

MINUTES

JOINT COMMITTEE ON CHILDREN'S ISSUES

January 23, 2004
Room 313-S—Statehouse

Members Present

Senator Nick Jordan, Chair
Representative Brenda Landwehr, Vice Chair
Senator David Corbin
Senator Henry Helgerson
Senator David Jackson
Senator Janis Lee
Representative Patricia Barbieri-Lightner
Representative Willa DeCastro
Representative Sue Storm
Representative Roger Toelkes

Staff Present

Emalene Correll, Legislative Research Department
Hank Avila , Legislative Research Department
Mike Corrigan, Revisor of Statutes Office
Renaë Jefferies, Revisor of Statutes Office
Almira Collier, Secretary

Others Present

See attached list.

The meeting was called to order by Representative Brenda Landwehr, Vice Chair.

Staff noted that Kathi Ledbetter and members of the Williams-Foster Youth Agenda were unable to appear but have asked to appear before the appropriate House and Senate Committees during the legislative session.

Extending Orders for Informal Supervision

Mark Gleeson, Office of Judicial Administration, presented written testimony ([Attachment 1](#)) on the survey of judges relating to the appropriateness of extending the period of informal supervision beyond the current maximum of 12 months. Judges were asked if they would support legislation extending the period to 24 months. The summary of responses from 15 judges who hear juvenile cases includes comments on both potential problems and benefits judges see in extending the time limit. Judges were divided on support for legislation to extend the period to 24 months or to remove

any specific time period. Some supported an extension only in certain cases and under certain circumstances. Mr. Gleeson stated that allowing a judge to order informal supervision for up to 24 months with court reviews every six months would permit judges who support this extension to issue such orders, but would not require judges that did not support the extension to do so.

In response to a question, Mr. Gleeson stated that currently, informal supervision can be extended to 12 months with six month reviews required. It was noted the child could be in and out of the home during this 12-month period. Requiring that a child remain in the home during the 12-month extension does not recognize family problems which could arise requiring the child to be out of the home for a short time. It was also noted the judge could revoke the informal supervision order at any time, and the case could be moved to adjudication if warranted.

By consensus, a report including a summary of the October round table discussion relating to the extension of informal supervision beyond the current maximum 12 months; the results of the poll of judges conducted by the Office of Judicial Administration; points made during Committee discussion and the possibility of extending the time limit another 12 months, if the child is in the home for the last 12 months, with six month court reviews, is to be sent to the House Committee on Corrections and Juvenile Justice.

Iowa Change in Appellate Procedure

Mark Gleeson, Office of Judicial Administration, stated a task force is looking at how Iowa is handling cases from the time the notice of appeal is filed until termination of parental rights. In Kansas, it takes nine to 12 months for a case to move through the Court of Appeals compared to the five to six months recommended by the National Council of Judges and 60 to 90 days in Iowa. The procedures used in Iowa eliminate the number of briefs prepared by attorneys, shorten the documents by eliminating much of the case history and condensing the issues involved. Mr. Gleeson indicated he believes Iowa has also eliminated the requirement for full transcripts. The task force is also looking at what might be done to shorten the Kansas' process. Questions are being raised as to whether the Iowa process gives enough attention to due process and the rights of the parties involved.

Mr. Gleeson was asked to give the Committee a report on the task force's work this fall.

Update on Parent Advocate Pilot Projects

Mark Gleeson, Office of Judicial Administration, reviewed the background of the two pilot projects, one in an urban and one in a rural judicial district (See October minutes, pp 10-11). The target date for the completion of the manual for the projects is February 1, 2004. Parent advocates, designated by the parents of the child, must complete an orientation program. An internet orientation program with a way for the district court to verify completion of the program has been developed and is being reviewed. The website address will be furnished to Committee members.

Information Requested From the Children's Cabinet

Joyce Cussimano, Executive Director, Children's Cabinet, presented written testimony ([Attachment 2](#)) in response to the Committee request for additional information after testimony given at the December Committee meeting. Attachment 2 shows a comparison of compensation in sites implementing child care worker compensation strategies and information regarding the income of the Children's Cabinet for the past three years. Ms. Cussimano noted, even with reported increases in compensation, rates for child care compensation compare negatively with early learning positions

in other settings. One grantee site expects turnover rates to increase as education levels of child care staff make them eligible for higher paying jobs in Head Start and the school district.

The written testimony includes a chart showing funding sources for the Children's Cabinet, the amount available from each source for the past three years, and the range of yearly expenditures from each funding source. Smart Start continues to be the priority for the Children's Initiatives Fund. Some evaluation of Smart Start and data collection about early childhood are being done. In answer to a question, the conferree stated she did not know why the Trust Fund revenues had been significantly reduced in FY 2004, but would get this information for the Committee.

Ms. Cussimano stated money from private foundation sources had been used for ABCDE pilot projects and readiness for school initiatives.

Also included in the written testimony is an overview of the functions, responsibilities, staffing, and funding of the Kansas Children's Cabinet and Trust Fund, including applicable sections of the statutes and a chart showing the flow of funds from the tobacco settlement.

Responding to a question, Ms. Cussimano stated the increase in funding between FY 2002 and FY 2004 was applied to special projects, *i.e.* communication projects relating to school readiness, travel to attend meetings, coordination of ABCDE sites, support of community-based programs and statewide meetings such as the one for fathers.

Information Requested From Department of Social and Rehabilitation Services

Robena Farrell, Department of Social and Rehabilitation Services, presented written testimony in response to the Committee request for information relative to enrollees in the Title XIX program ([Attachment 3](#)).

Combined Healthwave Program. The written testimony includes a chart showing the number of adults 21 or older assigned to the HealthWave XIX program for January, 2004. Ms. Farrell noted the Title XIX Medicaid capitated program, previously called Prime Care, is open to eligible Temporary Assistance to Families (TAF) and Poverty Level Eligible (PLE) beneficiaries. This program was renamed HealthWave in 2001 when its marketing was combined with Title XXI HealthWave in order to present a more seamless health care program to families with children enrolled in both programs. Currently, adults comprise 11.0 percent of the total HealthWave (Title XIX and XXI combined) population and 17 percent of the Title XIX HealthWave population. There are approximately 9,000 adults in the TAF eligibility category under Medicaid who are enrolled in the HealthWave managed care program, approximately 1,400 pregnant women who are poverty-level eligible for Medicaid, and about 82,000 children (Medicaid and SCHIP) who are enrolled in the HealthWave program. Ms. Farrell referred to a chart in the written testimony showing a summary of the categories of persons assisted with health and medical services in FY 2002 and 2003.

In response to a question, Ms. Farrell stated there is not a way to relate the 9,631 TAF beneficiaries to the summary of persons assisted because the figure represents enrollment as of January 2004 and the summary gives the number of persons served during the year. Eligible TAF beneficiaries are usually parents or caregivers of young children whose income is insufficient to support the child or children.

The conferree, answering a question, stated she thought eligibility for TAF was determined once a year but she would verify this for the Committee.

Time Frame for Diagnosing Children's Mental Health Problems. Also included in the written testimony was a response to the Committee request for information relative to the time frame for diagnosing children with mental health problems. In answer to a question, the conferree stated a person can receive treatment during the time it takes to make a diagnosis and during the different stages of diagnosis. The purpose of paragraph 4 under "Response:" on page 2 of 3, is to point out it may take longer to get service in the private sector since private providers do not typically have required response times. Concern was expressed that it appears children can receive treatment based on an assessment prior to a diagnosis.

Eric VanAllen, Children's Mental Health Team, Department of Social and Rehabilitation Services, noted a Medicaid child coming into the system for an assessment is given a diagnosis right away. The assessment determines the diagnosis. However, the diagnosis may be changed on the basis of extended observations. The process is similar to that of a physical diagnosis.

Concern was expressed that, because an assessment is done quickly, a child might be diagnosed as ADH and receive medication when a further diagnosis would indicate the child is not ADH. It was noted that over-medication and the fact that psychotropic medicines can mask symptoms are issues that need to be addressed.

Ms. Farrell stated the Committee's concerns will be taken back to the appropriate Department of Social and Rehabilitation Services staff.

Cost of Plastic Card Issued to HealthWave Clients. In response to the Committee request, Ms. Farrell stated First Guard reported the cost of a plastic card to identify a 12-month eligibility issued to HealthWave clients is 68 cents for the card and 35 cents for postage for a total of \$1.03.

Child Welfare/Mental Health Partnership Steering Committee. Ms. Farrell noted a list of the members of the Child Welfare/Mental Health Partnership Steering Committee with phone numbers and E-mail addresses is included in the testimony (Attachment 3) as requested.

Provision for Legislative Input into RFP For Child Welfare Contracts. The conferee stated the Department of Administration reaffirmed the ability of the Department to seek input, but not direction, from outside the Department during a designated part of the procurement process. However, once the actual development of the RFP begins on February 1, 2004, the time for input is closed. Information received from Legislators prior to January 31, 2004, along with information received from other stakeholders and the public during the past several months will be incorporated into the development of the RFP.

Concern was expressed that the letter from Secretary Janet Schalansky was dated January 20, 2004 with a response deadline of January 31, 2004. There still appears to be an inadequate opportunity in the RFP process for legislative input in spite of concerns expressed by this Committee and the Committee's request for an opportunity for input.

Tuition Waiver

Michael Corrigan, Assistant Revisor of Statutes, presented written testimony (Attachment 4) relative to whether or not an applicant receiving a tuition waiver may drop out of school for a period of time without losing eligibility when reentering school. KSA 74-32,161 does not require that the eight semester of eligibility be consecutive semesters. The Director of Student Financial Aid, Kansas Board of Regents, informed staff that a student not in good standing academically, a statutory requirement, would probably not be eligible upon reentry. However, the rules and regulations concerning this program are in the process of being drafted.

There is also an issue concerning the age at which a student would become ineligible for Chaffee funding under federal law. An associate counsel for the Kansas Board of Regents opined that a student would remain eligible until turning 24 years of age. However, staff of the Department of Social and Rehabilitation Services opined that the student would age out at 21 years of age. This issue would affect a student's eligibility for reentry into a school. There is a bill in the House Appropriations Committee which could provide a good forum to determine the issue of the age at which persons age out.

Responding to concern over the discrepancy in interpretation of the age at which a student becomes ineligible, staff noted this is due to interpretation of the Chaffee rules and is an issue which could be resolved in hearings on a current bill. It was pointed out that many students without the problems those qualifying for the tuition waiver program have, do not complete college before 21 years of age.

Juvenile Placement in Secure Facilities

Mike Corrigan, Assistant Revisor of Statutes, presented written testimony (Attachment 5) concerning limits on a judge's authority to order a child to be placed in a secure facility. The testimony outlined the four exemptions to the general rule that no child taken into custody under the Kansas Code for the Care of Children shall be placed in a secure facility set out in KSA 38-1517, and, in chronological order, what must occur before a court may authorize placement of a runaway in a secure facility pursuant to the Kansas Code. KSA 38-1568(e) states a court order authorizing placement in a secure facility expires 60 days after it is issued, but the court may grant two extensions of such authorization, up to 60 days each, upon a rehearing pursuant to KSA 38-1564. Staff noted the concern expressed by the judges is the word "authorize". After going through the six "hoops" required for the court to authorize such placement, placement is still up to the discretion of the Department of Social and Rehabilitation Services. Judges want the ability to order placement in a secure facility.

Concern was expressed over what happens to a child while the six requirements are being met, what happens to a child between adjudication and placement in a secure facility, and what is defined as a secure facility. The need for a facility that is secure without detention was noted. In response to a question, staff stated there is a few level 5 facilities in the state currently.

By consensus, the section of Committee minutes relative to this issue and the memorandum from Mike Corrigan is to be sent to the Committee on Corrections and Juvenile Justice with a request that the Committee consider this issue.

Committee Report

Child Abuse Registry. Staff noted, currently, determination that a person should be put on the child abuse registry, is an administrative decision made by the Department of Social and Rehabilitation Services. Based on Committee discussion that there needs to be due process before a person is placed on the registry, a bill has been drafted on behalf of the Committee using a determination based on clear and convincing evidence, which is a higher standard of proof, and setting out due process. The court, rather than the Department of Social and Rehabilitation Services would determine who goes on the registry. Staff is to notify Committee members of the Committee to which this bill is assigned and when hearings will be held.

After School Programs. After discussion of testimony given at previous Committee meetings, the consensus was to wait until the new rules and regulations drafted by the Kansas

Department of Health and Environment are available and address the Committee's concerns. If these concerns are not addressed, a bill is to be introduced.

HealthWave. Staff distributed a draft of the HealthWave section of the Committee Report (Attachment 6) calling attention especially to the section headed "Conclusion" and asking Committee members for direction on what to include in the "Recommendations" section of the report.

After a brief discussion of testimony and issues raised at previous Committee meetings, by consensus, the Committee recommended the terminology "HealthWave" apply only to children, with adults in the same contract identified by a different nomenclature.

Dental Issues. The Committee report is to include the Committee's continuing concern relative to lack of coverage in HealthWave, primarily due to the small number of participating dentists. If more dentists do not participate, dental care cannot improve. While Doral has furnished the Committee with some information, there is still concern about the information received from this contractor. The information from Doral needs to be more complete and clear.

Coverage of State Employee Children in HealthWave. The Committee report is to note the Committee has looked at the projected cost of giving state employees the option of including their children in HealthWave if they meet the requirements for the program. However, because of the state's financial situation, the Committee feels it cannot recommend the Legislature implement this option at this time. When the financial picture improves, the Committee recommends the state definitely consider providing this option for state employees.

By consensus, the Chair and Vice Chair are to look at the final draft of the Committee report and submit any suggestions or changes to staff. If time permits, all Committee members will receive a copy of the final draft and be asked to submit suggestions or changes.

December Minutes

A motion was made and seconded to approve the December Committee minutes. Motion carried.

The meeting was adjourned.

Prepared by Almira Collier
Edited by Emalene Correll

Approved by Committee on:

June, 23, 2004
(date)