

MINUTES OF THE MEETING
STATE ADMINISTRATION SUBCOMMITTEE
MONTANA STATE SENATE

March 17, 1987

The Subcommittee on House Bill 325 met at 10:30 a.m. on March 17, 1987 in Room 331 of the State Capitol. Senator Bill Farrell was Chairman along with Senators Abrams, Lynch and Rasmussen. Eddy McClure, Legislative Staff Researcher, was also present.

Gene Huntington, from the Governor's office; Mary Blake from SRS; Bill Collins, SRS; Nancy Neibauer and Bea Lunda representing the social workers; Dave Lewis, SRS Director; Steve Waldron, Executive Director of the Montana Council of Mental Health Centers; Mona Jamison, representing the probation officers; Gordon Morris, from the Montana Association of Counties or MACO; and Richard Kirsteen, a social worker were also present.

Senator Farrell asked Bill Collins about his concerns with the bill. He said he was concerned about losing the local control of the directors and whether or not there would be adequate coverage for social service programs if the county directors were not involved.

Nancy Neibauer stated they were concerned about the probation officers being taken out of the original bill. She said they feel it is absolutely necessary to have the probation officers involved in order to make it a workable arrangement. She noted the bill does not address developmentally disabled children or aging services and felt it might put the social workers in a position of being responsible for the care of such children whom they are not caring for now. She said caring for the mentally disturbed children was much more expensive also. Senator Lynch asked Ms. Neibauer if they would support the bill if the probation officers were amended back in and she said they would still have some objections to the bill. Senator Farrell then asked if the social workers would be opposed if county expenses were capped. She said they would because local control was a big issue with the county directors.

Senator Farrell asked Mona Jamison to give some background as to why probation was removed. She said it was because of local control. She felt keeping probation out of the bill alleviated one of the biggest concerns. She noted in the House hearings there had been arguments that the probation officers were appointed by the District Court Judge who in turn was elected by the people. She felt there was a kind of "tug" from the local level as to the best interests of the child and by preserving the status quo that local control and local apathy for the children would have a voice and serve the public well.

Senator Farrell asked Gordon Morris if the local committees that would be formed and appointed by the department would not be considered local control since they would develop the plan for their districts. Gordon Morris stated what you actually have is multi-county involvement because it would be judicial districts.

Bill Collins stated his primary concern as a representative of the social worker's staff was that they would be losing manpower while at the same time assuming a greater workload. He noted that presently county directors are utilized on a day-to-day basis for administrative backup. He felt they would need more employees to make up this loss. He was also concerned about the placement of youth from the youth courts.

Senator Rasmussen stated there was a concern expressed that the social workers had not been on the initial task force. Steve Waldron noted that the council had met numerous times in the past year. Those who were interested in caring for the youth of our state attended those hearings. He noted some had even gone to the governor to ask to be represented. He felt the social workers could have participated if they had wanted to. Senator Lynch stated it is one thing to be asked to be a member of the council and quite another just to give input at a meeting. He felt the social workers should have been invited in the beginning. Richard Kirsteen commented there were people who had attending meetings in Billings and presented overviews of child protective services but this was the only input they had had.

Senator Farrell asked if anyone present had prepared amendments to give to the subcommittee for consideration. Senator Lynch then took over as chair as Senator Farrell had to leave for another hearing. Senator Lynch then asked Gene Huntington to address the concerns of the opponents at the hearing. Mr. Huntington stated there was concern about the placement authority being in the department. He suggested language that the probation officers keep their caseload throughout the process. There was also concern about loss of staff and he felt there might be some shifting of staff but no actual changes made. He was not certain this could be done by amendment either but rather by the budgeting process.

Mary Blake noted there had been nothing addressed concerning the actual placement work that must be done to determine where the really tough kids would be placed. She felt it should be clarified that the probation officers would do this.

Senator Rasmussen noted there had been a suggestion made that the counties could opt out if they wished and wondered if this was feasible. Gene Huntington stated they had not proposed such a solution but his amendment would put a cap on foster care for the counties. He did not know how county welfare would be affected.

Richard Kirsteen felt the county directors do have a major role and that any new staff hired would never be able to replace the experienced county directors. Nancy Neibauer noted there is quite a difference in the way the system is managed in a non-assumed county and the way it is done in the assumed counties.

Gordon Morris felt the state-assumed counties would not be affected by this bill. He suggested a pilot program in the state-assumed counties. He said the remaining 44 counties were not interested in any compromises. He said he did not have any authority to negotiate amendments.

Dave Lewis felt it would not be possible to have a fractured system because you need to have accountability to determine who is responsible and the way the system now stands this is not possible. The state currently pays the bills for foster care he said. The counties would wonder who would be held accountable if a bad decision was made.

Bea Lunda stated she had some amendments to suggest and was especially concerned about tribal court agreements as the bill only refers to district courts. She wondered if Indian youth who are referred from tribal courts and termed as "delinquent youth" could possibly be getting into the system also. She thought this might possibly be contested in the courts. Gene Huntington responded they were not making new law in this area.

Bea Lunda stated that District Court Judge McPhilips was concerned about liability. He felt once a youth is committed it might open up the possibility of lawsuits for the counties.

Senator Lynch stated it appeared that even if the probation officers were written back into the bill there might be problems in administration regardless of whether this bill passed or not. He noted the judge can now commit a youth wherever he chooses. Bea Lunda said the judge was concerned about the probation officers being held liable for any risks after the child is committed.

Gene Huntington said there was no change in the bill regarding liability. He felt the concern might be due to the interim council having continuing jurisdiction over the children in the

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correctional institutions so that they could intervene later on if necessary. He noted this was the only concession that had been given to the judges.

Senator Lynch asked Gene Huntington, Bea Lunda, Mary Blake and other concerned parties to submit amendments to the legislative researcher, Eddy McClure for further consideration. He stated he could see there was a lack of coordination in the services for the care of our youth and that the interests of the child should be considered foremost. He felt there was a concern about "turf" battles and over losing some positions. He suggested the opposing parties try to resolve their differences before another meeting was called.

The meeting was adjourned at 11:05 a.m.

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SENATOR BILL FARRELL, Chairman