



State of New Hampshire

Office of the Child Advocate

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Child Advocate reacts to Senate Finance vote on divisive concept bill as impeding transformation of children's services.

Concord, NH- The Office of the Child Advocate called passage of an amendment to include a prohibition on so-called divisive concepts in the State budget bill a chilling decision. "Early Thursday, the State Senate Finance Committee voted 4-2 to muddy the State budget with an amendment that appears to prohibit discussions of our inherent biases and how they may impact the lives and safety of children. These conversations are critical to the transformation work of New Hampshire's child welfare and juvenile justice systems," said Moira O'Neill, the State Child Advocate.

Almost two years into a multi-disciplinary, cross-branch intensive initiative to transform juvenile justice services, O'Neill noted the substantial role that bias awareness has in the success of the transformation. She pointed out the irony of the timing for the Senate Committee considering the amendment while the Probation Transformation team was convening with 98 people for an educational program focused on the disproportionate representation of children of color in New Hampshire's juvenile justice system.

Children of color represent only 16 percent of the young population in New Hampshire, but 37 percent of detention admissions and 22 percent of new probation cases. Of children given the opportunity for diversion from the juvenile system, 80 percent are White while only 1 percent are Black. "We will not figure out how to address that disproportionate reality", O'Neill said, "until we all have the difficult discussions about the influences on our decision-making." O'Neill noted the lack of clarity in the amendment language that in one section permits "workplace sensitivity training", but then later prohibits state agencies from training staff and other stakeholders that their views of different people by virtue of their identified status may be, unconsciously, racist, sexist or oppressive. "It is not unusual that we live with biases we are unaware of", O'Neill said. "That is part of being human. But we cannot take steps to address those biases and their impact until we take apart our actions and find underlying causes for those biases. As best we can decipher of this contradictory language, while we perpetuate the violation of children's human rights, this amendment appears to allow state employees remedies to

being required to attend trainings as though participating in the trainings would violate their own human rights.”

Senate amendment 2021-1770s will amend the State’s human rights law ostensibly to protect the right to freedom from discrimination in public workplaces and education, according to the place and title of the amendment. It is a carryover from House Bill 544 relative to the propagation of divisive concepts. That bill was laid on the table in the House Executive Departments and Administration Committee. Critics described the bill as incomprehensibly written and potentially in violation of the First Amendment of the U.S. Constitution. The amendment has removed the term divisive concept. “As best we can tell,” O’Neill stated, “the term refers to the outcome of raising awareness to systemic or unconscious racism.”

Although unclear, given the contradictory language in the bill, when read carefully it appears to impede the State from training on and preventing discriminating views about people who are different, whether conscious or unconscious. Similar restrictions would apply to schools, disallowing opportunities for children to learn the importance of identifying and addressing our inherent biases. O’Neill concluded, “At the very least, the intent of the lawmakers is unclear. If they want longstanding change embraced by community, they should remove it from the budget and commit to a deeper community conversation about the best path forward.”

Pursuant to NH RSA chapter 21-V, the Office of the Child Advocate provides independent oversight ensure that children involved with an agency, and in particular, children served by the child welfare or juvenile justice systems, receive timely, safe, and effective services and that their best interests are being protected.

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