

**MINUTES OF THE
CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL**
Tuesday, May 22, 2001 -- 9:00 a.m. -- Room 416 State Capitol

Members Present:

Rep. Matt Throckmorton,
House Chair
Sen. Dan R. Eastman,
Senate Chair
Rep. Jack Seitz
Rep. Trisha Beck

Staff Present:

Mr. Mark D. Andrews,
Research Analyst
Mr. Paul W. Hess,
Associate General Counsel
Ms. Cassandra Bauman,
Legislative Secretary

Members Absent:

Sen. Gene Davis

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order and Approval of Minutes

Chair Throckmorton called the meeting to order at 9:05 a.m.

MOTION: Rep. Seitz moved to approve the minutes of the April 30, 2001 meeting. The motion passed unanimously with Rep. Beck absent for the vote.

Chair Throckmorton recognized Mr. Richard Anderson as the new director of the Division of Child and Family Services.

2. Guardian ad Litem

Ms. Kristin Brewer, Director, Office of the Guardian ad Litem, updated the committee on the State vs. Harrison case. She stated that the petition for rehearing on the footnote was denied and that her office may seek a declaratory judgment on the role of her office in custody cases.

Ms. Brewer stated that the legislation that created the Office of the Guardian ad Litem was companion language to the Child Welfare Reform Act in 1994. The role of the Guardian ad Litem has not expanded since then, she said.

Chair Throckmorton asked Ms. Brewer about individual attorneys' workloads and if those caseloads are more than what each attorney can handle. Ms. Brewer stated approximately one-third of the cases are custody matters. She explained that only children that have an allegation of abuse or neglect are appointed a guardian ad litem in a custody matter. She stated that the office was running a program that would request that private attorneys take one custody appointment case pro bono where there are no allegations that the child is abused or neglected.

Ms. Brewer said that S.B. 117, 2001 General Session, was written to expand the pro bono program statewide. She said also that legislation provided resources for the Office of the Guardian ad Litem to train, screen, and manage the appointments on custody matters. The guardian ad litem would be paid by the parties, but in exchange for being on that roster and after every five paid cases, all of the guardian ad litem attorneys agree to take one case for indigent people pro bono, she explained.

3. Defense Counsel in Child Welfare Proceedings

Mr. Adam Trupp, Assistant Juvenile Court Administrator for Child Welfare, handed out "Summary of Comments Regarding Enhancing Legal Representation of Parents" and Section 78-3a-314, Utah Code Annotated. He reviewed the Office of the Guardian ad Litem and the Office of the Child Protection Ombudsman's roles in child welfare cases.

Mr. Trupp stated that there is often a problem with quality, availability, and resources for parents in need of representation in smaller counties. The parents are not represented as well as they should be in such cases, he said. He suggested three options for improving these problems: (1) create a statewide system, similar to the Office of the Guardian ad Litem, for parents' defense, (2) provide funding for all counties for representation, or (3) create a statewide office for a Defender General. He asked that the panel consider options that will not narrow the statute for parent representation or impose standards for counties in child welfare proceedings.

Ms. Patricia Worthington, Director, Foster Care Citizen Review Board, explained how important it is for parents to get adequate representation. She stated that a child remains in foster care until the child's case can go to court and that without proper representation for parents, the case is delayed.

Ms. Brewer explained that the biggest problem for child welfare proceedings is funding. She expressed the need for trained legal counsel for parents. She also stated that when dealing with parents' fundamental rights and the obligation of the state to protect children, the situation get complicated and difficult to try.

Mr. David Carlson, Attorney General's Office, stated that putting children in state's care is not the ideal situation. He said that children need to be in a safe home. He stated that the goal is to not have to remove the child from the home in the first place. He stated that Vermont has appointed a Defender General and that it would be helpful to review their process.

Mr. Richard Anderson, Director, Division of Child and Family Services (DCFS), stated that parents need specialized counsel who understand child welfare judicial proceedings. He stated that the division holds team support meetings for parents and children, yet legal counsel for parents is typically absent.

Ms. Katie Gregory, Policy Analyst and Staff Attorney, Utah Children, stated that her organization supports adequate counsel for parents involved in child welfare cases. She said it is a very important step in the process.

4. Office of the Child Protection Ombudsman

Ms. Marsha Peterson, Utah Child Protection Ombudsman, Office of the Child Protection Ombudsman, handed out information on the Office of the Child Protection Ombudsman. She clarified that the role of her office is to give parents in child welfare cases an understanding of the laws and inform them of their rights.

Ms. Peterson addressed three issues: (1) what the Office of the Child Protection Ombudsman does to assist parents; (2) given more resources, what the office could do to assist parents; and (3) whether the role of the office could be more expansive in assisting parents.

Ms. Carol Cook, Intake Specialist, Office of the Child Protection Ombudsman, reviewed the process in which complaints are addressed and investigated.

Ms. Linda Winger, Division of Child and Family Services, stated that the ombudsman's office has kept current with policy changes made by the Division and makes specific recommendations to the Division.

5. Concerns About Child Welfare -- Testimony from Legislators

This item was postponed until the June 2001 meeting.

6. Applications to Conduct Differentiated Response Pilot

Ms. Robin Arnold-Williams, Director, Department of Human Services, updated the panel on the implementation of the differentiated response pilot program authorized by H.B. 259, 2000 General Session. She said that Eastern Region and the Cedar City region reapplied last fall. These applications are on hold in order to allow one region to fill positions and the other to sort out whether it can fit the pilot in with everything else required. Except for these issues, she does not have a problem with either proposal.

7. Overview of DCFS Budget

Ms. Williams gave a presentation on budget process for DCFS.

8. Other Business

The next meetings of the panel are scheduled for Thursday, June 21 at 1:00 p.m. and Thursday, July 19, 2001 at 1:00 p.m.

9. Adjourn

MOTION: Rep. Seitz moved to adjourn the meeting at 11:36 a.m. The motion passed unanimously.