

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE  
January 14, 1983

The Human Services Committee was called to order on January 14, 1983, 12:30 p.m. by Vice-chairman Carol Farris. All members were present except Chairman Marjorie Hart and Representative Darko who were excused and Representative Fabrega, Representative Menahan and Representative Winslow who were absent.

HOUSE BILL 24. REPRESENTATIVE KEYSER, Sponsor. Under the proposed legislation the Department of Social and Rehabilitation Services would be given the authority for administering and supervising the funding for community-based services for troubled youth. In addition, SRS would be the main agency for licensing all youth-care facilities. The Department of Institutions would still be responsible for delinquent youth committed to their care, but six-month commitments to the Department of Institutions would be eliminated. SRS would be given the authority to issue placement budgets to juvenile probation for substitute care placements (EXHIBIT 1).

PROPOSERS:

NORMA VESTRE, Administrator of Community Services Division of Social and Rehabilitation Services, testified in favor of the bill because she feels there would be better management of the system as it relates to the budget, planning, evaluation and monitoring (EXHIBIT 2).

CURT CHISHOLM, Department of Institutions, concurs with and supported the concept of the single state agency with a clear assignment of financial responsibility and management responsibility of residential care (EXHIBIT 3).

GEOFF BIRNBAUM, representing the Montana Youth Justice Council, supported the concept of the single state agency. The Council attempted to negotiate changes it felt were necessary (EXHIBIT 4).

TOM DROOGER, Montana Child Care Association, supported this legislation and felt that it will benefit the children, youth and families that his organization serves (EXHIBIT 5).

STEVE NELSON, Board of Crime Control, felt there were three primary problems which the legislation before you addresses: (1) administrative--proper records are not being kept; (2) the matter of financial stability--after the Legislature left last session, it became obvious that there was not enough money to support all the agencies that were needing assistance, and (3) the simple matter of the way youths get placed. One has to make sure resources are available for the placing of the child. There needs to be a better relationship between government and the private sector.

DICK MEEKER, member of Coalition of Probation Officers, stated the bill will make the process of providing treatment for youth more expeditious and effective, as well as providing that all facilities offering care or treatment meet the appropriate standards (EXHIBIT 6).

Additional written testimony is attached (EXHIBIT 7).

OPPONENTS:

JEREMIAH JOHNSON, Chief Probation Officer of the 4th Judicial District, Missoula, said this bill is a residential care bill, not a community-based program bill (EXHIBIT 8).

GLEN HUFSTETLER, Chief Probation Officer, Kalispell, felt that the bill is very confusing. This bill takes over the local communities' programs. He left a substitute bill for perusal (EXHIBIT 9).

ELIZABETH WHEELER, Chief Probation Officer, Bozeman, stated that the people who came up with the final bill are twenty years away from working with the children. The youth in need of supervision are the minors.

MIKE FLEMING, Director of Youth Court Services, 6th Judicial District, said there are three areas that are improperly stated: (1) the method of operation of finding a group home and the length of time that elapses before a person from the state can get to the location and accept the home; (2) better management from the local level--very incorrect, and (3) would have better training for providers. Opposed to the bill.

BRYCE JOHNSON, Chief Probation Officer for the 12th Judicial District, supports Jeremiah Johnson and the amendments that he proposed.

KEVIN BURHAM, Kalispell, said the bill was very cumbersome. He stated that they are trying to provide services to the kids--not create a super agency.

REPRESENTATIVE KEYSER closed by saying that there was no intent on this committee to set up a super agency. We have addressed a placement budget based upon historical placement patterns and current placement trends. The law that set up this committee and the committee report that you have is exactly what the Legislature mandated.

We realize that we are not going to solve all of the problems at once. No one can say what this bill is going to do until it is

implemented. It is taking the powers of three or four agencies. If this power would be abused by SRS, I would be the first one to come back and ask that that power be taken away from SRS. He urged that when the committee gets into executive session, they look over the amendments and try to help the probation people along with the Department of Institutions.

Additional testimony in opposition is attached (EXHIBIT 10).

QUESTIONS:

REPRESENTATIVE BRAND asked REPRESENTATIVE KEYSER if he had talked with some individuals during the interim that received services and were disturbed about SRS usurping power.

REPRESENTATIVE KEYSER replied that they had few of those individuals before the committee during the fifteen months the sub-committee was operating.

REPRESENTATIVE BRAND asked about the differences between non-profit homes and private homes that use the services and the quantity of each.

NORMA VESTRE answered that there are 35 non-profit homes, and four state facilities, located at Missoula, Billings, Great Falls and Helena.

REPRESENTATIVE BRAND inquired as to what does an after care group home provide?

DAN RUSSELL, Department of Institutions answered that the program has been set up for eight youth, most of whom have been at Pine Hills or Mountain View. In some instances, youth have been placed there prior to placement in an institution. He feels that SRS will not understand the problems and needs of the youth.

REPRESENTATIVE WINSLOW to JEREMIAH JOHNSON asked: If a child gets in trouble and is classified as youth in need of guidance, what are the steps you have to go through and what is the average time limit?

JEREMIAH JOHNSON responded that one has to go through local committee meetings. Another process is set up through the administrative or executive branch so the process may be held up at the state level. One of those hearings may take as long as two to three months. He was opposed to the time limits that are put into the bill.

Hearing adjourned at 2:30 p.m.

*Carol Farris*

Vice-Chairman Carol Farris

*Gen. Brissett*

Secretary

House Human Services Committee

Bill Summary

Friday, January 14, 1983

HB 24 (Keyser) is the product of the Interior Subcommittee on Human Services. The Committee conducted hearings and work session during 1981 and 1982, examining issues and options associated with Montana's youth services.

The following summary is taken from the Committee's final report, A Proposal for the Reorganization of Montana's Youth Services, prepared by the Committee's staff researcher, Kathleen Harrington.

The Subcommittee decided to recommend legislation which would centralize the authority for residential services in one state agency. Under the proposed legislation (HB 24) the Department of Social and Rehabilitation Services would be given authority for administering and supervising the funding for community-based services for troubled youth. In addition, SRS would be the main agency for licensing all youth care facilities. The Department of Institutions would still be responsible for delinquent youth committed to their care, but six-month commitments to the Department of Institutions would be eliminated. Those commitments generally involve youth in need of supervision. Under the proposed legislation those youth would be the responsibility of either SRS or juvenile probation.

SRS would be given the authority to issue placement budgets to juvenile probation for substitute care placements. These placement budgets would be based upon historical placement patterns and current placement trends. Most judicial districts do not have funds for placing youth, and much of the confusion in the funding of substitute care placements has been traced to the problems that arise when the court orders SRS to pay for court-ordered placements. Separate budgets for judicial districts would allow individual judicial districts to become aware of the availability of funds for court-ordered substitute care for youth, and would provide more accountability for court-ordered placements.

House Bill 24 creates a new administrative part in Title 41 (Minors) of the MCA. This new part will be codified under the chapter on child abuse, neglect, and dependency, but it will also serve as the administrative authority for community-based services for youth in need of supervision and delinquent youth under the Youth Court Act. This new part provides definitions of 1) community-based services to youth, 2) substitute care, and 3) youth care facilities. It outlines the duties of SRS with relation to youth in need of care, youth in need of supervision, and delinquent youth. It provides for the apportionment of money to judicial districts, but eliminates the youth court from the business of finding, maintaining, and administering shelter care and foster homes for youth. SRS would be solely responsible for finding and licensing foster homes and for licensing group homes and child care agencies.

This new part would combine current law on parents' or guardians' financial responsibility for substitute care into one part. Also, it would eliminate specific references to district youth guidance homes and would instead have several sections giving nonprofit corporations the power to both establish homes and contract with SRS to provide facilities and services to youth.

The provision of prompt and appropriate treatment for troubled youth was the main concern of the Subcommittee. Thus, the Subcommittee viewed the move to centralize authority in one state agency as a means of providing more accountability to the system while at the same time simplifying the system so that the placement process becomes faster and more efficient. The legislation provides that the placement process must be accomplished in a timely manner. If that doesn't occur, then the agencies involved in the process are mandated to work together to provide a solution.

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DEPARTMENT OF  
SOCIAL AND REHABILITATION SERVICES



TED SCHWINDEN, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59604

January 14, 1983

Madam Chairperson, Members of the Committee: My name is Norma Vestre, Administrator of Community Services Division of Social and Rehabilitation Services.

I am testifying in favor of this bill which has come about because of the efforts of many people. The Interagency Committee for Emotionally Disturbed Children developed a plan to serve emotionally disturbed children throughout the state. In the planning process, several gaps, issues and concerns about the community based residential care system surfaced. We determined that the administrative authority for the development, administration, financing, inspection and rate setting for community based residential facilities was severely fragmented. There are three state agencies and 19 judicial districts responsible for placing children and youth into residential care facilities. Very often there is conflict about the source of payment for these placements and in some cases, children and youth are placed inappropriately or not placed at all as a result. The Emotionally Disturbed Committee made a recommendation for a single state agency for the residential care system to the Human Services Subcommittee, chaired by Representative Keyser who approved of the recommendation and the bill was subse-

Page Two

quently written.

Basically, the single state agency is this: SRS would have the overall responsibility for managing the residential care program including planning, budgeting, data collection and monitoring.

Funds would be transferred from the Department of Institutions to SRS; these funds include budgets for the district youth guidance homes, shelter care and Department of Institutions foster care program and SRS would be responsible for the payment of placements into the facilities.

SRS would develop financial plans for youth courts which would inform them of money available for the placement of children.

The benefits of the single state agency bill are many.

There would be better management of the system as it relates to the budget, to planning, evaluation and monitoring.

It would be helpful for legislators in that SRS would collect all data related to children in care including costs, numbers of children in care and resources which are available. At the same time, it will provide better management at the local level.

We ask for your favorable consideration of this bill.

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HB 24

Department's proposed amendments: Section 4, page 9, lines 22 through lines 25 and page 10, lines 1 through line 2 not be deleted from the statute.

Section 5, page 11, lines 3 through lines 9, the deleted words should be left in the statute.

New Section 8, page 17, after line 20, insert (3) "The Department shall pay for room, board, clothing, personal needs, transportation and treatment in District Youth Guidance Homes, Shelter Care Programs and Foster Care Homes for youths committed to the Department of Institutions who need to be placed in such facilities. Youths committed to the Department of Institutions and placed in residential facilities other than these described above shall not be the financial responsibility of the Department unless such placements have been approved in advance by the Department."

Section 28, page 29, at line 20, after the word administer, add "youth correction facilities, evaluation facilities, mental health facilities and services, and aftercare programs"

Page 7, line 22, after the word "guardian." insert the following:

"Nothing in this definition is intended to include juvenile correctional facilities, evaluation facilities, mental health facilities and services, and aftercare programs operated by the Department of Institutions."

Recommended Changes  
in the  
Legislation Creating a Single State  
Agency for Residential Care

From The

MONTANA YOUTH JUSTICE COUNCIL

The Youth Justice Council met December 8, 1982 and reviewed suggested amendments to the draft legislation creating a single state agency for the residential care of youth. The amendments were proposed by youth court personnel, private child care providers, and other youth service workers. Based on this testimony the Council offers the following amendments which address the concerns expressed over the initial draft, by numerous youth service personnel, and are endorsed by the Montana Youth Justice Council.

Issue I Jurisdiction of Single State Agency (S.R.S.)

A. Youth Justice Council Motion:

*Delete Section I (b) (v)*

*(v) The care of youth in need of supervision placed by the court under the supervision of the department.*

This section could permit S.R.S. to assume supervision of youth who are under the jurisdiction of the Youth Court. Mere mention of this possibility dredges up old battles over state/local authority and the ever present concern that state government is trying to gain control over county functions. The Montana Probation Officers Association reacted most strongly to this section.

There appears to be no problem in removing the section to alleviate these concerns. Section I (b) (vi) allows the department to administer funds for these youth, which is all that is required to establish the concept of a single state agency.

B. Youth Justice Council Motion:

1. *Delete references to community based programs found on:  
Section 7 (2)  
Section 8 (1) (a)*

2. *Amend title limiting it to "Community Based Residential Services".*

Criticism of this section was based on the concern that it would grant unnecessary power and authority to the Department of Social and Rehabilitation Services. The Montana Probation Officers Association feels this could allow the state to exercise control over local programs.

The intent of the Legislative Committee was to statutorily legitimize a broad spectrum of community based services for youth. S.R.S. officials indicate they would not use this language to usurp local authorities.

Other critics felt this section simply went beyond the scope of the residential care issue, and should be removed to avoid unnecessary controversy.

## Issue II Planning and Data Collection

### A. Youth Justice Council Motion:

Amend Section 8 by adding:

To maintain adequate data on placements it funds to keep the Legislature properly informed of the following:

- (i) The breakdown of youth in need of care, youth in need of supervision, and delinquent youth by category in out of home care facilities.
- (ii) The cost per facility for services rendered.
- (iii) The type and level of care and of services provided by each facility.
- (iv) A profile of out of home care placements by level of care.
- (v) A profile of public institutional placements.

The major issue which gave birth to the concept of a single state agency for residential care was the lack of adequate information about these services.

This information gap made it difficult to determine; 1. an adequate budget for residential care, 2. appropriate client placements, 3. cost/effectiveness of these services, and 4. how to improve the "system". Consolidation of these services into one agency will at least provide the administrative structure for collecting this data.

Throughout the public review of this concept practitioners have expressed a lack of trust and confidence in state government. The first draft of the Legislative Committee tried to ensure proper planning and administration of residential care by having the Youth Justice Council approve an annual plan developed by S.R.S. This idea was deemed too cumbersome and was stricken from the recommendation. The Youth Justice Council felt that there should be statutory requirements to ensure proper management. The Council chose to adopt language from the Probation Officers proposal to amend Section 8 "Powers and Duties of the Department" of the Interim Committee proposal. This detailed listing of data requirements provides assurance that the most critical information will be maintained.

A. Youth Justice Council Motion:

Amend page 17, Section 9 by inserting;

*New Section, Section 2. Apportionment of money to judicial districts. It shall be the duty of the Department of Social and Rehabilitative Services:*

- 1. To properly apportion and allocate annual budgets for the out of home care of youth in need of supervision and delinquent youth to all judicial districts requesting such budgets.*
- 2. To allocate a contingency budget from participating judicial districts for the out of home care of youth in need of supervision and delinquent youth in extraordinary circumstances or with special needs.*
- 3. To develop a funding formula by May 1, for application to the next fiscal year to assure that adequate and reasonable funding of these placement resources be accomplished. The formula shall take into consideration the following factors:*
  - a. The total population of the judicial district.*
  - b. The total youth population of the judicial district.*
  - c. The total number and costs of placements in public facilities and out of home care facilities.*
  - d. The current trends in population, local economy, and placement.*

Consensus appears to have been reached with all concerned that a placement budget at the local Youth Court level would tend to minimize conflicts that arise as a result of courts ordering other agencies to pay for placements. However, for this to be a workable and acceptable option for the Youth Courts, those budgets must be adequate to meet placement needs. Without enough money available, the courts will continue to order other agencies to pay. As yet, actual figures indicating how much each youth court shall receive are not available. Therefore, the main issue here is the formula that is to be used to compute equitable budgets for the youth courts. While it is recognized that S.R.S. needs some flexibility in making this determination, the Council felt that legislative direction was needed in addition to what was included in the Legislative proposal.

A. Youth Justice Council Motion:

*Add the word "training" to line 16, page 25.*

Section 19 (on page 25) allows private sector, non-profit corporations providing residential services and to receive "services, facilities, and funds" from S.R.S. to support their service delivery efforts. One important element of support that has potential to increase staff longevity and improve service delivery is training. Training is not included here.

## Issue V Determining Rates For Providers

### A. Youth Justice Council Motion:

*Add to Section 20, Governmental Contracts with Non-Profit Organizations. The Department is authorized to contract with non-profit organizations. The Department shall set rates for providers based on the following consideration:*

- A. Rates as established by providers,
- B. Reasonable costs of service,
- C. Comparable costs in like or similar facilities,
- D. Appropriation level,
- E. Availability of funds.

The manner in which state government determines the fee it will pay a group home or other facility is of primary concern to the providers. While they acknowledge that this process is primarily an administrative function they feel it is important to have some statutory guidance that can be used to assure a fair and equitable procedure.

The providers have voiced deep concern about purchase of service method of reimbursement. They feel it does not take into consideration volatile changes in the client population and encourages facilities to hold onto youth who might otherwise be released or transferred to another program. They would like to have a combination of a base grant subsidy given to each qualified facility on an annual basis, and a variable purchase of services rate based on a per day cost for clients.

Providers are also concerned that the state acknowledge the actual cost of providing their service. The issue is not that they need to be reimbursed for 100% of these costs. Most feel strongly that their communities have an obligation to share the burden. It is important that the state acknowledge the cost of providing services in order to lend credibility to local fund raising efforts.

A. Youth Justice Council Motion:

*Do not delete the reference to Shelter Care in the Youth Court Act.*

The Interim Committee version of the proposed legislation deletes any formal reference to Shelter Care as a distinct service and program under the law. All concerned parties feel that since Shelter Care is unique program it's integrity could be at risk if not provided for in statute.



A. Youth Justice Council Motion:

*Reinstate the language in the existing Youth Court Act which authorizes Youth Courts to place V.I.N.S. and Delinquent Youth in facilities subject to the limitations that are in present statutes.*

In the process of deleting the 6 month commitment to the Department of Institutions, the legislation also removes language that permits Youth Courts to commit Y.I.N.S. and delenquent youth to institutional programs. Specifically this applies to commitments to the Warm Springs Children's Unit. All concerned parties seem to feel that the Youth Court must retain an ability to commit youth to institutions if it seems necessary.

B. Youth Justice Council Motion:

*Delete the use of 6 month commitments.*

Critics of the 6 month commitment to the Department of Institutions characterize it as a means of obtaining free placements which can become long term with continuing court orders every 6 months. In order to utilize the resource, however, a youth must be formally committed to the state agency. With a single state agency this option would be unnecessary. Youth Court would be able to use more appropriate community based residential services.

Information Sheet on Youth Justice Council  
Proposed Amendments to HB 24

- A. The Youth Justice Council supports the concept of a single state agency to residential youth care.
- B. Council activity in this area has been to negotiate any changes felt necessary by all the concerned groups that are listed in SJR 29, in order to allow the single state agency concept to be implemented.
- C. The Council has focused on the single state agency as the primary purpose of HB 24 and sees the other proposals therein to the secondary.
- D. Further testimony before the subcommittee will show that we didn't quite achieve total agreement between all the interest groups.
- E. On December 8, 1983 the Youth Justice Council met and reviewed suggested amendments that would best represent the special interest groups concerns while preserving the single state agency concept.
- F. The amendments are:

- 1. ~~Elimination of "the care of youth in need of supervision placed by the youth court~~ under the supervision of the department." On page 2, this was adopted to eliminate concern that SRS would assume control of cases that are under the jurisdiction of the Youth Court.
- 2. Eliminate the references to community based programs. This avoids concerns about SRS assuming too much authority over many different kinds of community programs. The Council chose to maintain the focus of the single state agency for residential care.
- 3. Give SRS responsibility for data collection and enumerate specific information to be reported. This was adopted to insure adequate accountability by SRS to the legislature.
- 4. Elaborate considerations for the future allocation paper budgets from SRS to the judicial districts. This is intended to insure that those budgets are fair and equitable.
- 5. Add training to what non-profit providers are allowed to receive from the single state agency. This is meant to focus on the need for adequate provider training.
- 6. Elaborate consideration for SRS to make in negotiating contracts with providers. This is meant to insure that those rates are fair and equitable.
- 7. Maintain Shelter Care in the Youth Court Act. To insure that it remain distinct from longer term care.
- 8. Reinstate the language allowing courts to commit YINS into the Warm Springs State Hospital Childrens Program.

WITNESS STATEMENT

NAME Thomas A. Drager BILL No. HB-24  
ADDRESS 733 3rd Helena DATE 1/14/83  
WHOM DO YOU REPRESENT Mont. Residential Child Care Assoc.  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

TESTIMONY OF TOM DROOGER, HOUSE BILL 24.

We, as private residential providers, support the concept and legislation regarding the single state agency and feel that it will benefit the children, youth and families that we serve.

We feel it is in the best interest of these children and families, both present and future, that the administrative authority for the residential care system be centralized in one state agency.

It is our hope that this will provide for a better system for developing new programs, organizing communities, providing training, and establishing contracts, rates and levels of care. It is also our hope that this plan will provide for a better system for budget development, licensing standards and program evaluation.

We are, however, as private agencies, concerned about how State government will actually implement these changes. Members of our association have worked with State government in the development of stages of items such as the single state agency legislation, new rate systems and levels of residential care. This effort on the part of State government to include private individuals and groups, in our opinion is necessary to lessen concern, suspicion and distrust of State government. We would hope that this working together will continue to grow, especially as we move ahead to the concept of a single state agency overseeing the needs and resources for children.

The Montana Residential Child Care Association wants to promote quality child care and will be available to be of aid to State departments and the Legislature to develop programs and policies which will be in the best interest of the children and youth (as well as their families) placed in residential care in Montana.

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MADAM CHAIRMAN AND MEMBERS

I address you as a <sup>member.</sup> ~~spokesperson~~ for a coalition of Juvenile Probation Officers which includes Districts 1, 2, 5, 8 and 13. <sup>which comprise approximately 50% of the officers.</sup>

The bill now before you was fostered as a result of the growing frustration on the part of state agencies, providers and many probation officers, with a state system that is fragmented and cumbersome, and not responsive to contemporaries needs. House Bill No. 24 was compiled by the sub-committee on ~~Human Services~~, following hearings where all effected personnel and agencies had the opportunity for participation.

~~The introduction and implementation of new legislation that revises the old ways often causes apprehension, and a fear of the unknown and a desire to cling to the now, rather than moving forward.~~ The participants of the coalition which I <sup>am a</sup> ~~for~~ <sup>of</sup> do have several reservations concerning HB 24. However, we view HB 24 on the whole as a positive and sincere approach by the authors to address the needs of the 80's and provide a more responsive system to those who are to be served.

This bill will make the process of providing treatment for a youth more <sup>out</sup> ~~expeditious~~ and effective, as well as providing that all facilities offering care or treatment meet the appropriate standards.

<sup>member</sup> As ~~spokesperson~~ for this coalition of Probation Officers, I urge the committee to send HB 24 on to the House with a "DO PASS" recommendation.

Richard L. Meeker  
Chief Probation Officer  
First Judicial District

WITNESS STATEMENT

NAME Linda Wood BILL No. NB 24  
ADDRESS 602 N. Ewing DATE 1-14-83  
WHOM DO YOU REPRESENT Attention Home / Mont. Residential Child Care Association  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

Support with reservations regarding implementation is the general stance of small residential care providers. Will the money follow the bill? A group of small residential group homes worked all summer and fall with people from SRS, Dept of Institutions and Board of Crime Control with regard to the issues surrounding this bill. The final consensus is to support the concept of a single state agency as data collection, billing and payment processes and overall administration would all be more efficient. The major reservations are the implementation of the single state agency and the financial aspects of the agency.

Linda Wood  
Vice-President  
Mont. Residential Child  
Care Association

H.B. 24 ISSUES

I. This Bill is a Residential Care Bill not a Community Based Program Bill. There is an effort here to group all community based programs involving delinquent, YINS, and YINCS under the Department of S.R.S. We are opposed to this and propose changes. The sections of this Bill that are referenced under this are:

- 1) Page 1, Line 7, Add residential after community based
- 2) Page 15, Lines 1 through 13, delete
- 3) Page 16, Lines 15 and 16, add and after youth group home and, delete: and community based programs
- 4) Page 17, Lines 1 and 2, delete
- 5) Page 17, Lines 8 through 10, delete

II. The Youth Court should retain their own licensing and supervision of their foster homes and continue to use the six month commitment. Sections of this Bill that referenced under this are:

- 1) Page 2, Lines 8 and 9, delete
- 2) Page 4, Lines 14 and 15, return to original language
- 3) Page 9, Line 18, add; or other home approved by the Court
- 4) Page 9, Lines 21 through 25, return to original language
- 5) Page 10, Lines 1 and 2, return to original language
- 6) Page 11, Line 1, in the case of a delinquent youth should be returned. Prohibits commitment of emotional disturbed youth to the Department of Institutions, Warm Springs, etc.



1 7) Page 11, Lines 3 through 9, return to original language

2 8) Page 18, Lines 7 through 11, return to original language

3 III. S.R.S. Rule Making Authority. The Legislature should  
4 determine the rules and not give S.R.S. the authority to  
5 make rules. S.R.S. does not listen to public input. Delete  
6 Page 25, Lines 8 through 10.

7 IV. Shelter Care is defined on page 7, Lines 3 and 4 but is not  
8 used anywhere but in Section 41-5-802 M.C.A. This section  
9 is deleted out on page 27, line 16 and page 28, lines 8  
10 through 22. It is felt that the removal of this provision  
11 from the law takes away any reference to its intent. It  
12 should be reinstated.

13 V. Time Limits - This provision was included in this Bill  
14 due to problems of getting kids into facilities. The  
15 problem is not a legal problem but one of having to go  
16 through numerous screening committees at both the local  
17 and state level. The problem can be solved by eliminating  
18 the committees rather than bogging the system down with  
19 time limits and more meetings. Page 20, Lines 8 through 25,  
20 and Page 21, Line 1. This should be deleted.

21 VI. Committees - This Bill continues to tie up officer time  
22 by creating more committees. It takes us a minimum of  
23 four hours per week for just Foster Care Reviews. If the  
24 Legislature continues to create more committees, we will be  
25 forced to hire more staff just to attend the committee  
26 meetings. See Page 18, Lines 2 through 4. This should be  
27 deleted.  
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VII. Due to low trust levels of S.R.S., we feel it is necessary to spell out what data is necessary to provide the Legislature in order to determine the effectiveness of Foster Care in comparison to institutional placements. Page 17, Lines 8 --, add

(3) maintain adequate data on placements it funds in order to keep the Legislature properly informed of the following:

(1) The breakdown of youth in need of care, youth in need of supervision, and delinquent youth by category in out of home care facilities;

(2) the cost per facility for services rendered;

(3) the type and level of care and of services provided by each facility;

(4) a profile of out of home care placements by level of care;

(5) a profile of public institutional placements; and

Page 17, Lines 21 through 25, delete and add,

VIII. This provision is recommended also due to the low trust levels of S.R.S. coming up with a proper formula to adequately address Foster Care. This is partly due to group home rates being cut back twice in the last biennium. This formula includes the following deletions and additions:

1) Page 18, Line 1, delete

2) NEW SECTION. Section 9. Apportionment of money to judicial districts.

1 It shall be the duty of the Department of Social and  
2 Rehabilitation Services:

3 (1) To properly apportion and allocate annual budgets for  
4 the out of home care of youth in need of supervision and  
5 delinquent youth to all judicial districts requesting such  
6 budgets.

7 (2) To allocate a contingency budget for youth from  
8 participating judicial districts for the out of home care of  
9 youth in need of supervision and delinquent youth in extra-  
10 ordinary circumstances or with special needs.

11 (3) To develop a funding formula by May 1, for application  
12 to the next fiscal year to assure that adequate and reasonable  
13 funding of these placement resources be accomplished. The  
14 formula shall take into consideration the following factors:

15 (a) The total population of the judicial district.

16 (b) The total youth population of the judicial district.

17 (c) The total number and costs of placements in public  
18 facilities and out of home care facilities.

19 (d) The current trends in population, local economy, and  
20 placement.

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RECOMMENDED CHANGES TO H.B. 24

Page 1, Line 7, add residential after community - based.

Page 2, Lines 8 and 9, delete

Page 4, Lines 14 and 15, return the original language

Page 9, Line 18, add ; or other home approved by the Court.

Page 9, Lines 21 through 25, return to original language

Page 10, Lines 1 and 2, return to original language

Page 11, Line 2 through 9, delete in the case of a delinquent youth, and return to the original language the remaining words through line 9,

Page 15, lines 1 through 13, delete

Page 16, Line 15, add the word and after youth group home,

Page 16, Line 16, delete and community-based programs

Page 17, Lines 1 and 2, delete

Page 17, Lines 8 through 10, delete

Page 17, Lines 8 --, add

(3) maintain adequate data on placements it funds in order to keep the Legislature properly informed of the following:

(1) The breakdown of youth in need of care, youth in need of supervision, and delinquent youth by category in out of home care facilities;

(2) the cost per facility for services rendered;

(3) the type and level of care and of services provided by each facility;

1 (4) a profile of out of home care placements by level of  
2 care;

3 (5) a profile of public institutional placements; and

4 Page 17, Lines 21 through 25, delete and add,

5 NEW SECTION. Section 9. Apportionment of money to  
6 judicial districts.

7 It shall be the duty of the Department of Social and  
8 Rehabilitation Services:

9 (1) To properly apportion and allocate annual budgets for  
10 the out of home care of youth in need of supervision and  
11 delinquent youth to all judicial districts requesting such  
12 budgets.

13 (2) To allocate a contingency budget for youth from  
14 participating judicial districts for the out of home care of  
15 youth in need of supervision and delinquent youth in extra-  
16 ordinary circumstances or with special needs.

17 (3) To develop a funding formula by May 1, for application  
18 to the next fiscal year to assure that adequate and reasonable  
19 funding of these placement resources be accomplished. The  
20 formula shall take into consideration the following factors:

21 (a) The total population of the judicial district.

22 (b) The total youth population of the judicial district.

23 (c) The total number and costs of placements in public  
24 facilities and out of home care facilities.

1 (d) The current trends in population, local economy, and  
2 placement.

3 Page 18, Lines 1 through 4, delete

4 Page 18, Lines 7 through 11, return to the original  
5 language

6 Page 20, Lines 8 through 25, delete

7 Page 21, Line 1, delete

8 Page 25, Lines 8 through 10, delete

9 Page 27, Line 16, return to original language

10 Page 28, Lines 8 through 22, return to original language  
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BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS RELATING TO YOUTH; DEFINING OUT OF HOME CARE; APPORTIONING MONIES FOR OUT OF HOME CARE; AND, REQUIRING LICENSING OF OUT OF HOME CARE FACILITIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-5-103, M.C.A. is amended to read:

"41-5-103. Definitions. For the purpose of the Montana Youth Court Act, unless otherwise stated, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means the department of institutions, the department of social and rehabilitation services, and any division or department of either.

(3) "Commit" means to transfer to legal custody.

(4) "Court", when used without further qualification, means the youth court of the district court.

(5) "Foster home" means a private residence approved by the court for placement of a youth.

(6) "Guardianship" means the status created and defined by law between a youth and an adult with the reciprocal rights, duties, and responsibilities.

(7) "Judge", when used without further qualification, means the judge of the youth court.

(8) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

- 1 (iii) protect, train, and discipline the youth; and  
2 (iv) provide the youth with food, shelter, education, and  
3 ordinary medical care.
- 4 (b) An individual granted legal custody of a youth shall  
5 personally exercise his rights and duties as guardian unless  
6 otherwise authorized by the court entering the order. 7  
7 (9) "Parent" means the natural or adoptive parent but  
8 does not include a person whose parental rights have been  
9 judicially terminated, nor does it include the putative father  
10 of an illegitimate youth unless his paternity is established  
11 by an adjudication or by other clear and convincing proof.
- 12 (10) "Youth" means an individual who is less than 18 years  
13 of age without regard to sex or emancipation.
- 14 (11) "Youth court" means the court established pursuant  
15 to this chapter to hear all proceedings in which a youth is  
16 alleged to be a delinquent youth, a youth in need of supervision  
17 or a youth in need of care and includes the youth court, the  
18 judge, and probation officers.
- 19 (12) "Delinquent youth" means a youth:  
20 (a) who has committed an offense which, if committed  
21 by an adult, would constitute a criminal offense;  
22 (b) who, having been placed on probation as a delinquent  
23 youth or a youth in need of supervision, violates any condition  
24 of his probation.
- 25 (13) "Youth in need of supervision" means a youth who  
26 commits an offense prohibited by law which, if committed by an  
27 adult, would not constitute a criminal offense, including but  
28 not limited to a youth who:  
29 (a) violates any Montana municipal or state law  
30 regarding use of alcoholic beverages by minors;  
31 (b) habitually disobeys the reasonable and lawful  
32 demands of his parents or guardian or is ungovernable and



1 beyond their control;

2 (c) being subject to compulsory school attendance, is  
3 habitually truant from school; or

4 (d) has committed any of the acts of a delinquent youth  
5 but whom the youth court in its discretion chooses to regard  
6 as a youth in need of supervision.

7 (14) "Youth in need of care" means a youth as defined in  
8 41-3-102.

9 (15) "Custodian" means a person other than a parent or  
10 guardian to whom legal custody of the youth has been given but  
11 does not include a person who has only physical custody.

12 (16) "Necessary parties" include the youth, his parents,  
13 guardian, custodian, or spouse.

14 (17) "State youth correctional facility" means a residential  
15 facility for the rehabilitation of delinquent youth such as  
16 Pine Hills school in Miles City, and Mountain View school in  
17 Helena, and Swan River youth forest camp.

18 (18) "Shelter care" means the temporary care of youth in  
19 physically unrestricted facilities.

20 (19) "Detention" means the temporary care of youth in  
21 physically restricting facilities.

22 (20) "District youth guidance home" means a family-oriented  
23 residence established in a judicial district of the state of  
24 Montana as an alternative to existing state youth correctional  
25 facilities, the function of which is to provide a home and  
26 guidance through adult supervision for delinquent youths and  
27 youths in need of supervision.

28 (21) "Restitution" means payments in cash to the victim or  
29 with services to the victim or the general community when these  
30 payments are made under the jurisdiction of a youth court  
31 proceeding.

32 (22) "Out of home care" means any youth who is placed out

of his home by the youth court in a shelter, foster, group, residential, or private institutional care facility.

New Section. Section 2. Apportionment of money to judicial districts. It shall be the duty of the Department of Social and Rehabilitation Services.

(1) To properly apportion and allocate annual budgets for the out of home care of youth in need of supervision and delinquent youth to all judicial districts requesting such budgets.

(2) To allocate a contingency budget for youth from participating judicial districts for the out of home care of youth in need of supervision and delinquent youth in extraordinary circumstances or with special needs.

(3) To develop a funding formula by May 1, for application to the next fiscal year to assure that adequate and reasonable funding of these placement resources be accomplished. The formula shall take into consideration the following factors:

(a) The total population of the judicial district.  
(b) The total youth population of the judicial district.  
(c) The total number and costs of placements in public facilities and out of home care facilities.

(d) The current trends in population, local economy, and placement.

*North Coast 15-76*  
(4) To maintain adequate data on placements it funds in

order to keep the Legislature properly informed of the following:  
(a) The breakdown of youth in need of care, youth in need of supervision, and delinquent youth by category in out of home care facilities.

(b) The cost per facility for services rendered.

(c) The type and level of care and of services provided by each facility.

(d) A profile of out of home care placements by level of care.

(e) A profile of public institutional placements.

Section 3. Section 41-3-502, MCA, is amended to read:

"41-3-502. License required. No person shall maintain or operate a foster or boarding home an out of home care facility for any child or children within the meaning of this chapter without first securing a license in writing from the department of social and rehabilitation services. <sup>and a foster care</sup> No fee shall be charged for such license."

Section 4. Section 41-3-503, MCA, is amended to read:

"41-3-503. Issuance of license -- authority of issuing agency. The department of social and rehabilitation services <sup>or Juvenile Court</sup> is hereby authorized to issue licenses to persons conducting boarding or foster homes out of home care facilities and to prescribe the conditions upon which such licenses shall be issued and to make such rules as it may deem advisable for the operation and regulation of foster and boarding homes such facilities for minor children consistent with the welfare of such children. Such licensing agency shall have the power and authority to inspect all such licensed foster and boarding homes facilities through its duly authorized representatives and to cancel licenses theretofore issued for the failure to observe such rules. The person operating such homes shall give to such representative such information as may be required and afford him every reasonable facility for observing the operation of such homes."

Section 5. Section 41-3-504, MCA, is amended to read:

"41-3-504. Penalty. Any person who maintains or conducts a foster or boarding home an out of home care facility or assists in conducting or maintaining such home facility without having first obtained a license in writing as hereto provided shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed \$100."

# Youth Court Services

Eleventh Judicial District

Box 839 - Kalispell, MT 59901  
(406) 755-5300

R. GLEN HUFSTETLER  
Chief Probation Officer

DEPUTIES:  
Kevin J. Burham  
Noel Kirack  
Elisabeth A. Moothart

J. M. SALANSKY  
ROBERT C. SYKES  
Youth Court Judges

January 13, 1983

TO WHOM IT MAY CONCERN:

Re: House Bill 24

Our concerns regarding House Bill No. 24 introduced by Rep. Kyser regarding the single state agency are as follows:

The ambiguity of the bill which places too much power and control under S.R.S.

The bill, as it reads, takes away the court's ability to have, supervise and license foster homes.

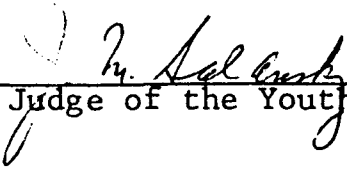
It infringes on the rights of the courts to make whatever dispositions the court feels to be in the best interests of the child.

It would place undue effort on Youth Court staff in attending and participating in more committee meetings and group meetings than necessary.

Community based programs that now are operated by the court would fall under the scrutiny and control of S.R.S. Most of those programs have little or nothing to do with out of home placements. However, the language of the bill is so vague and general that, as it reads, all community based services to youth would, with this bill, fall under the direct supervision of S.R.S. We are vehemently opposed to this concept.

The time limits imposed by this bill in some circumstances are questionable.

All things considered, I am recommending at this time that this bill be killed.

  
\_\_\_\_\_  
Judge of the Youth Court

## VISITOR'S REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL HOUSE BILL 24DATE January 14, 1983SPONSOR KEYSER

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<del>CURT CHASANT</del>	<del>HELENA</del>	<del>DEPT. INSTITUTIONS</del>	X	
Glen Hufstetter	Kalispell	Probation		X
Kevin Gurham	Columbia Falls	Probation		X
Elizabeth Wheeler	Bozeman, MT.	Youth Court 18th		X
Joel Kirsch	Whitefish	Prob.		X
MIKE Fleming	Livingston	6 <sup>th</sup> Jud Dist Youth Court		X
Richard Meehan	Helena	Prob.	X	
Norma Vento	Helena	SRS	X	
John Madsen	<del>SRS</del> Helena	SRS	X	
Kathleen Harrington	Helena	Self	X	
<b>Jeremiah Johnson</b>	<b>MSLA</b>	<b>MT. PROBATION ASSOC.</b>		<b>X</b>
Steve McLaughlin	Helena	Board of Prisoners	X	
John R. Foster	Livingston	Chief P.O.		X
Bryan Johnson	Home	Chief P.O.		X
Linda Wood	Helena	Attention Home	X	
Dan Russell	Helena	Dept of Just	X	
John Green	Helena	OPI	X	
Clayton	Bozeman	Probation	X	
Judy Johnson	Helena	OPI		
Joe McLaughlin	Helena	MHA/11	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# STANDING COMMITTEE REPORT

Page 1 of 7  
HOUSE BILL 24

January 28, 1983

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 24

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR COMMUNITY-BASED SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 24  
be amended as follows:

1. Title, line 7.  
Following: "COMMUNITY-BASED"  
Insert: "RESIDENTIAL"

2. Page 2, line 7.  
Following: "children;"  
Insert: "and"

3. Page 2  
Strike: lines 8 and 9 in their entirety  
Renumber: subsequent subsections accordingly

DO PASS  
XXXXX

January 28, 1983

4. Page 4, line 15.

Following: "youth:"

Insert: "(5) "Foster home" means a private residence approved by the court for placement of a youth."

Renumber: subsequent subsections accordingly

5. Page 7, line 22.

Following: "guardian."

Insert: "Nothing in this definition is intended to include juvenile correctional facilities, evaluation facilities, mental health facilities and services, and aftercare programs operated by the department of institutions."

6. Page 10, line 2.

Following: "hearing;"

Insert: "(d) transfer of legal custody of the youth to the department of institutions, provided that such commitment does not authorize the department of institutions to place the youth in a state correctional facility, and such commitment may not exceed a period of 6 months without a subsequent order of the court, after notice and hearing;"

Renumber: subsequent subsection accordingly

7. Page 11, line 2.

Following: "(d)"

Strike: "in case of a delinquent youth,"

8. Page 11, line 3.

Following: "institutions"

Insert: ", provided, however, that in the case of a youth in need of supervision, such transfer of custody does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearing;"

9. Page 15, lines 1 through 13.

Strike: lines 1 through 13 in their entirety

Renumber: subsequent subsections accordingly

10. Page 16, line 15.

Following: "group homes,"

Insert: "and"

January 25, 1933

11. Page 16, line 16.

Following: "agencies"

Strike: ", and community based programs"

12. Page 17.

Strike: lines 1 and 2 in their entirety

Renumber: subsequent subsections accordingly

13. Page 17.

Strike: lines 8 through 10 in their entirety

Renumber: subsequent subsections accordingly

14. Page 17, line 12.

Following: "implementation"

Strike: "."

Insert: "; and (j) maintain adequate data on placements it funds in order to keep the legislature properly informed of the following:

(i) the breakdown of youth in need of care, youth in need of supervision, and delinquent youth by category in out of home care facilities;

(ii) the cost per facility for services rendered;

(iii) the type and level of care of services provided by each facility;

(iv) a profile of out of home care placements by level of care; and

(v) a profile of public institutional placements.

15. Page 17, line 20.

Following: "youth."

Insert: "(3) The department shall pay for room, board, clothing, personal needs, transportation and treatment in district youth guidance homes, shelter care programs, and foster care homes for youths committed to the department of institutions who need to be placed in such facilities. Youths committed to the department of institutions and placed in residential facilities other than those described above shall not be the financial responsibility of the department of social and rehabilitation services unless such placements have been approved in advance by the department of social and rehabilitation services."



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16. Page 17, line 21.  
Following: "Section 9."  
Strike: "Apportionment"  
Insert: "Allocation"

17. Page 17, line 22.  
Following: "shall"  
Strike: "apportion and"

18. Page 18, line 11.  
Following: "chapter."  
Insert: "(1) The youth court may establish procedures for finding, maintaining, and administering shelter care and foster homes approved by the court for youth within the provisions of this chapter."

19. Page 18, line 12.  
Following: "{2}"  
Insert: "(2)"

20. Page 18, line 16.  
Following: "{a}"  
Strike: "(1)"  
Insert: "(2)"  
Re-number: subsequent subsections accordingly

21. Page 20.  
Strike: line 8 on page 20 through line 1 on page 21  
Re-number: subsequent sections accordingly

22. Page 25, line 17.  
Following: "facilities,"  
Insert: "training,"

23. Page 26, line 1.  
Following: "therefor."  
Insert: "Such contracts shall be based on the following considerations: (a) budgets submitted by the nonprofit corporation or association identifying fixed and variable costs;  
(b) reasonable costs of service;  
(c) appropriation level; and  
(d) availability of funds."

24. Page 27, line 16.  
Following: "detention"  
Strike: "Detention"  
Insert: "Shelter care and detention"

January 28, 1983

25. Page 27, line 17.  
Following: "(1)"  
Insert: "(a)"

26. Page 27, line 25.  
Following: "(b)"  
Strike: "(2)"  
Insert: "(b)"

27. Page 28, line 3.  
Following: "(c)"  
Strike: "(3)"  
Insert: "(c)"

28. Page 28, line 22.  
Following: "home."  
Insert: "(2)(a) Youth courts and nonprofit corporations may provide by purchase, lease, or otherwise, a place to be known as a shelter care facility.

(b) Such facility shall be physically unrestricting and may be used to provide shelter care for youth alleged or adjudicated delinquent, in need of supervision, or in need of care.

(c) Such facility shall be separate and apart from any facility housing adults charged with criminal offenses.

(d) State appropriations and federal funds may be received by the youth court or private nonprofit corporations for establishment, maintenance, or operation of such facility.

(e) Such facility shall be furnished in a comfortable manner and be as nearly as possible like a family home."

29. Page 29, line 20.  
Following: "administer"  
Insert: "youth correction facilities, evaluation facilities, mental health facilities and services, after care programs, and"

30. Page 32, line 17.  
Following: "Section"  
Strike: "32"  
Insert: "31"

31. Page 32, line 20.  
Following: "9,"  
Strike: "12"  
Insert: "17"  
Following: "19"  
Strike: "20"  
Following: "and"  
Strike: "25"  
Insert: "24"

Page 6 of 7  
HOUSE BILL 24

32. Page 32, line 21.

Following: "through"

Strike: "28"

Insert: "27"

January 28, ..... 1983

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

January 28,

1983

MR. SPEAKER

WE, YOUR COMMITTEE ON HUMAN SERVICES, HAVING HAD UNDER  
CONSIDERATION HOUSE BILL NO. 24, FIRST READING COPY (WHITE), ATTACH  
THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT  
HOUSE BILL NO. 24

House Bill 24 requires a statement of intent because it authorizes the Department of Social and Rehabilitation Services to adopt rules to implement statutory changes in the delivery of services to youths.

The Legislature contemplates that the rules should address the following, among other things:

1. Consideration of aftercare programs for youth under the department's supervision.
2. Consideration of standards for facilities housing youth in need of care, youth in need of supervision, and delinquent youth. Such standards should be considered in licensing and delivery of service.
3. Consideration of measures associated with the allocation of placement budgets to judicial districts, with such measures including data on placement history and placement trends.
4. Consideration of the proper allocation of annual budgets for the out-of-home care of youth in need of supervision and delinquent youth. The funding formula used in budget allocations should include:
  - a. the total population of the judicial district;
  - b. the total youth population of the judicial district;
  - c. the total number and costs of placements in public facilities and out-of-home care facilities;
  - d. trends in population, placements, and local economics.
5. Consideration of measures to investigate parental contributions.
6. Consideration of specific measures for licensing the various youth facilities, including: facility acquisition, facility design, group home staffing, staff training, service goals and design, quality of services, client placement procedure, client rights and privileges, client grievance procedure, provider grievance procedure, accounting procedures including accounting of client financial resources, health and safety standards including water and waste disposal, food service, and laundry.