

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
HUMAN SERVICES SUBCOMMITTEE
INSTITUTIONS SUBCOMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 23, 1987

The meeting of the State Administration Committee and the Human Services and Institutions Subcommittees of the Appropriations Committee was called to order by Chairman Sales on January 23, 1987 at 8:00 a.m. in the Old Supreme Court Chambers of the State Capitol.

ROLL CALL: Rep. Cody was excused. All other committee and subcommittee members were present.

CONSIDERATION OF HOUSE BILL NO. 325: Rep. Mercer, House District #50 and sponsor of the bill said the bill was introduced at the request of the Governor. The bill results from a study conducted by the Governor's Council on Reorganization of Youth Services, commonly referred to as the Youth Services Study Council. It is a bill to reorganize and consolidate youth and family services into a new department known as the Department of Family Services. Several existing problems have brought this problem before the legislature. For example, in the youth area, we have district judges sentencing or disposing of youth to correctional facilities or foster homes, but the state is paying for this. There is no unity of authority. At the county level, there is a probation officer who works for the district judge who works with a youth until the time of commitment to a state institution; yet when that youth is released, another individual working for the Department of Institutions becomes the aftercare worker. Youth are an extremely important commodity in Montana, and they are caught up in the huge SRS system, subject to various agencies that are not under one control. HB 325 proposes consolidation of several agencies into one place. The disposition of a youth currently determined by the youth court judge, will be specified by the department if that youth is determined to be a delinquent youth or a youth in need of supervision. In this way, the agency that specifies the type of correctional facility to send the youth to is the agency that will pay for the care, allowing one agency to determine the best allocation of available resources. The authority of the district judges would remain in situations where a youth is a serious threat to a community insofar as commitment of that youth to an institution for the safety of the community. HB 325 does not propose the creation of anything new and does not anticipate any additional funding. It is merely a consolidation of present resource agencies. Youth Probation Officers, currently employees of the district judge, would become employees of the state. Funds currently being contributed by counties would be kept at the same level. SRS staff is dealing with abused and neglected children; the youth court is dealing with delinquent youths or youths that need supervision. Often, these children overlap.

Emotionally disturbed children frequently do not fit into either category. We need to have one entity in charge of children regardless of how they are classified. Crimes among youth have drastically changed in recent years. Sex offender youths have entered the picture, and they require a whole new type of rehabilitative services. HB 325 will utilize and unify current resources.

PROPONENTS: Joe Mazurek, Senate District #23 and a member of the Youth Services Study Council, spoke in support of HB 325. HB 325 attempts to get a handle on youth services at the state and local level. A continuum of care within one area of responsibility is necessary. The present system is not effective from a cost or human perspective. Within our current resources, there is a need to change that system in order to do a better job for youth. He acknowledged that the creation of a new state department is difficult for some to accept. He stated the need for local control consistent with accountability at the state level. Decisions on the delivery of services and service availability should be made closer to the local level. Funding decisions should be tied closely to case decisions. The responsibility for youth services should be in a central agency. There has to be a single focal point for accountability and advocacy for youth which is spread all over our state and local system at present. Current sources of state and local funding should continue with any growth being the responsibility of the state. The dispositional authority of the youth court must be balanced with the agency responsible for funding dispositional services. He would like to see these services provided at the local level with only slight review accountability at the state level. Realistically, given the economic and legal climate at the local level, this probably cannot be accomplished. He hopes to see the creation of a new department with existing resources and with that department's emphasis at the local level. The most controversial areas in HB 325 are the transfer of the probation officers from county to state employees and the judicial authority on disposition. Probation officers are doing an effective job at the local level; they take their jobs seriously and are advocates of youth. They are concerned about getting out from the county system and becoming part of the state system. However, it is not consistent to create a state system and leave the probation officers at the local level. The sentencing authority of the district judges is another area of concern. The bill would change the judge's dispositional authority to allow him only to sentence youth, and this is a dramatic change. He closed his testimony by emphasizing that services to youth are very fragmented. As a result, there is no continuity or flexibility.

Dave Lewis, SRS Director and a member of the Youth Services Study Council, stated that the setting of priorities is a major task for this legislature. The current youth services delivery system is a classic example of how not to set priorities and how not to approach

a major problem in state government. The purpose of this proposed legislation is to build a delivery system of services to youth and families that is more effective from both the cost and human perspectives. One of the major issues in HB 325 is who controls the foster care budget. At the present time, it is a budget of approximately \$7.7 million. The authority to administer that budget is currently shared with probation officers and youth courts. When authority over a budget of this magnitude is shared, there are continuing problems as far as settling the final issue of responsibility. HB 325 is attempting to set up a unified system that allows state resources to be targeted and prioritize so that services are given to the most critical cases on a statewide basis rather than on a judicial basis. He thinks HB 325 strikes to the heart of the problem and proposes to concentrate responsibility and authority for a critical group of people in one place.

Carroll South, Director of the Department of Institutions and a member of the Youth Services Study Council, stated he has heard many complaints from people involved in the delivery of services to youth that there is no continuity of service among the existing agencies. HB 325 will rectify this. The current system is very fragmented and, at present, there is no one looking comprehensively at what the state is doing relative to youth services. He encouraged the committee not to destroy the concept of the bill and urged its adoption. He stated that the service delivery system for children and youth will never be adequate until one entity is responsible to see that those services are provided. One entity needs to be given an appropriation by the legislature and to be held accountable for how efficiently those funds are disbursed. This bill is not an impediment to other proposed legislation to reorganize Montana's executive branch relative to human services. It will enhance any further reorganization that the legislature might pursue.

Gene Huntington, representing the Governor's Office, submitted written testimony (Exhibit #1). He also presented a handout (Exhibit #2) for the committee's review. The concerns that have been voiced about the new department by preceding speakers related to judges' authorities, probation officers' authorities, etc. There are some concerns also relating to the transition. HB 325 will not radically change, at the outset, what social service people are currently doing in the field. The intent of the proposed legislation is not to disrupt services to clients. He envisions that the department would initially put someone in a coordinator status in the social services regions whose role would be to work out the implementation with local government officials and to set up local advisory committees that would be appointed by the governor from nominations from county commissioners, judges, etc. These committees would be responsible for the development of a plan of services for their particular region. This would provide for an orderly transition that would not disrupt service. The critical issue is not the transition but the consolidation of authority in one agency.

Harold Hanson, County Attorney for Yellowstone County and a member of the Youth Services Study Council, expressed support for HB 325. He expressed support for the probation officers being removed from the court and placed under the jurisdiction of the new state agency. He believes that the court best serves its constituents when it is an independent finder of facts in determining the law. The youth court is not a due process court. There is no way a court can make dispositional recommendations and still remain objective. Youth services in Montana are fragmented, and this presents serious problems from the standpoint of budget control and serving youth. It is time that Montana refocuses on the need to put a system together that has the best opportunity to deliver services to children. He made reference to a letter from Judge Joseph Gary, a member of the Youth Services Study Council and a district judge from Bozeman. Judge Gary concurs in the proposal to remove the probation officers from the district court. He stated HB 325 goes a long way to move Montana where it needs to be. It will provide Montana with an opportunity to move dramatically forward to provide a higher level of services to all youth who are having difficulties and to do it in an accountable fashion within the budget dollars that are available for these services.

Dee Cranmer, a Helena parent, stated her support for HB 325 and submitted written testimony (Exhibit #4) outlining the frustrations she experienced in attempting to get professional help for her emotionally disturbed son which was mainly caused by a lack of continuity among the various social service agencies. There was never one agency to go to or one person to talk with. She felt consideration and passage of HB 325 is very important.

Cort Harrington, a Helena attorney, said he was a former representative of youths in the Helena Youth Court as a public defender. He found that his role as an advocate was more important at the dispositional stage of the court proceedings than it was at the hearing to determine whether or not the youth was delinquent. He found that the fragmented youth services delivery system was extremely frustrating. He strongly supports HB 325 which would bring all the service agencies under one "umbrella" agency. He noted that HB 325, as drafted, would limit the youth court in the disposition it can take over a youth. The bill would limit the power of the youth court to either committing the youth to the department or placing the youth on probation. He feels this is not the most beneficial approach as far as the youth is concerned. He supports HB 325 with the proposed amendments to keep the probation officers as court employees and not to limit judicial discretion.

Geoff Birnbaum, Executive Director of Missoula Group Homes, Vice President of the Montana Residential Child Care Association and a member of the Youth Services Study Council, addressed two points of the bill: 1) youngsters caught between agencies and 2) evaluations. Responsibility for youth, regardless of their emotional classification, needs to be

assigned to one place. HB 325 will better serve youngsters in the state of Montana and should be adopted.

Craig Anderson, Chief Probation Officer from the Seventh Judicial District, President of the Montana Probation Officers Association, and a member of the Youth Services Study Council, stated that the removal of probation officers from the jurisdiction of the courts is probably the most serious issue concerning HB 325. The probation officers are concerned about the implications of that power being moved from the courts and placed with a new state department. He feels youth services will lose an effective advocate and an efficient way of meeting individual needs in the communities. He encouraged the committee to study the issue in its entirety and debate it fully. Generally, the probation officers support the concept of reorganization.

Jerry Weist, Superintendent of Schools in Great Falls and a member of the Youth Services Study Council, stated that the problems of dealing with disturbed youths are becoming more complex and there are no simple solutions. He stated that there needs to be recognition of the current fragmented system and how it drains the human and financial resources from their intended purposes. A system that is both responsible and accountable is necessary. A system with a consolidated authority is needed. HB 325 will go a long way to deal with the current problems by providing easier access to services for both the youth and their families as well as the professionals who work with them. It will provide for a more responsive system and will channel both human and monetary resources to their intended purposes which are to work for the youth of our state. He urged passage of HB 325.

Richard Meeker, Chief Juvenile Probation Officer of the First Judicial District, supports the general concept of HB 325 for reorganization of services but is concerned with eliminating, to some degree, community-based services. The probation officers currently provide community-based services. They would like to continue to provide these services in the future.

Robert Butorovich, Sheriff of Butte-Silver Bow County and a member of the Youth Services Study Council said he is looking for accountability and responsibility in the youth services system and feels HB 325 is the answer. He urged passage.

Mona Jamison, representing the Juvenile Probation Officers Association, outlined some concerns with the bill. She expressed concern over the loss of local control and accountability by taking the youth court out of the district court. Her proposed amendment (Exhibit #5) demonstrates an increased commitment of accountability by the youth court and the probation officers to the funding agency. She supports HB 325 but requested the committee to "surgically remove" that part of

the bill concerning the youth court. She does not feel the accountability of decisionmaking should be traded off with the accountability of the funding. She submitted documentation on out-of-state youth placement (Exhibits #5, #6 and #7) and noted that SRS, not the youth court judges, are responsible for the majority of such placements. In 1983, the legislature established a "paper budget concept" which directed the SRS to develop a placement budget for each youth court. Pursuant to that statute, which was enacted in an attempt to increase the accountability of the youth courts to the funding agency, rules were adopted (Exhibit #8). Her proposed amendments, which incorporate language contained in the SRS rules, stipulate that when the youth court has expended 80% of its budget, it no longer would have the discretion to make placements. The new department would make those decisions at that point. The youth court and probation officers would still submit recommendations to the department on what they deem to be the best placement for a particular youth. The final decision, however, would rest with the new department as the agency that controls the funds.

John Wilkinson, Deaconess Home Administrator, expressed support for HB 325. He stated there are not sufficient local services which will, in time, place increased pressures on the institutions, on residential treatment programs, and on out-of-state treatment programs. This bill goes a long way toward resolving some major problems in the present system.

Joan Rebich, Chairman for the Committee For Emotionally Disturbed Children From Montana said she feels that enactment of HB 325 will address the need for a continuum of care. It will be possible to have some prevention and early intervention through a coordinated effort of one department. This will eventually save money because the money will be expended early on at a point where not so many dollars are needed. A single department will also be able to come up with logical data regarding the needs of children in Montana. The committee recommends passage of HB 325 and feels it will be a beginning on the ability to plan for the children in our state, particularly the emotionally disturbed ones. Handouts she submitted are included as Exhibits #9 and #10.

Kevin Burham, Juvenile Probation Officer in Flathead County, wished to go on record as wholeheartedly supporting the amendment set forth by Mona Jamison. There is definitely a need for fiscal control of the budget.

Rep. Cal Winslow stated that the Montana system of delivery, not only for children and youth, but for all human services, is inadequate, inefficient, and needs change. HB 325 is a good plan because it will make placement easier, more efficient, and better for the youth being served. At the same time, it adds accountability. The bill as written

is necessary. He does not support the amendment submitted by Mona Jamison.

Louise Salo, Chairman of the Governor's Advisory Council on Aging, spoke on behalf of the aging. She submitted written testimony in support of HB 325 (Exhibit #11).

Written testimony was received from Jan Watson, Extended Family Services in Missoula, (Exhibit #12) and Sister Gilmary Vaughan, Director-Discovery House in Anaconda (Exhibit #13).

OPPONENTS: None present

Discussion on HB 325 was closed by Rep. Mercer. He acknowledged the legitimate concerns of the probation officers, and he does not think transfer of probation officers to the state department will prevent them from being effective advocates for youth. He feels the amendment submitted by Mona Jamison is a proposed political compromise. Limited resources have to be allocated properly, and this can be accomplished effectively by having one entity responsible. He submitted a technical amendment (Exhibit #14) and asked the committee members to address the issue and pay close attention to the experts who testified.

ADJOURNMENT: There being no further business to come before the committee and subcommittees, the hearing was adjourned at 10:00 a.m.



Walter R. Sales, Chairman