

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

June 4, 2014

The Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs met on Wednesday, June 4, 2014, at 1:00 p.m. Room 130 at the State Capitol, Little Rock, Arkansas.

Committee members present: Senators Stephanie Flowers, Chair; Jane English, Linda Chesterfield, Jonathan Dismang, Gary Stubblefield, and Robert Thompson; Representatives David Meeks, Chair; Warwick Sabin, Vice Chair; Charles Armstrong, Randy Alexander, John Baine, Ken Bragg, Jody Dickinson, Mike Holcomb, Charlene Fite, Patti Julian, and Mary Broadway.

Non-Committee members present: Senator Eddie J Williams; Representatives Scott Baltz, Ann Clemmer, Jeremy Gillam, David Hillman, John K. Hutchison, Joe Jett, Sheilla Lampkin, Walls McCrary, Mark McElroy, Stephanie Malone, Jim Nickels, Mary Slinkard, Tommy Thompson, Butch Wilkins, Hank Wilkins, and Marshall Wright.

Senator Flowers called the meeting to order.

Consideration to Approve Minutes of May 15, 2014 [Exhibit B]

Without objection, the minutes were approved.

Department of Human Services-Division of Child Care and Early Childhood Education (DCCECE) [Exhibit C]

Senator Flowers recognized David Griffin, Associate Director, Licensing, DCCECE. Mr. Griffin gave a brief overview of the proposed licensing rules that included the Minimum Licensing Requirement for Child Care Centers, Child Care Family Homes, Out-of-School Time Facilities and Registered Child Care Family Homes. He noted that the Arkansas Early Childhood Commission (AECC) which has oversight authority over DCCECE asked that they look at the development of a strategic plan and develop goals and augment the regulations to support the goals that were developed. The overall goal was to improve child care in Arkansas and to recognize recent finding related to the importance of brain development in early child hood development. Mr. Griffin stated the AECC decided to move forward with the proposed rule changes and also to grandfather in some of the old clauses in the policy. He mentioned that there is good news and bad news in Arkansas related to child care licensing. The good news is that Arkansas ranked #1 in oversight and monitoring according to Child Care Aware, a national organization that publishes its findings every two years. The bad news is that Arkansas ranked 49th when the program standards and licensing standards were reviewed. He noted that nationally Arkansas compares well with other states in terms of health and safety mainly because of the legislature and recent laws passed over the past 10 years.

Some areas of concern per Mr. Griffin were listed as follows:

- Staff-child ratio
- Training
- Staff child interaction

- Appropriate Curriculum

Mr. Griffin discussed the Core Licensing Requirements noting that they were last revised in 1969 and addressed 3 of the major changes:

- **AR Code co-38-103(c) (3) (A)** and changes resulting from Act 990 of 2013 regarding criminal background checks. He noted that licensees may employ individuals with specifically designated criminal convictions, provided the individual has completed the terms of the convictions (Section 110 of the Child Care Center, Pub-112)
- **AR Code 20-9-1301** and changes resulting from Act 1208 of 2013 (Carter's Law) specifically addressing training regarding Shaken Baby Syndrome (Section 306 of the Child Care Center, Pub-002)
- **AR Code 20-78-228** and changes resulting from Act 1159 of 2013 regarding emergency management requirements. **Licensees must** file current floor plans with the local Offices of Emergency Management (Section 1201 of the Child Care Center Pub-002)

Senator Flowers, asked if it is a five year period of time after a person is convicted of certain offenses, that they can become employable, or employed with a licensed unit, an out of school facility or agency provided, there have been no criminal conviction or plea of guilty or no contest, during that five year period. **Ms. Ratha Tracy, DCCECE** explained that in 2009 and again in 2011, the criminal offenses that were prohibited if convicted, changed for persons working in a licensed unit, an out of school facility or agency. The act mentioned in the summary actually lessens those rules, and the legislation states that if someone in the community has a minor non-violent offense that they can go to work in a child care environment. They would be required to obtain a waiver and that waiver would include being able to determine that they have completed the terms of their conviction. That waiver would only be for that licensee only. If a person wanted to work in a different facility they would have to produce another waiver specific to that facility. This is for misdemeanors and felony offenses.

Mr. Griffin briefly summarized a few of the nationally recommended guidelines included in the revisions:

- Any video recordings made by the facility shall be made available to licensing staff upon request.
- All staff shall submit an FBI record check.
- Staff to child ratio for newly licensed providers will change to 1:5 for infants and 1:8 for toddlers Facilities licensed prior to the effective date of this change shall have two years to comply.
- Director qualifications will require a Bachelor's Degree in Early Childhood Education. A Bachelor's Degree in a non-related field will be accepted with 4 yrs of experience in early childhood education, a Child Development Associate (CDA) credential, or a Birth-Pre K Credential (Individuals employed as directors prior to the effective date of this regulation are not required to meet the new standard.)
- The Director shall be on site 50% of the operational day.
- Facilities shall have a designated Site Supervisor who has completed New Director's Orientation.
- All training hours shall be registered through Division of Child Care and Early Childhood Education's Professional Development Registry or the Department of Education.

Senator Flowers asked how many of the current Directors have college degrees. Mr. Griffin replied he does not have the exact number of Directors with college degrees but noted that most of them would meet the qualifications as participants in the Arkansas Better Chance Program (ABCP). Some of them would meet the qualifications based on experience and would be permanently grandfathered in under these regulations.

Senator Flowers raised some concerns about the awareness of rule changes and asked if notices are being sent to providers. Mr. Griffin stated that standard procedure is being followed. Rules are published in the newspapers and notices of public hearings are also published in local newspapers. The rules are also on line at the agency website. He noted that after final promulgation providers will receive new regulations 60 days before the rules go into effect.

Representative Broadaway asked about special needs children whose parents choose for them to be integrated and mainstreamed into a normal daycare setting. Specifically, is there a place where special requirements for this population are set forth? Ms. Tracy stated they added an entire section of minimum licensing requirements for this population and pointed out that it is in the current guidelines and that it is not new. She noted that the Individuals with Disabilities Education Act (IDEA) are very specific. It calls for referral, if a facility determines a child has a suspected delay. Also in the front of the Minimum Licensing Guidelines is the reference to the federal laws that pertains to the licensed care that is not only a civil right but also an ADA issue. Historically DCCECE has received complaints from parents but they are referred to the Department of Justice for resolution.

Senator Flowers **pointed out that the Public Comment Period was noted as expiring on June 12th** in the document before the committee and online it reflects June 30th. Mr. Griffin confirmed that June 30th is the accurate date.

Senator Eddie Joe Williams noted the hardship associated with requiring center Directors to have a Bachelors degree, particularly in the Delta area of the state. Mr. Griffin stated that he will take this concern back to the AECC.

Representative Hammer asked about the benchmarks for evaluating child care centers. Mr. Griffin responded by stating that DCCECE monitors existing facilities on regular bases and maintains a compliance record. He noted that the Better Beginnings Program is the quality rating and improvement system currently used to measure how facilities are doing beyond the minimum requirements. He stated that 1000 of Arkansas' 2400 centers are rated above the minimum standards.

Representative Hammer requested that information regarding the individual centers evaluations be shared. Senator Flowers asked that the information be provided to staff for distribution to the members in attendance. Mr. Griffin agreed to provide this information to staff for distribution.

Department of Human Services-Division of Children and Family Services (DCFS) [Exhibit D]

Senator Flowers recognized Christin Harper, Policy Unit Manager, and DCFS. The first rule for review is the "Request for Name Removal from the Arkansas Child Maltreatment Central Registry." Ms. Harper stated that just because a request is made does not guarantee a removal from the registry. The request must go before a review team for consideration along with documentation, proof of rehabilitation and merits before being removed. Secondly, per Arkansas law no one can request removal if there is a corresponding criminal conviction with the same set of facts in a child maltreatment report, in addition Arkansas law requires that the offender must not have had a subsequent report of that maltreatment type within a year and that more than one has pasted since being placed on the registry. These requirements must be met in order to be considered for removal.

Arkansas law requires that DHS identify the types of child maltreatment in its procedures for which an offender can request removal. DHS recognizes that some of the rules are too restrictive and some modifications need to be made. Considering all of the factors that may be involved in child maltreatment and noting that people do make mistakes and to remove barriers to stable employment DHS makes the following specific changes:

- Allow offenders regardless of the maltreatment type to request consideration for removal unless the maltreatment involved a child fatality and only allow request for removal for certain types of maltreatment as long as parental rights have not been terminated as related to that maltreatment type
- Prohibit offenders from requesting removal if they are still involved in an open case, and clarify that requestors can be denied removal if there are still pending criminal charges related to the specific maltreatment type.

Senator Flowers asked how this works, if a person is convicted of a crime and placed on the registry. Ms. Harper said Arkansas law states that offenders cannot be removed from registry if there is a corresponding criminal case, or conviction involving a criminal offense. Unless revoked or vacated, an offender will remain on the central registry. If there's a civil case (true finding) that places them on the registry and if there is a corresponding criminal conviction based on the same set of facts in the maltreatment report that would prevent them from requesting removal from the registry. Senator Flowers emphasized that this does not apply to juvenile delinquent acts but only relates to criminal convictions.

Senator Flowers asked if there is a certain period of time that a person's name has to stay on the registry before automatically being removed. Ms. Harper noted that there are some low risk allegations/maltreatment types for which a person's name may be automatically removed from the registry after one year, for example: educational neglect.

There was a lengthy discussion regarding where rules and regulations can be found and how the general public is informed about their rights. Ms. Lisa McGhee, DHS, General Counsel ensured the committee that the agency rules and regulations are accessible to the public and that offenders are advised of their rights in these proceedings.

Meeting adjourned at 2:17 p.m.