



NEW JERSEY STATE BAR ASSOCIATION

October 5, 2026

Via Electronic Mail

Honorable Nicholas P. Scutari
67 Walnut Avenue
Clark, New Jersey 07066

Honorable Joseph F. Vitale
569 Rahway Avenue
Woodbridge, New Jersey 07095

Re: S4412 (Scutari/Vitale)/A5234 (Kearney) – Provides for youth mental health care professionals in family court

Dear Senate President Scutari and Senator Vitale:

On behalf of the New Jersey State Bar Association, I write to share our recommendations on S4412/A5234, which provides for the installation in the Family Part of what the legislation designates as “Youth Mental Health Care Professionals” (YMHCP). The Association agrees that there is a great need for mental health resources in the courts and applauds your focus on this issue. The need for better access to resources is overshadowed only by the need for affordable, accessible mental health services. Against this backdrop, the three recommendations made here are made in the spirit of understanding and identifying the highest and best use of youth mental health advocates in the family court, preventing due process issues and eliminating potential overlap in - and building upon - already existing services.

I. Build on the Existing Resources in Child Welfare Matters and Youth Defense To Eliminate Duplication and Maximize Fiscal Resources

The NJSBA recommends that the role of the YMHCP be limited to: (1) private family court dockets, where the State is not a party to the litigation; and (2) providing resources to judges, parents and youth in need of references for accessible youth mental health services. In child welfare matters, the New Jersey Division of Child Protection and Permanency (DCPP) is statutorily responsible to provide services to address the needs of the family, including youth mental health services. In youth defense matters, DCPP provides a liaison to the court to facilitate services for involved youth and their families at the court’s request. In both dockets, DCPP is responsible for connecting families with the services ordered by a judge following a

hearing. Currently, there is no similar resource to the DCPD liaison in private family dockets, such as non-dissolution (FD) matters. The exception is a similar-type role in domestic violence matters, where there is a victim advocate available outside the courtroom to refer victims to various resources. To the extent that equivalent staff could be made available to assist with coordinating and facilitating mental health services in the other private family dockets, this would greatly benefit parties to navigate the myriad and often disjunctive resources that exist locally and statewide. Consideration should be made to engage youth mental health advocates when necessary after the judge has determined that the parties could benefit from this assistance or where the parties request assistance. This person should be available at the discretion of the judge.

II. Adjust the Role of Youth Mental Health Care Professional to Youth Mental Health Advocate To Facilitate Access to Youth Mental Health Services

Additionally, it is recommended that youth mental health advocates take on the role of facilitator so that the parties may be connected to appropriate mental health resources, rather than assigned a singular court staffer to assess and/or evaluate mental health issues of children they are not treating or evaluating. The Administrative Office of the Courts is not a mental health provider and, therefore, it would seem counterintuitive to assign mental health providers under this umbrella, especially since significant amendments were just recently made to New Jersey's custody statute as to the appointment of therapists for children. It would seem more effective to build upon already existing roles within the courts to assign a court staff liaison to connect parties to service providers as needed following a hearing by a judge. Again, this mirrors those resources that exist in the youth defense and DCPD matters. In private family cases, parties in the family courts often retain evaluators, therapists, or other specialists to resolve family law matters. Where those parties lack the resources to retain such services, after having appeared before a judge, a judge may be able to task a youth mental health advocate to speak with the parties to direct them to the appropriate resources to address their needs.

III. Mandatory Training for Judges and Court Staff on Youth Mental Health

Finally, the Association recommends judicial and court staff training to understand youth mental health and how to best utilize these youth mental health advocates to achieve the ultimate goal of mental wellness for children and families. This aligns with the recommendations of the Children's Mental Health Mapping Report¹ that was issued earlier this year, specifically Recommendation 17. This recommendation calls for "expanded statewide education, technical assistance, and outreach for professionals involved in the child welfare and justice systems, including judges, prosecutors, public defenders, guardians ad litem, attorneys, court staff, and mental health professionals."

¹ A full copy of this report may be found [here](#).

In its current form, S4412 poses several areas of concern to practitioners in this area of the law. We list them for your consideration:

Duplication of existing roles and overlap with already existing evaluations and treatment providers

As discussed above, there is no need for youth mental health advocates in DCPD and youth defense matters to assist parties in connecting with service providers, as those providers are facilitated through court-ordered proceedings. In private family dockets where no such person exists, often the parties have already retained treatment providers or have undergone evaluations in which services have already been identified. In those cases, intervention by a YMHCP runs the risk of overlapping with these services unnecessarily, further delaying care and treatment of a child, and overtreating or over evaluating the child. Moreover, a YMHCP may not be best suited to make such determinations over specialized evaluators and treatment providers who are already working with the parties or the child. In some cases, a YMHCP's recommendation runs the risk of duplicating or conflicting with current treatment providers or evaluators, or State recommendations in DCPD and youth defense matters. As noted above, this is a concern particularly in light of the recent amendments to our custody statute.

Permitting a determination by a YMHCP without notice to the parties and due process runs afoul of the Constitutional rights of both the child and the parents

Having court staff intervene in a matter to "identify[] youth with mental health needs" or recognize mental health needs is not only duplicative in those cases, but could also result in an overreach into the child's or parent's Constitutional rights.

As currently written, the bill provides no avenue to test the credentials or potential biases of the YMHCP, nor is there any mechanism to provide notice to the parties that the YMHCP has been called upon to make such determination. The parties would not have an opportunity to challenge such findings or offer a competing recommendation or expert. It is unclear whether the YMHCP could be called upon to testify on how that person made such a recommendation, to whom this person owes a professional duty, or whether this role functions as a friend of the court (such as in the manner of a Court Appointed Special Advocate volunteer or guardian ad litem) or as an administrative arm of the court (such as a Child Placement Review Board volunteer). There are further questions as to whether the YMHCP's report would be discoverable and admissible without any independent review of this report, or even if they would be required to prepare a report. Also, a YMHCP should not be permitted to discuss such findings with a judge without the parties being present as this would raise *ex parte* communication concerns. Additionally, these concerns impact preservation of the record for appellate review required by New Jersey Court R. 1:7-4.

Moreover, there does not appear to be an avenue to allow the parties to trigger a request for a YMHCP or object to such a request. This presents a challenge for parents who want help for a child, but have no procedural avenue to obtain it. Additionally, parents may already have a child in therapy and object to additional mental health services. Under this current bill, there does not appear to be an avenue to do so. These very substantial and fundamental concerns only further highlight our position that the role of the YMHCP be one that is more of an advocate/facilitator rather than one tasked with making substantive mental health-based findings and reporting to a judge.

It bears noting that in the case of children who have already undergone evaluations or have treating professionals, placing that child in a situation where they are asked to recount their story to another professional risks disrupting the therapeutic process already underway or retraumatizing that child. Such a step should be used only as necessary.

A potential remedy if the bill were not structured differently would be to build in procedural notice requirements and explain the procedure as to how a litigant may request or object to the involvement of a YMHCP.

Providing unfettered access to the YMHCP of school, medical, mental health, and DCPD records without notice and an opportunity to object runs afoul of existing statutes and rules regarding confidentiality and privacy

N.J.S.A. 9:6-8.10a currently requires bars release of DCPD records except in limited circumstances after motion practice and potentially the court's in camera review of child abuse reports and records, and outlines the procedural requirements for the disclosure of such records that includes allowing a judge to review them before making such a disclosure. It also governs the confidentiality of these documents and judges typically issue protective orders to spell out how these documents are to be shared, following motion practice. This is an important statute with myriad case law regarding the import of such confidentiality and privacy provisions. Similar protections exist under the New Jersey Rules of Evidence – specifically N.J.R.E. 505 and 530 – regarding the confidentiality of such records. Without these protections, parties may have access to documents that could potentially cause more trauma to the child. We recommend that there be thoughtful consideration before allowing such unfettered access without guardrails. In addition to N.J.S.A. 9:6-8.10a, the proposed bill may implicate records protected by health care privacy laws, special and regular education privacy laws, and therapeutic privilege.

The YMHCP qualifications are minimal and may not meet the needs for the services they are being asked to provide in this bill.

The bill currently calls for a social worker to identify youth with mental health needs and recognize when specific mental health needs are indicated, among other things. However, the qualifications listed for a YMHCP would not meet the standards for a mental health professional

to be able to make such determinations. At the very least, we would recommend that the person be a Licensed Clinical Social Worker. However, as stated herein, there are concerns that this person may not be the mental health professional best suited to identify or recognize specific mental health needs. In addition, the bill does not require that the YMHCP interview the child or provide specific criteria as to how the YMHCP identifies youth in need, which is another hurdle for the YMHCP to be qualified to make any therapeutic recommendations.

We thank you for your consideration of these recommendations and our concerns. For these reasons, while the Association supports the policy underpinnings of this bill, it cannot support this bill in its current form. The NJSBA would welcome an opportunity to meet with you to discuss this further or answer any questions you may have. Please reach out to me at lchapland@njsba.com or at 732-214-8510 (o) or 732-239-3356 (c). You may also reach out to Sharon Balsamo, Esq. at sbalsamo@njsba.com or at 732-937-7505. Thank you for your time and your consideration of this request.

Very truly yours,

Lisa Chapland

Lisa Chapland, Esq.

cc: Hon. Vincent M. Kearney (via electronic mail)
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