

Exhibit B

MINUTES
SENATE INTERIM COMMITTEE ON CHILDREN AND YOUTH
HOUSE INTERIM COMMITTEE ON AGING, CHILDREN AND YOUTH
LEGISLATIVE AND MILITARY AFFAIRS

Meeting Jointly

Tuesday, December 13, 2011, 1:30 p.m., Room 151, State Capitol
Little Rock, Arkansas

The Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs met Tuesday, December 13, 2011, at 1:30 p.m., in Room 151 of the State Capitol, Little Rock, Arkansas.

Committee members present were: Senators Missy Irvin, Chair, Sue Madison, and Jimmy Jeffress; Representatives Stephanie Malone, Chair, Lori Benedict, Justin T. Harris, Kim Hammer, Mary P. "Prissy" Hickerson, Gary Stubblefield, Loy Mauch and Bruce Cozart.

Other legislators present were: Representatives John Catlett, Homer Lenderman, James McLean, Betty Overbey and Terry Rice.

Representative Stephanie Malone called the meeting to order.

Consideration to Adopt the Minutes of November 16, 2011

Without objection, the minutes were approved.

Child Maltreatment Reporting in Arkansas Institutions of Higher Education, Shane Broadway, Interim Director, Arkansas Department of Higher Education (ADHE), Breck Hopkins, Office of Chief Counsel, Department of Human Services (DHS), Janet Lawrence, Chief Counsel, Department of Education (ADE) Mr. Broadway said there are two issues about mandatory reporting as it relates to higher education institutions. One is ensuring that the institutions themselves and their employees, if they are witness to abuse, report those incidents. Two that those who are being trained and who are going to be in a licensed professions, such as education and other professions identified by the statute as mandated reporters, that the institutions are required to train those going into the workplace and ensuring that they are trained in recognizing signs of abuse and their duty to report.

Mr. Broadway noted that following the recent events at Penn State University involving allegations of abuse he asked Janet Lawrence to begin researching the requirements for institutions of higher education in Arkansas under the mandatory reporting law in the Child Maltreatment Act. That research and subsequent discussions included Mr. Breck Hopkins, Attorney General's Office, ADE and the Governor's staff. It was noted that all institutions of higher education in Arkansas are mandated reporters. On November 17, 2011 an email was forwarded to all the institutions of higher education notifying them that they are mandated reporters. On December 2, 2011, members of the DHS staff attended the Annual Trustees Conference with approximately 130 boards trustees of institutes of higher education in attendance as well as presidents, chancellors, CFO's, CAO's and various other staff. The Department of Human Services provided a presentation regarding mandatory reporting and responded to questions.

Further discussions included clearly defining the definition of school official and once this is done it would be placed into the ADHE's rule under the Child Maltreatment Act. Based on that rule, ADHE would work with institutions to develop a policy adopted by the board identifying who falls under that rule. Training is imperative. Many universities currently provide training for those with majors in related career fields. The University of Arkansas at Monticello allows and encourages anyone working on campus to attend the annual

training for mandatory reporting. Under the Federal "Cleary Act", institutions are required by federal law to make reports of crimes that occur on their campus. Failure to do so could result in fines or withholding of federal funds. This is a matter that is taken very seriously. Mr. Broadway further noted that the ADHE will work to ensure that all are informed of their moral as well as legal duty to report.

Senator Madison asked Mr. Hopkins to summarize the legal requirements of being a mandated reporter and the consequences of failing to report. Mr. Hopkins said the rule to be promulgated would define the term "school official" to include elementary, secondary or post secondary schools and a wide range of school staff. The second point is one of process, when a report is required and how a report should be made. The reason for reporting is "cause to suspect", not that they have witnessed it personally but have cause to suspect. The report must be immediate and to the hotline. Failure to report can result in both civil and criminal penalties. If done in good faith, there is immunity from liability for reporting.

Senator Irvin mentioned that her husband volunteers on medical mission trips with the Catholic Church. She noted that anyone working or volunteering in any church activity who comes in contact with a child is required to take a course on child maltreatment. Senator Irvin inquired about making training material more available to everyone to clarify the duty to report whether listed as a mandated reporter or not.

Mr. Broadway said the definition of a school official is "any person authorized by a school to exercise administrative or supervisory authority over employees, students or agents of the school, a volunteer exercising administrative or supervisory authority in a program conducted by a school shall also be considered a school official." He noted that students can report but that they are not required to do so by law. Guidelines for training will be developed and will be required yearly or however recommended by DHS.

Representative Hammer asked if there was a universal training program currently in place that spans from early childhood through universities and is ADHE working with ADE toward a standardized procedure, training manual applicable to everyone no matter the age of the children. Mr. Hopkins said the training is already developed and consists of teaching people what the definitions of maltreatment are, what to look for and who to call. Representative Hammer asked if a licensed individual could lose their license as part of the punishment for failure to report. Mr. Hopkins said it would be up to the entity that issues the license to determine if that is a violation of their licensing standards and to act on it. The maltreatment reporting law does not impose a penalty of revoking license. Mr. Broadway noted that most of the people impacted by this law within the universities are not licensed to work there therefore this would not apply. Rep. Hammer requested that the scope of the Child Maltreatment law be broadened to include, any person that draws a check from a school district or university as a mandated reporter. Mr. Broadway indicated that they are discussing this issue and would consider the request.

Representative Hammer asked as the volume of reporting abuse increases, will ADHE and ADE be prepared to handle the increase. Mr. Broadway said he was not aware of any over load of calls or increase in calls that were made as it relates to institutions of higher education.

Rep. Stubblefield asked if students are mandated reporters. Mr. Broadway noted that they are not listed in the law as mandated reporter but may do so as a matter of moral obligation.

Senator Madison noted that the definition of school officials includes individuals who do not have authority over employees and includes individual who do not have such authority.

Representative Stubblefield asked Mr. Broadway to define the word suspect in this context. Mr. Hopkins said suspect is defined by reasonable cause to suspect and there has to be some fact or circumstance, something

heard, observed or seen. It was noted that if a good faith report is made, the reporter is immune from civil or criminal liability. If it is a false report the reporter can be charged with civil and criminal liability.

Senator Irvin asked if there is anything in the Child Maltreatment Act to protect someone who reports from retaliation for doing so. Mr. Hopkins noted that this is a training issue. As a matter of employment law, it is a violation of an employee's civil rights' to retaliate for doing something where there is a legal obligation. If an employee suffers adverse consequences the employer may be held liable under general employment laws.

Mandated Reporter Education, Stephanie Smith, Regional Director, National Protection Child Training Center, Southern Regional Center

Ms. Smith said the center is based in Winona, Minnesota with the first regional center for the southern states being located on the Northwest Arkansas Community College (NWACC) Campus funded by a grant from the Department of Justice issued jointly to the Center and NWACC. Ms. Smith spoke in response to an article in the Northwest Arkansas newspaper called "What We Learned from Penn State", written by Victor I. Vieth, JD, Executive Director of the Center. The Child Advocacy Studies curriculum is currently in place in 22 universities around the country with another 50 universities in the pipeline to include Arkansas State University in Jonesboro and Northwest Arkansas Community College, Bentonville, with the University of Arkansas-Fayetteville beginning to teach the curriculum. In this report, Mr. Vieth summarized the state of mandated reporting in our country, and has found from the research that most people will not report when they have a reasonable suspicion of child abuse. This occurs partially because of lack of training at the undergraduate level in mandated professions and what they need to know. There has been a lack of back-up support when they are out in the field. Individuals are concerned about the consequences if they do report. Students need to be trained to recognize signs of abuse, both behavioral and physical, and the ethics of the situation.

Representative Stubblefield asked about the survey of hypothetical cases of abuse asking teachers if they would report a parent suspected of child abuse versus reporting a fellow colleague. Only 26% of the teachers said they would report a parent and only 10% would report a colleague. Ms. Smith said teachers are reluctant to report colleagues because they are concerned about their job, creating a bad reflection on the school or they are friends of the accused.

Bullying in Schools, Kevth Howard, Program Advisor for the Equity Assistance Center, ADE

Mr. Howard said bullying has become a significant issue across the United States. Bullying legislation has been passed in 46+ states. With the advent of new technology, cyber-bullying is prevalent. ACA §6-18-514 (7-27-11) requires that the school board in every district shall adopt policies to prevent pupil harassment. Any school employee who has witnessed bullying or has information that a pupil has been bullied shall report the incident to the principal. A credible report shall be investigated by the school principal or designee. A written record of the investigation must be made. Every school district must provide training with regard to anti-bullying policies to all public school district employees responsible for reporting. Every school district must file a copy of their policies with ADE to be reviewed by the State Board of Education. Every school must post the anti-bullying policies in all school buildings. Senator Irvin asked about the consequences of not posting the notice. Mr. Oliver Dillingham, Program Director, Equity Center, ADE, said if a school district is not in compliance in any sense, that school district will be notified that they are out of compliance and asked to report back indicating that they have complied with the law within 30 days. Mr. Dillingham said there are no punitive consequences for school districts not following the law. Mr. Howard said that copies of the anti-bullying law are provided to parents, students and employees upon request.

Reports

Division of Children and Family Services (DCFS) Annual Report Card, 2011, Cecile Blucker, Director

Ms. Blucker said the Quarterly Report is included in the Annual Report Card. The Annual Report Card has three parts: Performance Indicators, Compliance Index, Description of Population and Services which includes the Maltreatment Report, Foster Care and Adoptions.

DCFS Review Profile Update, Cecile Blucker, Director

Ms. Blucker referred to Exhibit F.3, DCFS Family Profile regarding the total number of investigations from SFY 2007-2011. She noted that the Quarterly Performance Report and the Annual Report Card are point in time reports; the DCFS Family Review is actually the Federal Report Card of the agency. In the report are case files with staff and family interviews and a more comprehensive review of practice in the field instead a point of time extraction of data.

Medicaid In-State and Out-of-State in Patient Psychiatric Placement Report, Anita Castleberry, Medical Section, Division of Medical Services

Ms. Castleberry was not present for the meeting and Ms. Janie Huddleston; DHS requested that this report be deferred to the next meeting. The co-chairs approved this request.

DCFS Out-of-State Placement Report, Megon Bush, Specialized Program Manager

Ms. Varnaria Vickers-Smith, Legislative Committee Analyst, stated that the co-chairs agreed to bring a suggestion to the committee specifically, to consider not having a representative present in the meeting when there are no children in out of state placements. If there are no children out of state, it would be placed on the agenda for review by the committee; however, no agency representative would need to be present. Any time there is a child placed out of state the committee staff would request, on behalf of the committee, that an agency representative be present to present the report to the committee. Senator Irvin requested a motion to reflect that. The motion was approved.

Rules for Review, Christin Harper, Policy Unit Manager, DCFS

Ms. Harper said the revision of the rules is being proposed to better articulate the intent of existing policy. She noted that the changes included the following:

- Clarification that child's board payment shall cover the cost of standard school supplies and that DCFS has discretion regarding determination of special board rates
- Revisions to procedures regarding Central Registry Name Removal Committee and notifications of severe maltreatments to Prosecuting Attorney to more closely align with state statute
- Updates to Child Protective Services Caretaker's Guide to comply with legislation passed during the 88th General Assembly, Regular Session, 2011 and create CACD specific version

The committee noted the rules as reviewed. There being no further business the meeting was adjourned at 3:25 p.m.