



January 24, 2022

Members of the House Children and Youth Committee:

My name is Erin Dalton. I am the Director of Allegheny County's Department of Human Services (DHS). Our county department serves over 200,000 people each year through community-based programs that prevent harm and address needs for family support and child development, developmental supports, senior services, housing, and protection from maltreatment. I thank you for the opportunity to provide written testimony to this body on this important issue and appreciate each of your commitments to the safety of children in our Commonwealth.

Allegheny County works hard to meet the needs of children and families who come to the attention of child protective services. Most of the time, we can support families at home but when home removal is necessary, we rely on our network of providers to keep children safe. These agencies provide safe care for approximately 1,450 children (at any point in time) through kinship care and foster family homes, and - to a lesser degree - group home settings and institutions. Without a network of kinship and foster family home providers, Allegheny County DHS would need to build internal capacity to provide this service.

Pennsylvania's county child welfare provider network is facing unprecedented challenges to maintain required and necessary insurance. Providers of foster care, adoption, residential treatment centers, and other placement services are often finding it increasingly cost prohibitive, if not impossible, to obtain professional liability insurance. In many cases, regardless of claims history, some providers are being denied renewal on a "class of business" basis alone. If a provider is able to obtain a renewal, they often see significant increases in their premium cost with limits of coverage also greatly reduced.

Because of the evolving challenges in the current insurance market, I was pleased to see that Representative Klunk has introduced HB 2213 and HB 2214 aimed at addressing some of these challenges our child welfare providers are facing.

HB 2213 seeks to limit damages recoverable in a suit against a service provider under contract with the county. The legislation would cap damages at a maximum of \$500,000, which is the same cap applicable to actions against units of local government in Pennsylvania, and thereby

ERIN DALTON, DIRECTOR
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EXECUTIVE OFFICE

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would establish child welfare providers on equal footing with counties themselves in terms of limitation of damage awards. This is a logical extension of damages protections as our providers are direct partners in serving children and families, and certainly worthy of the same liability protections as the county.

One potential way to clarify HB 2213, would be the inclusion of the term “service provider” and a definition of that term that expresses the relationship of the service provider to a county children and youth service agency. This definition is present in the companion bill HB 2214, and its inclusion in HB 2213 would make that legislation cleaner and clearer.

HB 2214 seeks to prohibit an indemnification provision in contracts between a county children and youth agency and a provider agency that is too broad in its scope and that would make the provider agency liable for any bad act or harm arising out of the contractual relationship. The indemnification clause in our county’s contracts makes the provider liable only for harms caused by the acts of the provider in performing the contracted services. Allegheny County DHS’s indemnification clause does not make a provider agency responsible for any harm or loss caused by DHS or the county, and there is nothing in the insurance clause in our DHS services contract that contains a requirement that a provider agency must maintain insurance that insures the county for the county’s own acts of negligence. HB 2214 would not affect Allegheny County’s DHS service contracts because we do not have an overbroad scope to our indemnification clauses in contracts with our providers. We think it is a matter of good policy and good faith to share the risk inherent in child welfare service provision with our providers since they are an essential part of the delivery of services, and hopefully other counties will follow suit based on HB 2214.

Allegheny County DHS views both HB 2213 and HB 2214 as tools to help stabilize our child welfare system in the face of the challenges in the current insurance market. Both are intended to lower the potential liability and risk exposure for providers and make the share of risk more equitable between counties and their provider agencies. Allegheny County DHS is supportive of both bills and we are hopeful that by their implementation, increases in insurance premiums and reduced coverage for our providers will be slowed or reversed.

Please do not hesitate to contact me if you would like to discuss any of this further. I appreciate your time and attention to this issue.

Sincerely,

Erin Dalton
Director, Department of Human Services
Allegheny County



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