April 29, 2026

James R. Mason III
President
Home School Legal Defense Association
One Patrick Henry Circle
Purcellville, VA 20132

Re: Connecticut HB 5468

President Mason:

You asked me to conduct a review of HB 5468, currently pending before the Connecticut Senate, in light of the fundamental right of parents under the First and Fourteenth Amendments to the United States Constitution. It is my belief that HB 5468, if passed, would substantially burden both the fundamental right of parents to privately educate their children, and the right of religious parents to provide instruction to their children consistent with their sincere beliefs.

Child abuse can unquestionably be severe, and the state has legitimate and compelling interests in protecting children when that occurs. But HB 5468 extends far beyond this core protective function. Rather than targeting only parents who have been found to have committed serious abuse, the bill imposes a mandatory waiting period on all families who wish to withdraw their children to homeschool, and imposes a bar on homeschooling for any family with a parent whose name appears in the state's child abuse or neglect registry.

There are two fundamental problems with this approach. First, the bill imposes a mandatory waiting period on all families who wish to homeschool. This delay applies even to families against whom there is no allegation of abuse or neglect. The Supreme Court has long rejected "[t]he statist notion that governmental power should supersede parental authority in *all* cases because *some* parents abuse and neglect children."[1] But HB 5468 seeks to do just that.

Second, placement on the state's registry is a purely administrative decision—not a judicial one—and can occur based on a wide range of substantiated allegations, including many unrelated to the child's safety or a parent's ability to teach. Because "substantiated allegations of neglect comprise over 70% of all substantiated allegations" and neglect findings may range from "minor to more serious,"[2] registry status does not reliably reflect abuse, parental incapacity, or educational unsuitability. By treating registry placement as conclusive proof of parental neglect or unfitness, HB 5468 effectively transforms a child protection mechanism into a broad restriction on fundamental constitutional rights.

[1] *Parham v. J.R.*, 442 U.S. 584, 603 (1979).

[2] Colleen Henry & Vicki Lens, *Marginalizing Mothers: Child Maltreatment Registries, Statutory Schemes, and Reduced Opportunities for Employment*, 24 City Univ. N.Y. Law R. 1 (Winter 2021) at 10.

HB 5468 and Connecticut's Abuse/Neglect Registry Framework

HB 5468 effectively imposes a universal administrative barrier to homeschooling in two ways. First, any parent who seeks to withdraw their child from public school to homeschool is subject to a mandatory waiting period, whether the parent has been accused of neglect or not. Second, the bill imposes a mandatory child abuse and neglect registry check during that waiting period. If any parent in the household appears on the registry the family is categorically barred from homeschooling—with no mechanism to appeal that decision.

The scope of this restriction is compounded by two additional factors.

First, Connecticut defines "neglect" broadly. It may involve serious issues where a child's health or well-being is injured, but it also includes any situation where a child is "being denied proper care and attention, physically, educationally, emotionally, or morally."[3] The breadth of this definition makes neglect "more difficult to capture" and more susceptible to "subjective judgment."[4]

To be sure, some registry placements may involve grave abuse that could justify restrictions. But HB 5468 does not distinguish those cases from far less serious or disputed matters. Because the definition is so broad, the "neglect" that DCF finds may have nothing to do with a serious safety concern—or even the parent's ability to teach a child at home. To cite just a few real-world examples, from cases HSLDA has litigated:

- A parent is reported to social services by a grandparent for medical neglect because she chooses to have her children use fluoride-free toothpaste and declined an immunization.[5]
- A young child slips out of the home unnoticed and is later found walking down the street by a neighbor.[6]
- Someone reports that parents left their baby to cry in a closet, when in fact the closet was a walk-in closet converted into a nursery and the parents were using a sleep-training method.[7]

[3] Regs. Conn. State Agencies § 17a-101k-1(4).

[4] Henry & Lens at 24.

[5] *See, e.g., Reed v. Reed*, 352 A.3d 1019 (Pa. Super. Ct. 2025) ("Similarly, we cannot conclude that there is evidentiary support for the notion that Mother has placed the girls at substantial risk of neglect relating to their health. Paternal Grandfather presented no evidence that having the children brush their teeth with fluoride-free toothpaste would subject them to harm, or that either girl has any issues relating to her teeth or gums. The same holds true for Mother's decision not to have N.R. immunized with the second shot of the MMR vaccine").

[6] *See, e.g., In re Stumbo*, 582 S.E.2d 255, 261 (2003) ("On this record, we have a report of a circumstance that probably happens repeatedly across our state, where a toddler slips out of a house without the awareness of the parent or care giver—no matter how conscientious or diligent the parent or care giver might be. While no one wants that to happen, such a lapse does not in and of itself constitute "neglect" under N.C.G.S. § 7B–101").

[7] *See, e.g., In re Berryman*, 629 S.W.3d 453, 460 (Tex. App. 2020) ("Nor do Tabitha's alleged actions, standing alone, meet the definitions of abuse or neglect. It is not uncommon for a parent to place a baby on the floor to play or nap. Nor is it uncommon for a parent to allow an infant to cry herself to sleep, which is a known method of sleep training. And it is certainly not beyond the realm of reasonableness that a parent might convert a closet into a

In cases like these, a DCF investigator could conclude that there is "reasonable cause to believe" that a child is neglected—and place the family on the registry—even though (a) no child was actually harmed, and (b) none of the allegations have anything to do with whether the parent can homeschool. This is just one of the reasons why "the categorical use of neglect as a type of maltreatment has been criticized as overly broad and highly subjective."[8]

Second, placement on the registry is almost always the result of an administrative finding rather than a judicial determination. To substantiate a finding of "neglect," a DCF worker only needs "reasonable cause to believe" that the child was neglected by the parent.[9]

This standard does not require the factfinder to weigh conflicting evidence in the parent's favor. As a result, it is significantly lower than the "preponderance of the evidence" standard used for most family law matters—and far below the "beyond a reasonable doubt" standard required for a criminal conviction. The result is a registry that is "easy to get on to but difficult to get off"—increasing the likelihood that families remain listed even when the underlying finding is weak or disputed.[10]

Mere Placement on a Registry is not a Reliable Indicator of Danger or Unfitness to Teach

As a result, mere placement on a registry is not a reliable indicator of actual abuse, serious neglect, or a parent's ability to teach. States that use lower evidentiary thresholds have a much higher registry placement rate—and a much higher reversal rate on appeal—than states that use the more rigorous "preponderance of the evidence" standard.

In *Valmonte v. Bane*, the United States Court of Appeals for the Second Circuit, which includes Connecticut, considered a class action claim that brought a Fourteenth Amendment due process challenge against New York's process for placing individuals on the state's child abuse register. The Second Circuit concluded that a low threshold for registry inclusion created an "unacceptably high risk of error."[11] The Court concluded that New York's "some credible evidence" did "not require the factfinder to weigh conflicting evidence."[12] This rendered the standard "especially dubious" for making determinations of neglect, which are "inherently inflammatory" and "unusually open to the subjective values" of the factfinder.[13]

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nursery, albeit a small one. That the Department, or the trial court, may disapprove is insufficient to overcome a parent's fundamental right to make decisions regarding her children's care, custody, and control").

[8] Henry & Lens at 10.

[9] Regs. Conn. State Agencies § 17a-101k-1(11).

[10] Henry & Lens at 32.

[11] *Valmonte v. Bane*, 18 F.3d 992, 1004 (2d Cir. 1994).

[12] *Id.*

[13] *Id.*, *citing Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) ("Permanent neglect proceedings employ imprecise substantive standards that leave determinations unusually open to the subjective values of the judge. In appraising the nature and quality of a complex series of encounters among the agency, the parents, and the child, the court possesses unusual discretion to underweigh probative facts that might favor the parent. Because parents subject

As evidence of this disparity, *Valmonte* noted that when the much stronger "preponderance" standard was used on appeal—and hearing officers had to balance the evidence from *both* sides—nearly 75% of those seeking removal from the registry were successful.[14] As the Second Circuit concluded, "[i]f 75% of those challenging their inclusion on the list are successful, we cannot help but be skeptical of the fairness of the original determination."[15] Although the Court acknowledged "the grave seriousness of the problems of child abuse and neglect, and the need for the state to maintain a Central Register," it concluded that New York's registry placement process was constitutionally "unacceptable."[16]

Valmonte's concerns continue to be borne out by empirical research. In 2021, an article in the Central University of New York Law Review conducted an exhaustive review of child registry laws in all fifty states, and concluded that states with lower standards of proof (like Connecticut) continue to "have higher substantiation rates than do states that utilize higher standards of proof," and that "reversal rates of substantiation upon administrative appeal confirm this concern."[17] Put simply, lower thresholds lead to more placements, and many of those placements do not survive later review.

Nor do these errors fall evenly across the population. In Connecticut, 25% of all children, 34% of Hispanic children and 42% of Black children will, at some point, be living in a household with an open DCF case.[18] That is because child welfare research has consistently found that "[a]lready disadvantaged groups have a higher risk of both being placed on registries," and may be "unfairly labeled as dangerous or dysfunctional."[19] Disadvantaged communities—especially poor families, Black caregivers, and single mothers—are more likely to be reported, investigated,

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to termination proceedings are often poor, uneducated, or members of minority groups, such proceedings are often vulnerable to judgments based on cultural or class bias").

[14] *Valmonte*, 18 F.3d at 1003-1004.

[15] *Id.* at 1004.

[16] *Id.* at 1005.

[17] *See* Henry & Lens at 23-24 ("Kahn and his co-authors found that states that utilize lower standards of proof have higher substantiation rates than do states that utilize higher standards of proof. Some child welfare scholars argue that substantiated cases capture only the "tip-of-the-iceberg" and that use of a lower evidentiary standard ensures that child welfare systems can protect more children from harm. But scholars also argue that use of a lower standard substantially increases the risk of Type I errors or false positives. Risk of false positives is exacerbated by the fact that many child welfare workers are overworked and underpaid. The concern for such errors led the *24 authors of a feasibility report to Congress on the creation of a national child maltreatment registry to conclude, in part, that the likelihood of false positives warranted caution about instituting such a registry. Reversal rates of substantiation upon administrative appeal confirm this concern. For example, an investigative report found that in Texas, 42% of challenged substantiations were overturned on appeal in 2013. A Freedom of Information Act request found that in New York, 25.6% of challenged substantiations were overturned in 2017").

[18] National Coalition for Child Protection Reform, Press Release on Connecticut HB 5468 (April 29, 2026), *citing* Yi, et. al., "State-Level Variation in the Cumulative Prevalence of Child Welfare System Contact," *Children & Youth Services Review* 147:106832 (Apr. 2023), *available at* https://pubmed.ncbi.nlm.nih.gov/36874408/ (accessed Apr. 29, 2026).

[19] Henry & Lens at 3.

substantiated, and subjected to registry consequences, while often lacking the financial resources necessary to appeal or overturn these findings.[20]

In sum, there are serious flaws in the core premise of HB 5468: placement on a child abuse or neglect registry does not necessarily establish actual abuse, serious misconduct, or parental inability to educate a child. A registry may include parents associated with a wide range of allegations, from severe abuse to lower-risk neglect findings—allegations which may have occurred years ago, and have no present bearing on the child's safety or the parent's ability to teach.

If Passed, HB 5468 Would Raise Serious Constitutional Concerns

These structural flaws raise serious constitutional concerns. The United States Supreme Court has repeatedly recognized that "the liberty protected by the Due Process Clause includes the right of parents to establish a home and bring up children" and "to control the education of their own."[21] *Troxel v. Granville* described the role of parents in the "care, custody, and control" of their children as "perhaps the oldest of the fundamental liberty interests recognized by this Court."[22] Likewise, *Pierce v. Society of Sisters* held that "[t]he child is not the mere creature of the state," and rejected any "general power of the state to standardize its children."[23]

A law like HB 5468, which imposes a mandatory waiting period on *all* parents simply because *some* parents abused their children in the past, is inconsistent with these constitutional principles. As the United States Supreme Court held in *Parham v. J.R.*, "[t]he statist notion that governmental power should supersede parental authority in *all* cases because *some* parents abuse and neglect children is repugnant to American tradition."[24]

HB 5468 also directly and substantially burdens that fundamental right by barring all parents from homeschooling solely because an agency placed their names on a registry. This would prevent parents from choosing what their children are taught and where they are taught, without any individualized inquiry into whether the parent can actually teach, supervise, or safely educate the child.[25]

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[20] *See Id.* at 3 ("Poor women, many of whom are Black, are disproportionately referred to and substantiated by child welfare systems for maltreatment"); *id.* at 12 ("Black caregivers are significantly more likely to be referred to child welfare systems, to be substantiated for maltreatment, and to have their children enter foster care than are white families. A population-based birth-cohort study from California found that Black children were more than twice as likely as white children to be referred to the child welfare system, substantiated, and placed in foster care by age five. Additionally, a 2014 study found that by age 18, Black children were nearly twice as likely as white children to be the subject of a substantiated allegation (20.9% vs. 10.7%)").

[21] *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

[22] *Id.*

[23] *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925).

[24] *Parham v. J. R.*, 442 U.S. 584, 603 (1979) (emphasis in original).

[25] *See Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 431 (2006) (holding that the compelling interest test, as set forth by the Supreme Court in cases like *Wisconsin v. Yoder*, "look[s] beyond broadly formulated interests justifying the general applicability of government mandates and scrutinize[s] the asserted harm of granting specific exemptions to particular religious claimants").

The burden is even more pronounced for families seeking homeschooling for religious reasons. In *Wisconsin v. Yoder*, the Court recognized that parental authority over a child's education intersects with the Free Exercise Clause when parents seek to provide instruction consistent with their faith. *Yoder* held that "[t]he values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society," and that only interests "of the highest order" can overbalance legitimate free exercise claims.[26] Last year, *Mahmoud v. Taylor* reaffirmed "the critical right of parents to guide the religious development of their children," and warned that government schools may not place unconstitutional burdens on religious exercise.[27]

While protecting children from abuse is a compelling state interest, registry placement alone is too blunt a proxy to override these rights. As *Valmonte* explained, such systems can result in "many individuals being placed on the list who do not belong there."[28] Placement on the registry does not necessarily establish serious abuse, educational unfitness, or current danger to the child.

Nor is such a categorical rule a "narrowly tailored" means of protecting children. Less restrictive alternatives are readily available, including case-by-case review, time limits, severity distinctions, or hearings focused on present educational fitness—all of which would be far more effective in protecting the actual children at issue.

Where a law burdens fundamental parental and religious liberty interests, mere placement on a registry is not enough to prevent parents from exercising their constitutional rights.

Conclusion

Protecting children is an urgent and legitimate goal. But a system that conditions fundamental rights on registry placement does not meaningfully advance that goal, given how imprecise and error-prone those placement decisions are. Where fundamental rights are at stake, the Constitution requires more than administrative convenience. The First and Fourteenth Amendments require a degree of precision that HB 5468 does not provide.

Sincerely,

Peter K. Kamakawiwoole, Jr.
General Counsel & Director of Litigation

[26] *Wisconsin v. Yoder*, 406 U.S. 205, 213-215 (1972).

[27] *Mahmoud v. Taylor*, 606 U.S. 522, 559 (2025); *see also id.* at 562 (recognizing the availability of homeschooling as an alternative to public school instruction); *id.* at 625 (Sotomayor, J., dissenting) (same).

[28] *Valmonte*, 18 F.3d at 1004.