

**MINUTES OF THE
CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL**
Monday, August 18, 2003– 2:00 p.m. – Room 303 State Capitol

Members Present:

Sen. Dan R. Eastman, Senate Chair
Rep. Mike Thompson, House Chair
Sen. Gene Davis
Rep. David Litvak
Rep. Steven R. Mascaró

Staff Present:

Mr. Mark D. Andrews, Research Analyst
Ms. Stacey M. Snyder, Associate General Counsel
Ms. Wendy L. Bangerter, Legislative Secretary

Note: Written comments submitted to the Panel are not detailed in these minutes but can be obtained at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary, Wendy Bangerter, at 538-1032.

1. Committee Business

Chair Thompson called the meeting to order at 2:10 p.m. He reviewed the statute charging the Child Welfare Legislative Oversight Panel with its duties. He noted that in addition to hearing testimony from governmental entities, the Panel is to hear public comment.

MOTION: Rep. Mascaró moved to approve the minutes of July 17, 2003. The motion passed unanimously with Sen. Davis absent for the vote.

2. Consumer Feedback

Mr. Matt Hilton, an attorney, distributed a written outline of his comments and discussed two problems he has identified with the child welfare system: 1) alleged criminals are given more protection than parents accused of abuse, neglect, and dependency in juvenile court; and 2) juvenile courts need to be more accessible to parents with special needs children. He recommended solutions to those problems. He reviewed his own personal experiences with DCFS (Division of Child and Family Services).

Mr. Richard Anderson, Director, DCFS, expressed concern that a family would have to give up custody of a child in order to obtain services for that child.

Mr. Philip Danielson, an attorney, made the following points:

- there are inadequate resources, and knowledge about the availability of those resources, for helping special needs children, including those from foreign adoptions;
- there is insufficient funding to provide needed in-home services, permit sufficient parent visitation under DCFS supervision, and provide for adequate public defense of parents;
- there is a lack of public defender expertise in rural areas;
- the Attorney General's office is reluctant to allow dependency claims because no fault is attributed to a parent;
- a remedy should be created for an out of state parent who is at risk of having his parental rights terminated due to abandonment but was not notified that his child was taken into custody;
- there are numerous cases where removal of a child is legally justified but not required and where it would be more effective to work something out other than removal; and

- the definitions of abuse and neglect should be fixed, including "neglect due to fault or habit of parent" which leaves a lot of discretion to the judge.

Ms. Gayle Ruzicka, Utah Eagle Forum, distributed a written outline of her comments. Based on three cases reviewed with the Panel, Ms. Ruzicka recommended specific changes to the removal and termination of parental rights statutes. She also made recommendations in three areas where she identified problems: domestic violence, in-home services, and warrants for removal.

Mr. Anderson responded that DCFS works with domestic violence workers and that very few children are removed in domestic violence cases.

Ms. Alberta Hallett, former employee of DCFS and DSPD (Division of Services to People with Disabilities), distributed and reviewed her written comments listing concerns about DCFS practices.

Ms. Connie Roska, parent advocate, expressed concern that:

- the Office of the Child Protection Ombudsman does not have power to enforce its recommendations to DCFS;
- public defenders counsel their clients to plead "no contest" a lot; and
- parents cannot afford to pay for expert witnesses as part of their defense.

Ms. Roska was joined by Duane Betournay, DCFS. Mr. Betournay spoke in support of:

- better funding and resources for public defenders; and
- use of a family advocate, like Ms. Roska, who can help parents understand what they are being accused of and how to correct problems.

Rep. Eric Hutchings told of a caseworker and a supervisor who both tended to remove children and were paired up on a case with which he was familiar. He made the following points:

- DCFS and the Legislature need to consider what is law and what is just policy and not try to enforce policy as law;
- when errors are made, they are not corrected;
- the state needs to address the tendency of courts to leave children in foster care once they are there because they have bonded to their foster parents;
- the state must be more cautious about removing a child from a home because once the child is removed it's almost impossible to return the child;
- the state may need to prohibit testimony from expert witnesses who would profit if the child remained in the custody of the state;

Rep. Wayne Harper made the following points:

- from time to time DCFS is out of step with the desires and laws of the state;
- DCFS personnel include under-trained individuals with little experience;
- DCFS needs training and foster care resources and caseworkers need additional support;
- the rules of DCFS should be reviewed;
- DCFS needs support and direction;
- there have been significant changes the past two years in guardians ad litem;

- money is important, but it will not make a difference unless the state can make one-on-one intervention in people's lives; and
- Rep. Harper will provide the Office of Legislative Research and General Counsel with information for addressing discipline and removal issues in statute.

Ms. Barbara Feaster, member of **UFOSTERSUCCESS** and former foster child, recommended that former foster children be given a place at the policy table when child welfare decisions are made. She emphasized the need to take a balanced approach to protect parental rights, but still protect children whose parents are predators.

Jason Taylor, member of **UFOSTERSUCCESS**, spoke in support of removing children from damaging situations, but considering what is needed to reunite families. He encouraged legislators to balance the child's and family's needs, but first and foremost, to do what is in the best interest of the child.

Ms. Linda Roberts, a custodial single parent, related her experience with DCFS. She said that DCFS focuses on the wrong cases a lot of times and indicated that the Division needs to choose more carefully the cases it takes.

Ms. Jacqueline F. De Gaston, attorney, noted her experience has been that caseworkers are very inexperienced and untrained and run up bills for the state.

Mr. Erik and Ms. Myranda Holgerson, parents, related their recent dealings with DCFS. They recommended that the Division:

- take into account the circumstances at the time of the referral;
- give caseworkers the ability to close a case on the spot;
- inform people of their rights;
- train phone operators and workers in the field correctly.

Rep. Thompson said the Panel will try to include some time at the end of future committee meetings to hear testimony from anyone at the meeting who wanted to testify but did not have the opportunity to do so.

MOTION: Sen. Eastman moved to adjourn the meeting. The motion passed unanimously. Chair Thompson adjourned the meeting at 5:20 p.m.