



January 17, 2022

The Honorable Alan Bershtein (Alan.Bershtein@leg.state.nh.us)

New Hampshire House of Representatives

14 Revolutionary Lane

Nottingham, NH 03290-5818

RE: Support for H.B. 1612, An Act relative to the confidentiality of reports made to the division of children, youth, and families

Dear Representative Bershtein:

On behalf of our thousands of supporters in New Hampshire, we are pleased to support your bill, H.B. 1612.

H.B. 1612 is of critical importance to the parents and children of New Hampshire. By changing New Hampshire's child abuse and neglect reporting laws from anonymous to confidential, this bill will protect innocent children and families from going through the trauma of an unnecessary governmental investigation.¹

¹ See, e.g., Josh Gupta-Kagan, *Beyond Law Enforcement: Camreta v. Greene*, Child Protection Investigations and the Need to Reform the Fourth Amendment Special Needs Doctrine, 87 Tul. L. Rev. 353, 357 (2012) (“[W]hen there is no law enforcement involvement (as occurs millions of times every year), the [Fourth Amendment’s special needs] doctrine permits significant invasions of children’s and families’ privacy at home and elsewhere, implicating fundamental constitutional rights without consideration of the severity or credibility of allegations.”); Doriane Lambelet Coleman, *Storming the Castle to Save the Children: The Ironic costs of a Child Welfare Exception to the Fourth Amendment*, 47 Wm. & Mary L. Rev. 413, 417-419 (2005) (“[I]n the name of saving children from the harm that their parents and guardians are thought to pose, states ultimately cause more harm to many more children than they ever help. In 2002, for example, the states conducted approximately 1.8 million investigations concerning the welfare of nearly 3.2 million children. Only about 896,000, or twenty-eight percent, of these children were ultimately found to be victims of abuse or neglect. Seventy-one percent, or roughly 2.3 million children were thus subjected to state mandated “thorough” investigations involving at a minimum interviews, examinations, and/or home visits, in circumstances where the state in the end could not show that the children were unsafe and in need of rescue. Investigating these children is consistent with the states’ highly precautionary strategy to remedy the nation’s maltreatment problem. However, from the perspective of the investigated child, the process is not so clearly meritorious. Indeed, despite the authorities’ best intentions, the process can be harmful in two related ways. First, the investigations undermine the fundamental values of privacy, dignity, personal security, and mobility that are protected by the Fourth Amendment. It is critical in this regard that the Fourth Amendment uniquely has been interpreted to recognize the child’s own individual interest in these values, by guarding her right also to be free from unreasonable searches and seizures both inside and outside the family home. Second, ... depending upon the child and the nature of the investigation, the process can cause emotional and psychological damage ranging from temporary discomfort to significant long-term harm.” (cleaned up)).

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Additionally, H.B. 1612 will significantly reduce (if not eliminate) false and malicious reports of child abuse and neglect, thereby allowing New Hampshire's Division for Children, Youth and Families (DCYF) to focus attention on children who are truly victims of abuse or neglect. And because H.B. 1612 will also create penalties for someone who knowingly makes a false report of child abuse or neglect, H.B. 1612 provides a legal means to ensure that New Hampshire's child abuse and neglect laws and DCYF investigations are not used maliciously.

H.B. 1612 is similar to a model policy drafted by the Parental Rights Foundation,² and endorsed by the American Legislative Exchange Council.³

Please note that ParentalRights.org does not take a position on H.B. 1612's requirement that a guardian ad litem be appointed in certain instances.

We are grateful for your leadership, and for your introduction of H.B. 1612. Please do not hesitate to reach out to me for any reason. I can be reached via phone at 540-751-1200, or via email at will@parentalrights.org.

Very truly yours,



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² See <https://parentalrightsfoundation.org/confidential-reporting/>.

³ See <https://alec.org/model-policy/confidential-reporting-act/>.

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