

**MINUTES OF THE
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**

Wednesday, June 20, 2001 – 10:00 a.m. – Room 416 State Capitol

Members Present:

Sen. D. Chris Buttars, Chair
Rep. DeMar "Bud" Bowman, Chair
Rep. Douglas C. Aagard
Rep. Trisha S. Beck
Rep. Duane E. Bourdeaux
Rep. Patricia W. Jones
Rep. Rebecca D. Lockhart
Rep. Ty McCartney
Rep. Loraine T. Pace
Rep. Brent D. Parker
Rep. Paul Ray
Rep. Jack A. Seitz
Rep. Matt Throckmorton

Members Absent:

Sen. Gene Davis
Sen. John W. Hickman
Sen. Pete Suazo
Sen. John L. Valentine

Staff Present:

Ms. Chyleen A. Arbon, Research Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Wendy Bangerter, Legislative Secretary

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. Committee Business

Chair Buttars called the meeting to order at 10:05 a.m. A quorum was not present to approve the minutes.

2. Youth Services Agency

Ms. Robin Arnold-Williams, Director, Department of Human Services, reviewed the history of the Division of Child and Family Services (DCFS) and the evolution of its responsibility for Youth Services, which is a program that provides services for youth who are ungovernable, runaways, and status offenders. She also noted some overlapping responsibility for Youth Services within the Division of Youth Corrections (DYC). She stated that a 1999 legislative audit of the Utah Juvenile Justice System called for a clarification of organizational responsibilities. She stated that she is supportive of moving Youth Services from DCFS to DYC and that a workgroup has been created to help draft legislation to facilitate the change.

Ms. Pat Berckman, Chair, Youth Services Advisory Council, spoke in favor of the governance change. She stated that prevention, early intervention, and diversion programs have proven to be cost effective and successful in the juvenile justice system. She distributed an overview of a comprehensive strategy for dealing with different levels of delinquency and interventions. She reviewed the council's proposal to relocate Youth Services and rename the Division of Youth Corrections so it is more inclusive of continued services for all youth. The proposal included moving statutory and funding

responsibility from DCFS to DYC, requiring a line item budget for Youth Services, and increasing funding by \$250,000 to expand current Youth Services statewide.

Mr. Richard Anderson, Director, Division of Child and Family Services, explained that Youth Services does not receive the necessary attention because it is coupled with two other programs in DCFS. He stated that the demand for Youth Services has grown, but funding has not. He emphasized that shifting Youth Services to DYC is a move toward early intervention and better coordination with other services.

Mr. Blake Chard, Director, Division of Youth Corrections, distributed an overview of a comprehensive strategy to provide services to youth. He feels this shift in responsibility and resources will result in less need for secure facilities in the future. He encouraged the Legislature to create a line item to show its commitment to the program and to protect the base budget. He feels the name of DYC should be changed even if Youth Services is not moved to his division due to the incorporation of community programs in the past.

Mr. Ray Wahl, Juvenile Court Administrator, Administrative Office of the Courts, distributed a memo to the Law Enforcement and Criminal Justice Interim Committee from the chair of the Board of Juvenile Court Judges. He stated that the board is not sure how the relocation of Youth Services will improve services for pre-delinquent youth. He stated the board's concern for mixing youth entering the system with secure-care youth. He expressed concern that limited funding will be redirected from front-end services to back-end services. He stated that the board would like to encourage the Legislature to examine closely whether the proposal will increase services to the pre-delinquent youth or whether the split in focus for DYC will result in less attention to the needs of those children. He stated he would take the proposal presented today by the Youth Services Advisory Council back to the board for its review.

Chair Buttars noted that a workgroup will bring back draft legislation at a future meeting.

3. Due Process for Substantiation of Child Abuse

Ms. Janet Whittaker, citizen, reviewed her experiences with DCFS and the allegations made against her son. She stated that following her son's court acquittal, DCFS would not remove his name from the list of substantiated child abusers. She said the case is now being reviewed by the state Supreme Court. She encouraged the Legislature to review the process and address areas of concern.

Mr. Stephen Homer, attorney for Mr. Dennis Webster, explained that following a 1992 allegation of child abuse, DCFS placed Mr. Webster's name on an unpublished list of child abuse offenders. He was not convicted, but Mr. Webster's name remained on the unpublished list. In 1999, the company he worked for, which provided child care, was told it must terminate him or its business license would be revoked. Mr. Homer also cited an incident where DCFS filed accusations against a

man for emotional maltreatment against his child and used a plea-in-abeyance as an actual conviction. Mr. Homer expressed concern that DCFS is penalizing people for accusations that are not criminally substantiated.

Ms. Kate Lahey, Internal Counsel, Department of Human Services, spoke in favor of re-codifying the relevant statutes, because although changes have been made to address many of the concerns raised today, the public is not aware of the changes and would find it difficult to determine the current process. She emphasized that DCFS provides civil due process for anyone substantiated on the child abuse list. She distinguished between the criminal and civil legal standards: a criminal case must be proven beyond a reasonable doubt, but a civil case only has to be proven by a preponderance of the evidence. Ms. Lahey acknowledged that DCFS should review the letters it sends out to members of the public to better inform them of their situation and their options. The department is willing to work with the committee to make this process more understandable and easier to use by the public.

Chair Buttars noted that a workgroup has been established to create draft legislation for the committee's review at a future interim meeting.

4. Special Session Legislation

Rep. Afton Bradshaw reviewed First Special Session legislation H.B. 1002, "Criminal Law Amendments." She explained that the bill made some technical amendments to correct mistakes made during the last general session. She further explained that changing "shall" to "may," in reference to requiring mental health evaluations of sex offenders, would offer the Board of Pardons and Parole the opportunity to better manage its limited resources.

5. Other Items / Adjourn

MOTION: Rep. Lockhart moved to adjourn the meeting. The motion passed unanimously.

Chair Buttars adjourned the meeting at 12:10 p.m.

