

MINUTES OF THE
CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL
Tuesday, October 21, 2003 – 1:00 p.m. – Room 416 State Capitol

Members Present:

Sen. Dan R. Eastman, Senate Chair
Rep. Mike Thompson, House Chair
Rep. David Litvak
Rep. Steven R. Mascaro

Staff Present:

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

Members Absent:

Sen. Gene Davis

Note: A list of others present and a copy of materials can be found 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 1:20 p.m.

2. Draft Legislation

Rep. Litvak introduced and explained draft legislation, "Protection of Children in Foster Care," and the changes that it would require in background checks for foster parents. The Panel discussed the legislation and Rep. Litvak agreed to make some minor changes and bring it back to the Panel at the November meeting.

3. Consumer Feedback

Rep. Thompson explained the guidelines for receiving public comment.

Mr. Andrews swore in all those wishing to testify to the Panel.

Ms. Stephanie Mair, explained her children were removed from her home on the grounds that her house was unclean. She stated that she was given impossible service plans that ended up costing her the parental rights to three of her children. She stated her children were never abused in her home, but were abused in foster care. She said that DCFS (Division of Child and Family Services) would not investigate her allegations of her children being abused in foster care. She said she has verifiable facts. She accused the state for being guilty of failure to protect. She stated that her children now suffer from reactive attachment disorder and continue to be abused in foster care. She expressed confusion that she was finally found to be capable of parenting one of her children, but not the other three. She stated there is no plan in place to restore the family and her case is in appellate court.

Ms. Barbara Feaster, Chair of the Board of Directors, **UFOSTERSUCCESS**, told the story of her home life to the age of 16 when she was rescued by DCFS after her father confessed to abusing her and her sister. She expressed appreciation for the opportunity she has had to be free from the abuse. She expressed appreciation to DCFS for helping her to realize that her life matters. She spoke in favor of the

proposed legislation discussed earlier in the meeting that would hold foster parents to a higher standard. She requested that foster alumni be included at the table when changes to the foster care system are considered.

Ms. Erica Taggart, foster alumni and member of **UFOSTERSUCCESS**, stated that every child deserves a safe and caring home. She told of her experiences in both loving and abusive foster care homes. She spoke in favor of children's rights being regarded. She spoke in opposition to unmonitored kinship placements, recounting her experiences in an aunt's home where she was abused and child protection services did not intervene. She stated that even though it is not perfect, DCFS does hold an important place in the system.

Ms. Heather Palmer, **UFOSTERSUCCESS**, explained she was removed from her home at the age of ten months for neglect. She was adopted at age six. She expressed gratitude that she and her sisters were kept together and that she was raised with them in a solid family lifestyle.

Ms. Lisa Bierly testified that her children have been in foster care for three years. She had only met with the DCFS caseworker once before her children were removed and without the usual 30-day investigation. Her son was taken first for medical neglect. After being taken, he had no immediate medical examination and as a consequence of lack of proper medical care, he went into diabetic crisis. She said that her daughter was taken as a "sibling at risk" and as an afterthought because she was termed "marketable." She said the caseworker called later saying he had made a mistake. She said she tried to comply with DCFS who expressed the desire to try to reunite the family right up to her termination trial. She emphasized that her son did not have a voice in his care, though he tried. She recommended that judges be replaced by juries, that rogue assistant attorneys general be taken care of, that children need to be protected in foster care, and that siblings should not be removed from a home unless they are physically or sexually abused.

Ms. Bonnie Macri, advocate, JEDI Women, indicated that cost accounting or risk management should not control decisions regarding what happens to children and that decisions should not be made on the basis of whether or not the parent will sue. She read a letter from Ms. Bierly's 21 year old son explaining the pain that has been caused and asked that something be done to rectify the mistake. He testified that Ms. Bierly's children were not neglected and that his brother never went into insulin shock while in his mother's care.

Ms. Bierly said that her daughter was removed in connection with the removal of her son, but that her daughter was never at risk of medical neglect and the removal occurred due to the mistake of an assistant attorney general who later indicated her daughter was removed by mistake. She indicated that the assistant attorney general delayed the release of records she requested from DCFS, made a false court warrant for picking up an older son, and ordered that she be searched for drugs on one occasion when she entered a courtroom.

Ms. Katie Gregory, Policy Analyst, Utah Children, encouraged the Panel to look at the most prevalent reasons for removal of children from their homes and target the limited resources available to those families that need them most.

Rep. Mascaro recommended that the Panel consider the reasons why children are removed, focus on funding to find solutions to those problems, and help DCFS try to keep the children in the home.

Mr. Adam Trupp, DCFS, stated that reasons for removal of children from a home are individual. He said that Ms. Bierly's and Ms. Mair's cases are somewhat unique and that he has reviewed them several times with legal counsel but not come to any different conclusion concerning them. He indicated these cases should not be considered representative of the entire system. He discussed mechanisms for correcting mistakes when they occur. He acknowledged that mistakes occur sometimes because policies are not complied with. In response to a question he said that psychological evaluations could be conducted for new DCFS workers but that there would be a cost associated with that due to high turnover. Mr. Trupp indicated that the relationship between the Attorney General's Office and DCFS continues to be an issue in individual cases but that the Attorney General has made it clear that DCFS is the client. He said the Division takes final responsibility for decisions made on cases.

Ms. Julie Brinkerhoff, Eagle Forum and Utah Families, indicated that the cases heard today are not isolated but represent a statewide problem. She reviewed several cases in the St. George area where she felt children were taken from the home inappropriately. She spoke against the situation in St. George where a caseworker is married to a sheriff. She recommended that if a family is required to take drug tests or do other things, services and resources be made available for them to accomplish what they are asked to do.

Ms. Arma Jo Zimmerman discussed the removal of her daughter's four children. She spoke against unreasonable service plans. She recommended that there be more defined and specific reasons for removal of a child from a home, resources be made available to help people comply with service plans, an advocate be assigned to parents whose children are removed, investigations be conducted to ensure workers are following practices and procedures, funding for removal and adoption be decreased and funding for prevention be increased, parents be advised of their rights and a Miranda-type rule be followed, and an oversight committee be organized comprised of lay people and experts.

Ms. Gayle Ruzicka, Eagle Forum and Utah Families, related several cases where she felt children were removed from their homes inappropriately for abuse or medical neglect. She indicated that the grief of the child resulting from removal should be considered abuse. She stressed that when the state makes a mistake it should say so. She spoke in support of Ms. Bierly and Ms. Mair and the validity of their cases. She recommended changing the law that requires doctors to report injury cases that are not clearly cases of abuse. She encouraged the state to consider changing laws that give power to physicians to force a specific treatment for a child even though there are other options available or opinions about treatment.

Mr. Wayne Searle, attorney, expressed concern about the lack of openness concerning information that he said the guardian ad litem and DCFS guard so well. He indicated that a jury of peers for adults is the only way to have independent judgements. He said that privacy laws work to the advantage of quasi-

agencies that don't want their mistakes discovered. He emphasized the need for a more open court. He expressed concern that the guardian ad litem is paid by the courts, creating a difficult relationship. He said he feels DCFS is locked in a mind set of child abuse. He agreed that the cases heard today are isolated, but considered together they create a pattern in the system.

Ms. Patricia Worthington, Director, Foster Care Citizen Review Boards, stated that there have been significant changes made to improve the child welfare system. She spoke against making changes to the system based on isolated cases. She said that coordination and cooperation have increased and children's and parent's rights are better balanced. She identified four principles that should guide the development of an open and effective child welfare system:

- (1) every child and family deserves to participate in a review of their case at least once a year and have the opportunity to express their views;
- (2) the review must be independent of the division;
- (3) the community must participate and become involved in the child welfare system as a whole and in the reviews in particular; and
- (4) results of the review process must be respected and utilized to identify areas needing improvement.

Ms. Worthington recommended extending reviews to include child protective services cases in order to determine whether or not a child should have been removed, in-home services cases, and kinship placement cases. She said that in-home services need to be funded at the same level as out-of-home services. She recommended that legislators speak with federal legislators concerning what qualifies for Title IV-E funding.

Ms. Sherrie Raymond reported that her son was sexually abused in foster care and received no help. She recommended DCFS consider children's backgrounds and get them the help they need instead of placing them without the help they need.

Mr. Martin King suggested the state consider backing off on some regulations and getting back more to parental rights and family rights. He indicated that protection is provided not to families, but to DCFS, the guardian ad litem, and the Attorney General.

Ms. Joyce Kinmont, Utah families, explained that Utah Families is a parent advocacy association for parents involved in child welfare cases. She asked that parent advocates not be legislated or done away with but that they be allowed to function on a neighbor to neighbor basis. She expressed concern about anonymous abuse reporting. She said that caseworkers are not respecting the warrant law. She expressed concern that concurrent planning does not allow a caseworker to have his or her heart and soul in reunifying a child and family because the caseworker cannot work on two divergent goals at the same time. She expressed concern about the power of caseworkers. She said that guardians ad litem and assistant attorneys general are terribly afraid a child will die, but that they should consider that a child can be traumatized by a removal from parents.

4. Adjourn

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

Chair Thompson adjourned the meeting at 4:50 p.m.