

Approved: March 6, 2000
Date

MINUTES OF THE SENATE WAYS & MEANS COMMITTEE.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on February 29, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Chief Fiscal Analyst, KLRD
Rae Anne Davis, KS Legislative Research Department
Debra Hollon, KS Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Asst. Revisor of Statutes
Judy Bromich, Administrative Assistant to the Chairman
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Secretary Janet Schalansky, SRS
Joyce Allegrucci, Assistant Secretary for Children & Family Policy, SRS
Bruce Linhos, Childrens' Alliance
Melissa Ness, Kansas Childrens' Service League
Maureen Mahoney, General Counsel, Kaw Valley Center
Judge Tom Graber, 30th Judicial District, Wellington, Kansas
Don Hymer, Assistant District Attorney, Johnson County
Karen Langston, Sedgwick County District Attorney's Office

Others attending: See attached list

SB 633: Child in need of care; defining child in need of protection and youth in need of community intervention; creating the family services and community intervention fund

Kathie Sparks, Legislative Research Department, briefly noted the following provisions of **SB 633**:

- divides "child in need of care" into two categories; those who need community services and those who need protection
- requires the Secretary of SRS to prove that youth in need of community services can be put in out of home placement
- brings Kansas law into compliance with Federal Adoption and Safe Families Act (ASFA)
- allows judges, upon appointing permanent guardianship, to "discharge" a child from jurisdiction of the court
- allows SRS and KDHE to share information
- allows for the provision of childrens' services by for-profit entities
- requires county and district attorneys to list specifics when filing petitions alleging child in need of care

Secretary Janet Schalansky, Department of Social and Rehabilitation Services, appeared before the Committee in support of **SB 633** and reviewed her written testimony. (Attachment 1)

Joyce Allegrucci, Assistant Secretary for Children and Family Policy, SRS, reviewed her written testimony in support of **SB 633**. (Attachment 2) She pointed out that her written testimony includes answers to "Frequently Asked Questions about Youth In Need of Community Services." Other documents distributed to members on behalf of the Department of Social and Rehabilitation Services were proposed amendments to **SB 633** (Attachment 3) and copies of the "Federal Register Part II, Department of Health and Human Services, Administration for Children & Families, 45 CFR Parts 1355, 1356, and 1357, Title IV-E Foster Care Eligibility Reviews & Child & Family Services State Plan Reviews; Final Rule." (Attachment 4)

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In answer to a question, Asst. Secretary Allegrucci stated that no standards will be changed in the determination of “threat to safety” and added that staff training sessions on assessment are being held across the state.

Asst. Sec. Allegrucci told members that the Department believes that two-thirds of the 1800 Children in Need of Care who are not in that category due to abuse or neglect could be safely served in their homes with community services. She discussed the change in attitude about how to best protect children in need of care and called attention to information about “reactive attachment disorder.” (Attachment 2, 39-47) In answer to a question, the Assistant Secretary stated that the current computer system is nearly 100% capable of handling the requirements necessary to comply with Title IV-E, but will need some corrective action. She indicated that currently the state receives \$8 million in Title IV-E monies, and is working to increase that amount.

There was discussion of the Family Preservation program, and questions regarding the Department’s simultaneous timing for the letting of contracts for that program and support for the implementation of **SB 633**. The Assistant Secretary stated that the families served under the Child in Need of Care Code are more troubled, need longer and more intensive services, and require longer follow-up than provided through Family Preservation. She said that Family Preservation would be a component of “Children in Need,” but if all the families were put into that contract, it would be “swamped” with the number of families and the difficulty of services required by those families.

Bruce Linhos, representing the Children’s Alliance of Kansas, appeared before the Committee in support of **SB 633** and reviewed his written testimony. (Attachment 5) Though he expressed support for the intent of **SB 633**, he also highlighted some issues and suggestions regarding its implementation.

Melissa Ness, Kansas Children’s Service League, presented testimony in support of **SB 633**. (Attachment 6) Ms. Ness told members that the focus has shifted from removing children from their home to creating services that help keep families together. She stated that **SB 633** provides the framework to make the needs of these children a priority and attempts to keep the system contemporary. She added that KCSL’s role with multi disciplinary teams has been to help with start-up and provide technical assistance. Ms. Ness commented that community programs across the state have different levels of sophistication and strength, and KCSL has conversed with SRS about using their grant to identify community services that are needed.

Judge Thomas Graber, 30th Judicial District, Wellington, Kansas appeared before the Committee and presented written testimony in opposition to **SB 633**. (Attachment 7) He stated that he does not know of one judge in Kansas who agrees with **SB 633** as it is written. Though no judge disputes that children in need of care may be better served at home, the question is how to accomplish that without putting children at risk. He stated that he believes **SB 633** may cause hazard and risk rather than provide protection or services for children. Judge Graber cited other reasons for his opposition to **SB 633** (both the original bill & the amended version provided by SRS:

- the amendments offered by SRS eliminate long term foster care as one of the approved options for planned permanent living arrangements and limit it to adoption or permanent guardianship. (He reviewed Sub H(3) of 1356.21)
- the court would be required to have approval from SRS for out of home placement (He noted that SRS is not always available and services are not uniform across the state. He stated that, under this proposal, if SRS has a recommendation to protect the safety of the child and the court finds that to be reasonable, the court could remove a child from the home only for the period of time required to implement their plan. If SRS recommends that services be provided in the home, the services need to be **in place** rather than just **available**.)
- the multi disciplinary committee is limited in **SB 633** to investigation by SRS (The Judge would propose that their use be expanded even when SRS is not involved in order to better coordinate services.)
- the bill allows too much sharing of information (Judge Graber stated that everyone on the list could issue a subpoena if denied access to information. He said that the Department of Education has expressed concern about potential violation of federal breach of

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confidentiality. He noted that the SRS' amendments leave penalty provisions in place.)

Judge Graber concluded by saying that though community services need to be provided, the manner of accomplishing that is not done effectively in **SB 633**. He stated that the corrections that SRS says they're making in compliance with federal regulations is not always factual. For instance, he said that there is no federal regulation that states that the court should be mandated to set a date when the child will return home during the permanency hearing. He stated that judges who are reviewing reintegration cases need alternatives if the family fails to make adjustments within the determined time frame. He asked that the Committee review the language in **SB 461** which he said conflicts with **SB 633**.)

Chairman Kerr asked that Judge Graber provide a summary of his critical objections for the Committee's consideration because of time constraints.

Karen Langston appeared before the Committee as a representative of the Sedgwick County District Attorney's Office and as a child welfare advocate. She said that she had worked with children in a juvenile court arena since 1975 and expressed her belief that portions of **SB 633** were not in the best interests of children. She presented her written testimony in opposition to **SB 633** as written (Attachment 8) and stated that she would provide amended testimony to address the proposed amendments offered by SRS and would also provide a bullet summary of her opposition. She asked that the Committee consider recommending **SB 633** as a topic for interim study because it makes sweeping changes to the current system prior to determining whether those changes would better serve children in need of care.

Ms. Langston stated that it is her belief that the definition of Child in Need of Care does not need to be changed and would, in fact, make it difficult for county and district attorneys to decide "where a child fits" before making a recommendation for placement. She said that the current system requires that attorneys comply with law which says that either a child is in an emergency situation or the attorney has to show that reasonable efforts to avoid out of home placement have been made before asking for SRS custody. In answer to a question, Ms. Langston stated that she believes the court system is in compliance with ASFA and is meeting requirements for receipt of Title IV-E monies. She added that SRS had not said, "You need to change something to allow us to comply." Ms. Langston expressed her support for funding to support services in the communities such as Family Preservation.

Don Hymer, Assistant District Attorney, Johnson County, presented written testimony in opposition to **SB 633**. (Attachment 9) He stated that he believes the driving force behind **SB 633** is budget constraints and expressed concern that the bill requires the approval of SRS to accomplish removing a child from the home in a "YINC" (Youth in Need of Care) situation. Mr. Hymer also expressed concern that the new definitions are not required in order to comply with AFSA and that the bill eliminates long term foster care. He told members that current statute mandates that every reasonable effort be made before a child is removed from the home, so there is no need to change the law. He stated that, in his opinion, there is no reason to rework the whole Child in Need of Care Code if petitions and journal entries are properly written.

Chairman Kerr asked if there are children who are currently placed in foster care who would be safe in their homes if services were provided. Mr. Hymer responded there are, but SRS has a policy that if a child is not in their custody they cannot provide services. He suggested changing the policy rather than the law. Chairman Kerr inquired whether Mr. Hymer had any reason to doubt the number of children in foster care that SRS claims would not have to be placed outside the home with the change in definition. Mr. Hymer responded that he did not know any specifics, but believed many of those children might be runaways or truant.

Maureen Mahoney, General Counsel for Kaw Valley Center in Wyandotte County, provided written testimony for Committee members to review at a later date. (Attachment 10) She expressed support of finding ways to help families rather than placing children in foster care, but voiced a number of concerns regarding **SB 633** which are enumerated in her written testimony. She highlighted the truancy program in Wyandotte County which illustrates one of many collaborative programs that can be used or built upon across the state to meet the needs of these children. In answer to a question, Ms. Mahoney stated that SRS would have to do a lot of work on intake in order to expand the Family Preservation program to address

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the needs of these families.

Written testimony prepared by Carol Smith on behalf of the United Community Services of Johnson County was distributed to members for their review at a later date. (Attachment 11) It was noted that the testimony raises questions about service needs, the time frame, and funding issues which her organization believes should be reviewed.

Chairman Kerr apologized to conferees for running out of time, referred **SB 633** to the SRS budget subcommittee, and invited conferees to attend the subcommittee meetings.

The Chairman announced that he is referring **SB 649** and **HB 2624** to the KPERS issues subcommittee for consideration.

The meeting was adjourned at 12:45 p.m. The next meeting will be March 1, 2000.