

WORK SESSION DOCUMENT

NEVADA LEGISLATIVE COMMITTEE ON CHILDREN, YOUTH AND FAMILIES

(Nevada Revised Statutes 218.5372 – 218.53727)

AUGUST 12, 2004

Staff of the Legislative Committee on Children, Youth and Families prepared the following work session document to facilitate the Committee's discussion of possible recommendations. It contains recommendations presented in public hearings and in correspondence during the course of the study for the Committee's consideration.

The possible recommendations are compiled and organized by topic and, in certain cases, sponsors, to assist members in determining which proposals to forward to the 2005 Session of the Nevada Legislature. The possible recommendations listed in this document do not necessarily have the support or opposition of the Committee. Sponsors of recommendations may be noted in parentheses. The Committee may accept, reject, modify or take no action on any of the proposals.

Pursuant to *Nevada Revised Statutes* (NRS) 218.2429, the Committee is limited to 10 bill draft requests (BDRs), including requests for the drafting of legislative resolutions. The Committee's recommendations will be submitted to the Legislative Commission and highlighted in the report that will be prepared for the 2005 Session of the Nevada Legislature.

Finally, any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee (NRS 218.53725).

FUNDING AND STRUCTURE OF THE CHILD WELFARE SYSTEM

1. **Development of a Funding Formula and Transfer of Responsibility for Higher Levels of Care – Draft legislation requiring the Division of Child and Family Services, Department of Human Resources, to develop a plan for funding child welfare services that includes a proposal for transferring responsibility of higher levels of care (generally defined as levels above family foster care) from the State to Clark and Washoe Counties. The plan must be submitted to the Legislative Committee on Children, Youth and Families, the Interim Finance Committee, and the Governor on or before August 1, 2006.**

In addition, revise the sunset for the Committee on Children, Youth and Families, from June 30, 2005, to June 30, 2007. *(Proposed by Chairman Raymond D. Rawson)*

Background Information

For updated information from the Department of Human Resources (July 27, 2004) regarding the development of a funding formula and the responsibility for higher levels of care, see Tab "DHR Recommendations".

2. **Unit to Maximize Collection of Federal Revenue – Include a statement in the Committee's final report supporting the Division of Child and Family Services' (DCFS) plan to develop a cost allocation unit to maximize collection of federal revenue. *(Proposed by DCFS in its July 23, 2004 correspondence. See Tab "DCFS Recommendations."***

Additional Consideration: Members may wish to consider the source of the funding for the unit. Proposals may include requiring the unit be funded entirely with federal revenue, as the unit's purpose is to augment this source of funding.

Background Information

- a. **Explanation from DCFS** - The agency notes in its July 23, 2004, correspondence that maximization of federal revenue increases potential to fund needed case managers with federal dollars. (See Tab "DCFS Recommendations")
- b. **Estimated Fiscal Impact** - In its correspondence dated July 28, 2004, DCFS estimates that developing internal Nevada-based expertise on cost allocation to maximize collection of federal revenue for child welfare programs will entail the following:
 Cost Allocation/Rates Unit staffed with two (2) full-time employees estimated at \$150,000 annual funding with a 30 percent federal, 70 percent state General Fund match.

3. Performance Based Contracting – Include a statement in the Committee’s final report supporting the DCFS plan for a rate increase for contract group home providers, and to implement performance-based contracting. (Proposed by DCFS. See Tab “DCFS Recommendations.”)

Background Information

- a. **Additional Information from DCFS** - The agency notes in its July 23, 2004, correspondence that contract providers will be required to provide increased services for children through this process. (See Tab "DCFS Recommendations")
- b. **Estimated Fiscal Impact** - In its correspondence dated July 28, 2004, DCFS estimates the following fiscal impact:
 - **Rate Increase** – DCFS notes that “providers have not received rate increases for the past five years. The Nevada Provider Rates Task Force proposed new rates for residential and non-residential services. Based upon the recommended rates, the preliminary estimated costs for this increase are \$3,500,000 annually with 50 percent federal and 50 percent state general fund match.” (See Tab “DCFS Response”.)
 - **New state Positions** - DCFS proposes to “[c]reate six (6) state positions to develop performance contracts with providers, train providers, and monitor performance/outcomes under the contracts that include incentive pay. Three positions to be located in Clark County and three in Reno/Rural Nevada. Preliminary estimated cost at \$1,600,000 with 30 percent federal and 70 percent state general fund match.”

SUPPORT OF CHILDREN AGING OUT OF FOSTER CARE

4. **Evidence of a Transition Plan** – Require the child welfare agency to develop a transition plan in consultation with the youth that includes (without limitation) assisting the youth in obtaining the following:
 - A Social Security card;
 - A Nevada identification card or driver's license;
 - A work card, if applicable;
 - Health care coverage;
 - Social Security Disability approval, if applicable; and
 - An agreement with the Division of Mental Health and Developmental Services for housing and other services, if applicable.

In addition, the agency must inform the youth of the assistance available under NRS 423.137 (Assembly Bill 94 [Chapter 603, *Statutes of Nevada 2001*] funds) and include with the transition plan a copy of an application for the funds for the items the child needs. Finally, the child welfare agency must present the finalized transition plan to the court. (Proposed by Assemblywoman Barbara E. Buckley)

5. **Continued Services for Foster Youth** - Redraft legislation from the 2003 Legislative Session to allow DCFS to continue to provide services to foster care children past the age of 18 years in certain circumstances. (Proposed by the Washoe County Department of Social Services in July 23, 2004, correspondence. See Tab "Washoe County Recommendations" for additional information and a copy of the 2003 legislation.)

6. **Extended Medicaid Coverage** - Redraft legislation from the 2003 Legislative Session requiring the Director of the Department of Human Resources to include in the State Plan for Medicaid a requirement that young adults who have "aged out" of foster care are eligible for Medicaid. (Proposed by the Washoe County Department of Social Services. See Tab "Washoe County Recommendations" for additional information and a copy of the 2003 legislation.)

Background Information

- a. **2001 Resolution** - In 2001, the Legislature adopted **Assembly Concurrent Resolution No. 10** (File No. 83, *Statutes of Nevada 2001*), which was recommended by the A.C.R. 53 Interim Study of the Integration of State and Local Child Welfare Systems in Nevada. The resolution urged the Department of Human Resources to review the federal Foster Care Independence Act of 1999 to determine the feasibility of amending the State Plan for Medicaid to create a new Medicaid eligibility group for young adults who have "aged out" of foster care. The Foster Care Independence Act of 1999 authorized states to extend Medicaid to 18, 19, and 20-year-olds who have been emancipated from foster care.
- b. **2003 Legislation – Assembly Bill 5** was introduced during the 2003 Session on behalf of the Legislative Committee on Children Youth and Families to mandate that the State Plan for Medicaid include a requirement that young adults who have "aged out" of foster care are eligible for Medicaid. This measure did not pass.
- c. **Fiscal Impact of the Recommendation** - At the June 17, 2004, meeting of the Committee, the Department of Human Resources provided an updated fiscal analysis of these recommendations. As of that time, the estimated fiscal impact to the State General Fund for Fiscal Year 2006 was \$825,757 (total costs with federal share of \$1,030,983 equals \$1,856,740). For FY 2007, the estimated State General Fund cost is \$835,211 (total costs with federal share of \$1,050,700 equals \$1,885,911).

MENTAL HEALTH SERVICES

7. **Provision of Services to Severely Emotionally Disturbed Children** – Include a statement in the reporting supporting the DCFS plan to convert the Wrap-around in Nevada (WIN) program to a state program with

appropriate infrastructure, including supervisors, case managers, clerical, operating costs. *(Proposed by DCFS. See Tab “DCFS Recommendations” for additional information.)*

Background Information

- a. **Explanation from DCFS** - The agency notes that “Project WIN was recognized as a Promising Practice during the Federal Child and Family Services Review. WIN provides wrap around case management to severely emotionally disturbed children in child welfare custody. The program has served 475 children as of July 15, 2004. The average caseload for a WIN wrap around case manager is 10 youth and the model emphasizes family involvement and worker contact with the child and parents.

Case managers are currently employed as temporary hourly employees without benefits. Turnover has been high as staff resign to obtain permanent work that includes benefits. Training, coaching and supervision of these ‘temporary’ case managers requires repeated investment of time and expertise. This turnover has significantly reduced the program’s ability to serve more children. The Division will submit a request to the Governor and the Interim Finance Committee to allow us to convert the WIN Project to a state program effective January 1, 2006.” *(The Committee may wish to clarify the date of the proposed conversion.)*

- b. **Estimated Fiscal Impact** – In its correspondence dated July 28, 2004, DCFS indicates that converting the WIN program to a state-staffed program with appropriate infrastructure rather than as a contracted project can be achieved with existing budgeted resources.

8. **Rate Structure for Higher Levels of Care** - Include a statement in the report supporting an overhaul of the rate structure for higher levels of care. Note in the report, however, that the support of the members of the Committee may be withdrawn depending upon estimated fiscal impact to the State, which was not provided prior to the August 12, 2004, work session. (Proposed by the Washoe County Department of Social Services. See Tab “Washoe County Recommendations” for additional information.)

Possible Alternative: Include a statement in the report encouraging child welfare agencies to initiate an examination of the rate structure for higher levels of care for the purpose of recommending a change in the rate structure to the Governor and to the 2005 Legislature. *(Noted by Committee Staff)*

Background Information

The Washoe County Department of Social Services notes in its July 23, 2004, correspondence, “The current rates have not been adjusted for several years and have prevented the State from being able to expand the quality and types of placement services available.”

9. **Responsibility for Mental Health for Children** – Draft legislation to transfer all responsibilities for mental health from DCFS to the Division of Mental Health and Developmental Services. Responsibilities to transfer include (but are not limited to) clinical services provided by therapeutic foster families. Require that discharge planning commence immediately upon admission to a facility and that a child be released to an appropriate placement no later than 48 hours after they have stabilized and are no longer in need of treatment. *(Proposed by Assemblywoman Sheila Leslie)*

ADDITIONAL PROPOSALS RELATING TO THE OPERATION AND OVERSIGHT OF THE CHILD WELFARE SYSTEM

10. Medicaid Providers – Draft legislation to require the Department of Human Resources to designate a person who is responsible for ensuring that issues involving Medicaid coverage for abused or neglected children, including payment for providers, are addressed appropriately. The designated person must serve as the primary contact for inquiries from Medicaid providers involving children in the custody of a child welfare agency. Further, the designated person is responsible for determining the number of Medicaid providers needed to serve the needs of children in the custody of a child welfare agency, and must report any shortages to the Director of the Department. *(Proposed by Assemblywoman Barbara E. Buckley)*

11. Siblings in the Child Welfare System – Draft legislation to add a presumption to *Nevada Revised Statutes* that it is in the siblings’ best interests to be placed together. In addition, require that the child welfare agency’s semiannual report (required by NRS 432B.580) include the following:

- A detailed report on the placement of the child in relation to his or her siblings, including any separation of the siblings and the reasons for the separation;
- The efforts by the agency to place the siblings together that includes the reasons the siblings are not currently placed together.
- The actions taken by the agency to maintain contact between the siblings.
- A plan for visitation if the siblings are not placed together that must be approved by the court. Once a visitation plan is approved, the child welfare agency must request a court order for visitation, which is subject to contempt of court for a violation.

(Proposed by Assemblywoman Barbara E. Buckley)

12. Fast Track Parental Rights Cases – Draft legislation to require that termination of parental rights cases be “fast tracked” by the courts to achieve a final decision within six months. In addition, send a letter on behalf of the Committee to the Nevada Supreme Court requesting the Court to consider changing the necessary court rules to allow “fast tracking” of parental rights cases. *(Proposed by Assemblywoman Barbara E. Buckley)*

13. Rights of Foster Children – Draft legislation setting forth the “rights” of children in foster care, including the following:

- To live in a safe, healthy, and comfortable home where he or she is treated with respect.
- To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
- To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.
- To receive medical, dental, vision, and mental health services.
- To be free of the administration of medication or chemical substances, unless authorized by a physician.

An example of similar legislation from California with a more extensive list of such rights is provided under Tab “California Legislation”. *(Proposed by Assemblywoman Barbara E. Buckley)*

14. Sharing of Identifying Information for Research Purposes: Draft legislation creating an exception to the requirement to remove all identifying information. The exception would authorize the sharing of data or information concerning reports or investigations with a person engaged in bona fide research or an audit under the following conditions:

- The identifying information must be maintained confidentially by the person to whom it is released for research or audit purposes;

- The identifying information is essential to the purpose of the research or audit; and
- Each person identified in the record or an authorized representative has authorized such disclosure in writing.

Staff note: The conditions above were combined by staff from the two proposals submitted by the Clark County Department of Family Services, which are presented in the box below as Options A and B. Committee members may wish to discuss whether all three conditions should be included in the recommendations. (Proposed by the Clark County Department of Family Services in July 21, 2004, correspondence. See Tab “Clark County Recommendations” for additional information. The Tab also includes a copy of NRS 432B.290, referenced below.)

Background Information from Clark County Department of Family Services

“NRS 432B.290(f) allows for the sharing of information on children and families in the child welfare system for purposes of research and audit if all identifying information has been removed. While the intent of this language is commendable, compliance with this mandate has made it difficult to partner with researchers on child welfare research projects. Clark County Department of Family Services (DFS) has experienced the following challenges:

- DFS does not have the resources required to deidentify the data requested by researchers. For example, case reviews require all case notes to be reviewed and identifying data redacted prior to providing the information to the researcher.
- Child welfare research projects with multiple partners are difficult as databases must be merged using a common client identifier (i.e. number) to ensure information on a given client is captured and assigned appropriately. The task falls to DFS to ensure that data is deidentified prior to being provided to researchers, creating a resource issue.
- Practically, DFS cannot now use Research Assistants (RA) offered by the researcher to deidentify the data as the RA who is essentially an extension of the researcher.
- Research assessing treatment outcomes (i.e. including both a treatment model and evaluation of that model) are difficult to implement. Typically, the same researcher conducts both portions of the study, making it challenging to separate the treatment (client identity known) from the data gathering (deidentified).

The above scenarios result in (1) research projects not being pursued, (2) research projects being unnecessarily delayed as the agency attempts to identify resources to complete deidentification tasks, or (3) in treatment outcome studies, somewhat arbitrary separation of treatment/research data.

DFS proposes the following revisions to NRS to address these compliance challenges. The changes would allow DFS to support research projects beneficial to children and families, while ensuring confidentiality of the information needed for the studies.

Option A: Create an exception to the statute.

Amend NRS 432B.290(f) to read as follows (*italics* designate language additions):

(f) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to him *unless identifying information is essential to the purpose of the research or audit and confidentiality is maintained;*

Option B: Identify more specific requirements to ensure confidentiality.

Amend NRS 432B.290(f) to read as follows:

(f) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to him *unless;*

- (1) *identifying information is essential to the purpose of the research or audit; and*
- (2) *each person identified in the record or an authorized representative has authorized such disclosure in writing; and*
- (3) *identifying information is treated as confidential by the researcher or auditor, kept in a secure location, and shall not be released by the researcher or auditor in any form;”*

ADOPTION – ACCESS TO INFORMATION

15. **Access to Medical Information** – Draft legislation establishing a procedure for birth parents to provide updated medical information or family history of medical problems to the district court. Require the district court to work confidentially through the appropriate adoption agency to try to locate the adopted child and provide the updated medical information to the adopted child or the child's adoptive parents if the child is still a minor. The information must be provided without exchanging any identifying information. No fee will be charged to the birth parent for providing the information. *(Proposed by Senator Maggie Carlton)*
16. **State Register and Access to Medical Information** – Draft legislation to require the State Register for Adoptions (NRS 127. 007, set forth below) to attempt to contact an adopted child (or the child's adoptive parents if the child is still a minor) when the Register receives updated medical history information from a birth parent.
Such contact must only be for the purpose of relaying updated medical information and must not involve the release of identifying information, except as currently authorized by statute.

NRS 127.007 – State Register for Adoptions: Establishment; contents; release of information

1. The Division shall maintain the State Register for Adoptions, which is hereby established, in its central office to provide information to identify adults who were adopted and persons related to them within the third degree of consanguinity.
 2. The State Register for Adoptions consists of:
 - (a) Names and other information, which the Administrator of the Division deems to be necessary for the operation of the Register, relating to persons who have released a child for adoption or have consented to the adoption of a child, or whose parental rights have been terminated by a court of competent jurisdiction, and who have submitted the information voluntarily to the Division;
 - (b) Names and other necessary information of persons who are 18 years of age or older, who were adopted and who have submitted the information voluntarily to the Division; and
 - (c) Names and other necessary information of persons who are related within the third degree of consanguinity to adopted persons, and who have submitted the information voluntarily to the Division.

Any person whose name appears in the Register may withdraw it by requesting in writing that it be withdrawn. The Division shall immediately withdraw a name upon receiving a request to do so, and may not thereafter release any information to identify that person, including the information that such a name was ever in the Register.
 3. Except as otherwise provided in subsection 4, the Division may release information:
 - (a) About a person related within the third degree of consanguinity to an adopted person; or
 - (b) About an adopted person to a person related within the third degree of consanguinity,

if the names and information about both persons are contained in the Register and written consent for the release of such information is given by the natural parent.
 4. An adopted person may, by submitting a written request to the Division, restrict the release of any information concerning himself to one or more categories of relatives within the third degree of consanguinity.
- (Added to NRS by 1979, 1282; A 1991, 947; 1993, 37, 2679, 2729)

ADDITIONAL RECOMMENDATIONS

The following recommendations from child welfare agencies were submitted for the Committee's consideration, but no analysis of the fiscal impact of the recommendations was available at the time of printing the work session document. If the Committee votes to adopt any of the following recommendations, members may wish to consider including language such as the following: **"Note in the final report, however, that the support of the members of the Committee for the recommendation may be contingent upon estimated fiscal impact to the State, which was not provided by the agencies at the time of the work session."**

- 17. Create New Program for Post-Adoption Services - Include a statement in the report supporting the development and funding of post-adoption services programs across the State. (Proposed by the Washoe County Department of Social Services. See Tab "Washoe County Recommendations" for additional information.)**

Background Information

The Washoe County Department of Social Services notes in its July 23, 2004, correspondence, "As a result of the Adoption and Safe Family Act, the number of adoptions in Nevada is growing significantly and the timeframes for finalizing adoptions are becoming shorter. It is imperative that post- adoption support services are available to families who have adopted special needs children. Often, adoption disruptions are the result of many months or years of frustration by the adoptive parent with no outside intervention or support. Development of a post-adoption support service should include routine follow-up contacts with the adoptive parent to provide or coordinate needed services or support before the frustration level leads to a disruption in placement."

- 18. Increase Daily Foster Care Rate - Include a statement in the report supporting an increase in the daily foster care rate to \$30 per day across the State. (Proposed by the Washoe County Department of Social Services. See Tab "Washoe County Recommendations" for additional information.)**

Background Information

- a. **Agency Recommendation** - The Washoe County Department of Social Services notes, "The Washoe County experience has demonstrated that the higher payment rate combined with the contractual agreement signed by foster parents promotes greater stability in foster care placements."
- b. **Prior Increases** - In 2001, the Nevada Legislature increased foster care rates, which include clothing allowances and school supplies, paid to foster parents for children 0 through 11 years of age from \$13.28 per day to \$19.50 per day (46.8 percent increase). The rate for children 12 years and older increased from \$16.33 per day to \$22.50 per day (37.8 percent increase). The average is \$21 per day.
- c. **2003 Final Report of the Committee on Children, Youth and Families** - In its final report to the 2003 Legislature, the Committee encouraged child welfare agencies to study the impact of higher reimbursement rates and recommended that the Legislature, the Department of Human Resources, and the Office of the Governor support raising the foster care reimbursement rate in rural Nevada and in Clark County to \$30 per day.

- 19. Respite Care - Include a statement in the report supporting foster parent respite care to allow foster parents 14 days of respite per fiscal year at a rate of \$30 a day. (Proposed by the Washoe County Department of Social Services. See Tab "Washoe County Recommendations" for additional information.)**

Background Information

- a. **Agency Explanation** - The Washoe County Department of Social Services notes in its July 23, 2004, correspondence, "Foster care can be very demanding and stressful, and the opportunity for respite care prevents burnout and reduces stress for foster parents."
- b. **2003 Final Report of the Committee on Children, Youth and Families** – The Committee’s final report to the 2003 Legislature includes a letter to Governor Kenny C. Guinn urging the inclusion of a similar recommendation in The Executive Budget for the 2003-05 biennium.

20. Expanded Services for Severely Emotionally Disturbed Children - Include a statement in the report supporting the expansion of services for severely emotionally disturbed children to include children across the child welfare system and not just those in foster care. (Proposed by the Washoe County Department of Social Services. See Tab “Washoe County Recommendations” for additional information.)

Background Information

- a. **Agency Explanation** - The Washoe County Department of Social Services notes, “Currently many children come to the attention of the child welfare system as a result of severe emotional and behavioral challenges. The parents of these children are often willing to accept services to help them effectively address the needs of the children; however, due to the lack of appropriate services, the children eventually enter the child welfare or juvenile justice system. Having the ability to access intensive mental health services early on in a case would likely prevent foster care placement and disruption of the family unit.”
- b. **2003 Appropriation** – With the support of the Committee on Children, Youth and Families, the 2003 Legislature approved \$5,991,228 in Fiscal Year 2004 and \$6,223,590 in Fiscal Year 2005 to DCFS to provide services to 327 children within the foster care system diagnosed as severely emotionally disturbed.