentence, I understand, Okay fine. Thank you,

Senator Robert K. Boyce, D. 4: I hate... I am just trying to get everyone....

Candice Leonard, Director of Research and Community Development for Prevent Child Abuse, New Hampshire: Thank you, I will do that.

Senator Robert K. Boyce, D. 4: Next, we have Jack Lightfoot.

Jack Lightfoot, Child Advocate for Child and Family Services: Thank Senator Boyce, members of the committee. My name is Jack Lightfoot, in the interest of time I do have written testimony. I just wanted you to gage Children and Family Services strong support on the Kassidy Bortner Act, and I will be happy to answer any questions. And I appreciate that and I....

Senator Robert K. Boyce, D. 4: If you have something to say, that hasn't been said, I will be happy to listen. I am just.

Jack Lightfoot, Child Advocate for Child and Family Services: No I think you have heard it all, that I have to say. **(Written testimony attached to hereto and referenced as Attachment #4)**

Senator Robert K. Boyce, D. 4: Next we have Mike Ostrowski.

Mike Ostrowski, President of Child and Family Services: My name is Mike Ostrowski, President of Child and Family Services. I don't have any written testimony and but my role is here today is that I am the closest thing to an expert for accreditation that they could find in New Hampshire.

Our agency has been accredited for some 20 years. I have chaired accreditation teams throughout the country for about 15 years. And I have

served on the board of directors of the National Council of Accreditation for ten years. Serving at as it's Vice Chair for all those years.

So, it's good to answer questions about accreditation if they came up. I wanted to speak about one mechanism for insuring quality, one important one.

When a state spends this much money on child protection, a state hospital, community wide health center, it is a complicated operation. It is typically use an accreditation process to hold folks accountable and to insure some level of quality. Is it perfect, absolutely not? Are there crummy hospitals, sure? But I wouldn't have my appendix out in one that wasn't accredited, nor would my insurance pay for it.

So with that, I would be happy to answer any questions on accreditation, the process, the cost.

Senator Robert K. Boyce, D. 4: Any questions,

Mike Ostrowski, President of Child and Family Services: Great thank you.

Senator Robert K. Boyce, D. 4: Next we have Steve Varnum.

Steve Varnum, Children's Alliance of New Hampshire: Thank you Senators, my name is Steve Varnum, I am the Public Policy Director of the Children's Alliance of New Hampshire.

Senator, I would like to sort of indirectly a point that you brought up, which is one that I thought was a very good one.

If someone dropped a dime on us and reported us for child abuse and neglect, I hope the same thing would happen. I hope the investigation would be quick, I hope the investigation would be thorough, I hope the investigation would be fair, and I would hope that it would be done by a highly trained and very well supervised worker. Who would get to the truth of the matter that you and I do not abuse our children and that we can go on our way.
The real abuse of the system and of people that are unnecessarily brought into the system, I would suggest is not that they are reported but what happens after they are reported. The case drags on and it is not a high priority, clearly the child is in school, he or she is doing okay, we have more important cases to investigate.

That system that I just described, is what we all here are trying to move toward. We want a system that is effective that responds quickly. But we also want a system that is accountable to you the legislator who passes the laws and votes on the budget for that system.

We have heard, those of us that spend time here, over and over again, in this committee and many other committees, legislators are not willing to support DCYF because frankly they don't know what they are getting for their money.

You have heard from tens, if not hundreds of parents now, who say they have been invested, say they have been aggrieved by the system, say how much their lives have been disrupted. You have not heard many children who's life been saved by someone that stepped in and worked with their family.

What we are trying to do is bring in an impartial third party, who stands somewhere between that child and between those parents, who knows best practice child protection is, and who is keeping an eye on New Hampshire's system. That is where we are going with this bill. It really isn't a whole lot more complicated than that. The only other piece of it is that in cases of fatal and near fatal child abuse we think the public and we think the legislators and the governor do deserve to know what the agency did and did not do. And frankly, that should be the case with any state or government funded agency.

That is it, I won't keep you any more, unless you have questions.

Senator Robert K. Boyce, D. 4: I don't

Senator Iris Estabrook, D. 21: Nothing.

Steve Varnum, Children's Alliance of New Hampshire: Thank you.

Senator Robert K. Boyce, D. 4: And that is the last name on the list to speak. It is not quite 5:00. So, we will close this hearing.

(Written testimony from Debbie Zerbinopoulos attached to hereto and referenced as Attachment #5)

Hearing concluded at 4:56 PM.
Respectfully submitted,

Carlene Cayes
Senate Secretary
February 28, 2003

1 02-18-03

Introduction to SB86-FN: Andrie A. Madsen

I'm proud to speak to you as the Prime Sponsor of SB86-FN and I also thank all those who co-signed on the Senate's version of the Cassidy-Boutin Bill which passed in ~~the~~ House Committee unanimously a few weeks ago.

The purpose of this act is to ensure that the Department of health human services both receives the resources ~~needed~~ necessary ~~to perform the duties~~ and is held accountable for requesting and using those resources so that it may perform the child protection duties required of it RSA 169-C, the Child Protection Act and RSA 170-G Services for children, Youth & Families.

This ~~bill~~ act, we resolve to provide the resources for the department of health Human services to meet higher standards for child protection. We who sponsor this

bill have a firm trust that those standards set by the Council on Accreditation for Children and Family Services, the are nationally recognized as the best practices for protecting abused and neglected children.

As I stated during the press conference held on 03, announcing the House bill for the Cassidy Bottner Bill we can no longer turn our cheeks allowing our children lives to be at high risk each day.

Prior to the unfortunate and terrible death of Cassidy Bottner we have come to find out how the Division of Child and Family Services were warned several ~~as~~ weeks in advance of that vicious attack and death. The excuse of the Division is short - staffing even though they received 8 warning calls which were documented as true. Never again can we allow this to happen. In fact I believe little Cassidy Bottner's grandmother is with us today and I commend and welcome her for getting her in this

Alosm

SB86-FN

-- We (the legislature) really want to do what's best for children. Certainly, there isn't one among us who would want to have a child in an abusive situation one moment longer than necessary. And there isn't one of us who believe people take jobs at DCYF for any reason other than wanting to protect children from harm. -- But it's really, really hard to know what the right thing to do is. On the one hand we have an agency whose administrators and workers alike tell us their caseloads and worker turnover rates are sky-high. On the other, we constantly hear from aggrieved parents claiming DCYF is using its precious resources to harass them and take their children without reason. And then we read reports like those from the Eric L. Panel and LBA, which tell us that DCYF has both resource AND management problems. With all of these opinions swirling around us -- and confidentiality laws keeping us from digging much deeper -- we have often been hesitant to support DCYF. -- This bill, would, at long last, give us in the legislature the tool we have needed to measure the effectiveness of our child protection system. The Council on Accreditation for Children and Family Services is an international authority on best-practice standards, and DCYF's policies and practices would be measured against those standards as they move toward, and hopefully achieve, accreditation. -- This bill would promote DCYF accountabilty in another way. When things go horribly wrong -- as they sometimes will in any system run by humans -- and a child is killed or almost killed, this bill requires DCYF to reveal publicly whether it had received a report of this child's abuse, when it received that report, and what it did about it. -- If we're going to continue to write laws and pass budgets related to DCYF, we need this information. It's long overdue. Let's improve DCYF's work and at the same time make it more accountable to NH's citizens, reps, senators and governor.

Rep. Marge Hallyburton, co-sponsor, Hillsborough Dist. 45

Prevent Child Abuse New Hampshire

Formerly known as NH Task Force to Prevent Child Abuse

February 18, 2003

My name is Candice Leonard, and I am the Director of Research and Community Development for Prevent Child Abuse NH – which was formerly the NH Task Force to Prevent Child Abuse, and is the NH state affiliate of Prevent Child Abuse America.

NH's child abuse reporting law is one of the best in the country – it requires every citizen to report suspected instance of child abuse – We should be proud that our shared commitment and responsibility for keeping our children safe is embodied in this law. Through our trainings and public awareness campaigns, PCA NH is working to ensure that the citizens of our state understand their responsibility and the importance of acting on that responsibility – we believe that making the public aware of this law could substantially reduce child abuse in our state.

However – DCYF is lacking the resources to respond effectively to the calls it *currently* receives – if the public and child-serving professionals acted on their responsibly to report, - DCYF would become *even more* overburdened than it currently is.

SB 86– The Kassidy Bortner Accountability Act –would enhance the effectiveness of DCYF and prevent more tragedies like that of Kassidy Bortner – as well as the near-tragedies and maltreatment that don't get media attention – but that occur in NH every day.

SB 86 requires that DCYF meet national, proven, research-based standards - standards that include mechanisms for ongoing quality improvement, adequate and appropriately trained staff, and greater accountability to the public and our elected officials. And it requires careful, systematic monitoring of the progress towards accreditation. In short, it requires us to do what is necessary to protect NH's children – it requires us to act on the commitment embodied in our universal reporting law.

PCA NH believes in the community child protection model, and is working on several statewide projects that will move us toward that culture shift – where civic engagement and personal responsibility result in stronger, safer communities and safer children – but DCYF has the legislative obligation to protect NH's children, and an essential part of our responsibility – as citizens and elected officials – is to ensure that DCYF meets that obligation.

We strongly urge the committee to pass SB86.

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STRENGTHENING FAMILIES ALL ACROSS AMERICA
PARENTS Anonymous of New Hampshire
State Chapter of **Prevent Child Abuse America**

CHILD AND FAMILY SERVICES

Testimony on SB 86

Presented by: Jack Lightfoot
Tel: 668-1920 ext. 145
Email: LightfootJ@cfsnh.org

Thank you, Mr. Chairman and members of the committee. My name is Jack Lightfoot and I am the child advocate for Child and Family Services, a private, nonprofit organization with offices throughout the state. I am pleased to be here this afternoon in full support of SB 86.

The Kassidy Bortner Act is not a quick fix to the many challenges facing our child protection system. Reforming a state agency as large as the Division for Children, Youth and Families takes time. We're very happy that those reforms have already begun. For example, the introduction of a Structured Decision-Making system brings more consistency to the work of DCYF's case workers and supervisors.

As Senator Martel said, the Kassidy Bortner Act does this in two ways: It provides an independent evaluation of the quality of DCYF's work, and it provides the public more and better information about that work.

First, the Kassidy Bortner Act increases accountability by releasing more information to the public about DCYF's response in incidents where a child is killed or nearly killed by abuse or neglect. Current law releases certain information including the name of the abused or neglected child who is killed and the name of the parent. (See RSA 126-A:5). The information that SB 86 makes available is not currently open to the public includes:

- The dates of any reports to DCYF
- The statutory basis and supporting allegations of those reports
- Whether and when this report was referred to a district office for assessment, and what priority was assigned to it
- The date(s) and means by which the district office contacted the family and others with knowledge of the situation.

The date the assessment was completed.

The proposed changes do not release further identifying information about the child, parent, the person who reported or the social worker beyond what is currently allowed by state law.

The second way in which the Kassidy Bortner Act increases accountability is by mandating that DCYF develop a plan which, if implemented, would result in DCYF becoming accredited in five years.

I believe a later witness will speak in more detail about what accreditation means. Briefly, the Council on Accreditation for Children and Family Services is an internationally recognized agency whose guidelines are based on well-researched standards for mental health and social

service agencies. It is the only independent measure we have of an agency's performance. Making the regular accreditation reports available to the public will tell legislators and the community – for the first time – whether our money is going to good and proper use.

What does accreditation measure?
It sets standards for all areas of management and practice including rights and responsibilities, financial management, training and supervision, staffing requirements and quality assurance, and holds the agency to them through regular monitoring. Having such standards will prevent New Hampshire from falling into the trap, which has ensnared some states, of throwing large sums of money at their child protection systems only to see them fail for lack of review and accountability.

Therefore, the Kassidy Bortner Act requires that DCYF submit an annual accreditation plan to the legislature, the governor and the public. It will be up to us to determine if the plan will accomplish our goals in a cost-effective manner. This Act itself does not require any appropriation.

New Hampshire has never had such a plan for action and evaluation. Without it, spending and policy decisions are made without a tool to measure the state's progress in keeping children safe.

Thank you for your time. I'll be happy to answer any questions you may have.

February 18,2003

Dear Ladies and Gentlemen,

My name is Debbie Zerbinopoulos and I am from York, Maine. I had hoped to speak to you in person but, the weather and my schedule has prevented my doing so. The reason I have written today is because I have a first hand situation which this bill proposal deals with directly. I am a day care provider in Maine, and until July of 2002, I had been taking care of one particular little boy. This little boy had been with me from the time he was 7 weeks old. There were concerns from the very beginning which left me no choice but to get DCYF involved. They dealt with the situation of substance abuse at that point and then closed the case. This had begun and was completed in about a years time.

My continued concerns had escalated over the past year to the point of reinvolving DCYF back in March of 2002. In July of 2002, the child was removed from the mothers' custody by DCYF, only after I had called the police of Durham and informed them of all the concerns I had. Up to that point, I had been concerned of the child being sexually abused and took on investigating as much as I could, myself. The first gentleman who had been involved with the mother, was the first person I began questioning. I had asked him if he had any concerns that the child was being sexually abused. He responded with a statement that shocked me! He said that he walked into the bedroom, where the mother had this 2and 1/2 year old little boy in a very unacceptable position. After hanging up the phone with him, I proceeded to call the man whom she lived with when this child was born. (She married this man in August of 2002 to prove to the state that she and he could provide a safe home for the child when he "was" returned to the mother) I asked with no hesitation if he had any suspicion or reason to believe that the mother had sexually abused the child in anyway. His remark sent me into a state of depression! "Oh absolutely, many times!" When I asked him if he ever reported it, he said no and changed the subject!! I am here in front of you because I have no doubt that my suspicions have been confirmed with what these two men had said and also because of what I had been witness to with this little boys symptoms and actions. I do have a medical background, and therefore not ignorant to signs of infection. This child had, in my opinion, a yeast infection, not to mention a torn foreskin. When I told the first man I spoke with about this, he said that he, after staying through a weekend with this woman, knew that she was treating herself for the same type of infection. I informed the state about this and told them it was imparative that the child be examined by a physician immediately. To the best of my knowledge, this did not take place until at least a month after he was placed in foster care. I was told that he could not come to us, the family he grew up with, because we were not in New Hampshire.

This child is a wonderful, bright child, who has his whole life to look forward to.....provided that he get the psycological treatment he needs now to prevent flash backs when he is older, and, not to mention ,to be placed in the custody of his father and not his mother and the man she married who, at his own admittance, continually allowed her to use this infant child as her lover. I apologize for being blunt, but I have battled for 3 years for this child and because DCYF was doing, in my opinion, their job improperly, he was left to endure the aftermath from the psychological illnesses this woman suffers.

This man should have been punished for allowing the innocence of this child to be taken without doing something to stop it. It is not his job, nor mine to prove these allegations, only to report them. It was up to DCYF to act on what they were told! I believe they did nothing, or I would have been contacted! I know now, that if I am ever in this situation again, I will call the police! I have no faith in the actions of DCYF!!

The first gentleman I mentioned, reported to the state what he witnessed back in the spring of 2002! The state did nothing to remove this child until July!!! This is absolutely unacceptable.....This little boy had endured so much! There is no question that he will have problems as he gets older, unless he is treated now!! Wouldn't it be better to prevent later trouble through immediate action, then to deal with an adolecent whose reactions and troubles stem from a place that he may not even understand himself, by entering and reentering the legal or the psychiatric system!! There is much more to this situation ,but time is an issue, I know.

I am asking you, to please give this bill your undivided attention, realizing that it may very well **'PREVENT'** psychological or violent issues that would most definately occur later in life. DCYF has to be held accountable too! They need to act immediately on reports of abuse and do what is necessary to protect the child and their rights to safety, not the parents rights of privacy!!!!!! They had failed this little boy!!! As far as I am concerned, they continue to fail him for not investigating the reports that were made to them

back in April of 2002. He had signs and symptoms of sexual abuse and they knew it and chose to do nothing about it!!! I am begging you, please, don't wait until he becomes a statistic like Cassidy Bortner or Logan Marr! He is a beautiful little angel who deserves the right to be safe and protected.

If you are truly concerned and would like further information about this particular case, you may reach me at 207-363-4004 or at babysitruno@aol.com.

Sincerely,

Debbie Zerbinopoulos

Debbie Zerbinopoulos

Speakers

PUBLIC INSTITUTIONS, HEALTH & HUMAN SERVICES SENATE COMMITTEE

Date: **February 18, 2003** Time: **3:30 PM** Public Hearing on **SB86-FN**

SB86-FN – relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services.

Please check box(es) that apply.

	SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
1.	☑	☑	☐	Co-Sp. Marge Hallgburton	Wells. 4
2.	☑	☑	☐	Rep. Ken Weyler (Senate)	Dist. 34
3.	☑	☑	☐	Candice Leonard	Prevent Child Abuse New Hampshire
4.	☑	☐	☐	Jack Lightfoot	Child + Family Services
5.	☑	☐	☐	Mike Ostrowski	Child + Family Services
6.	☑	☑	☐	Steve Varnum	Children's Alliance of NH
7.	☑	☑	☐	Andrew G. Maclay	Prime Sponsor
8.	☐	☑	☐	Sen. Estabrook	Dist 21
9.	☐	☐	☐		
10.	☐	☐	☐		
11.	☐	☐	☐		
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20.	☐	☐	☐		

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Public Institutions/Health and Human Services

to which was referred Senate Bill 86-FN

AN ACT relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services.

VOTE: 3 to 0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Andre Martel
For the Committee

SB86 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: (New Title) relative to the disclosure of information about child fatalities resulting from abuse and neglect; relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services; and extending the reporting date for the pilot project relative to abuse and neglect hearings in Grafton county court.

Date	Body	Description
1/30/2003	S	Introduced and Ref. to Public Institutions, Health & Human Services; SJ 3, Pg.34
2/7/2003	S	Hearing; February 18, 2003, Room 101, LOB, 3:30 p.m.; SC8
3/7/2003	S	Committee Report; Ought to Pass [03/13/03]; SC13, Pg.4
3/13/2003	S	Ought to Pass, MA, VV; Refer to Finance [Rule 26]; SJ 8, Pg.94
3/28/2003	S	Committee Report; Ought to Pass, [04/03/03]; SC16
4/3/2003	S	Ought to Pass, RC 24Y-0N, MA; OT3rdg; SJ 11, Pg.242
4/3/2003	S	Passed by 3rd Reading Resolution; SJ 11, Pg.265
4/8/2003	H	03/26/2003 Introduced and ref to Child & Fam Law; HJ34, p1086
4/8/2003	H	Report due 5/8/2003
4/9/2003	H	Hearing Apr 15 10:00 RM206,LOB (NOTE TIME CHANGE)
4/23/2003	H	Subcom Work Session Apr 29 11:00 RM206,LOB
4/23/2003	H	Exec Sesion May 6 10:00 RM206,LOB
5/6/2003	H	Maj Report OTP/AM for May 15 (Vote 13-0;CC)
5/6/2003	H	Prop Comm Am{1495}(New Title); HC39, p1251-1252
5/15/2003	H	Passed with Am and ref to Finance; HJ 42,p1309-1311
5/15/2003	H	Fin Hearing May 20 1:30 RMs210-211,LOB
5/15/2003	H	Fin Div III Subcom Work & Exec Session May 21 1:00 RMs210-211,LOB
5/22/2003	H	Fin Maj Report OTP/AM for June 5 (Vote 21-0;CC)
5/22/2003	H	Prop Fin Comm Am{1758}; HC 44, p1426
6/5/2003	H	Passed with Am; HJ 47, p1498-1499 + 1513
6/5/2003	S	Sen. Martel Concur with House Amendment, MA, VV; SJ 19, Pg.645
6/24/2003	S	Enrolled; SJ 20, Pg.828
6/24/2003	H	Enrolled;
6/30/2003	S	Signed by the Governor on 6/30/2003 Eff- 8/29/2003 Chap- 0206

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations