

**JOINT PERFORMANCE REVIEW COMMITTEE
SEPTEMBER 14, 2016
MINUTES**

The Joint Performance Review Committee met at 2:00 p.m. on Wednesday, September 14, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, and Missy Irvin. Representatives Kim Hammer, Co-Chair, Jana Della Rosa, Charlene Fite, Mary "Prissy" Hickerson, Josh Miller, Dwight Tosh, and Dave Wallace.

Other legislators present: Representatives Trevor Drown, Grant Hodges, Jack Ladyman, Sue Scott, and James Sorvillo.

Call to Order

Representative Hammer called the meeting to order.

Opening Remarks by JPR Co-Chairs

Representative Hammer told committee members that Act 1193 of 2015 "An Act to Amend the Law Concerning Driver's License Reinstatement Fees" was in effect from January 1, 2016 until June 30, 2016 as a pilot program. It was to assess issues, collect benchmark data, and determine any financial impact.

Approval of Minutes – August 30, 2016 [Exhibit C]

A motion to approve the minutes of the August 30, 2016 JPR Committee meeting was made by Senator Cooper and seconded by Representative Miller. The motion carried.

Review of the Driver's License Reinstatement Fees Pilot Program (Act 1193 of 2015) [Exhibit D]

Walter Anger, Assistant Commissioner for Operations/Administrations, and Toni Shields, Office of Driver Services, Arkansas Department of Finance and Administration, The Honorable Bobby McCallister, Circuit Court Judge, Division One, Colonel Bill Bryant, Director, and Elaine Lee, Attorney, Arkansas State Police, and Robert Brech, Chief Financial Officer, Office of Finance, Arkansas Department of Health (ADH) were each sworn in under oath by Representative Hammer.

Representative Hammer recognized Circuit Judge McCallister. Judge McCallister gave an overview of the pilot program created by Act 1193 of 2015. As a Saline County Judge, he oversees the Adult and Juvenile Drug Courts. When hearing cases, he verifies that a person is eligible for the driver's license reinstatement fee program if that person has paid all court costs, fines, and fees, and has successfully completed one of the following:

- a court-ordered diversion program;
- a drug court program;
- a diversion program for veterans;
- a preadjudication probation; or
- any other court-ordered program designed to rehabilitate the person.

Judge McCallister said that he has seen drivers license fines increase from \$25.00 up to \$100.00. The increased fees and fines and the stacking of fees presents an obstacle to people in the drug court program who have limited financial resources to pay their fines and fees. The stacking of fees occurs when a person incurs additional fines. People are often kept in the drug court program for extended periods of time because of their inability to pay the fees and fines.

Representative Hammer recognized Colonel Bill Bryant. Colonel Bryant referenced Act 1001 of 2003, which allocates funds from the drivers license reinstatement fees to the Arkansas State Police. He said that 25% of the funding is directed to the Arkansas State Police Retirement Fund and 75% is directed to the State Police operating budget. Colonel Bryant said the funds are important to the operation of the State Police. The funding also helps pay for training. Training cost \$121,000.00 for each state trooper and an entire troop training school cost is \$2.3 million.

Representative Hammer recognized Toni Shields, Office of Driver Services, Arkansas Department of Finance and Administration (DF&A). He asked that she discuss the handout provided by DF&A that includes a list of reinstatement fee waivers that have been issued. Ms. Shields said that a total of 388 individuals took advantage of the reinstatement fee waiver program, with a total of \$264,130.00 reinstatement fees being written off. As directed in Act 1193 of 2015, each eligible individual was required to only pay \$100.00. A total of \$38,725.00 in waivers was collected.

Representative Hammer recognized Elaine Lee, Attorney, Arkansas State Police. Ms. Lee discussed a sample review performed by the Arkansas State Police of 23 individuals taken from the list of 388 provided by DF&A. Ms. Lee said that she found a number of issues when reviewing the 23 individuals, which included;

- 5 of the 23 individuals currently have a suspended driver's license
- 4 of the 5 individuals have committed new offenses, either failure to pay a fine, or failure to appear in court, which resulted in drivers license reinstatement fees being assessed multiple times

Ms. Lee said she also found that individuals who took advantage of the reinstatement fee waiver program were able to obtain more than one waiver at a time because they reoffended during the six month time period, or committed new offenses, or had contempt charges filed against them in another court. Ms. Lee believes that making the program permanent has potential problems.

Legislators asked questions regarding the driver's license reinstatement fees:

- Question- What are the number of drivers license reinstatement fees that were paid during the six-month period that Act 1193 of 2015 was in effect and how do the numbers compare to the same six-month period in previous years?
- Answer- Ms. Shields said the agency does not have a six month comparison. She said the agency can provide the total amount of collections for a fiscal year.
- Question- Are the stacked driver's license fees caused by individuals who reoffend and commit additional criminal offenses?
- Answer- Judge McCallister gave the example of a person missing a court appearance and had their drivers license suspended. A fee of \$100.00 is

charged. That same person can be charged with a fine for driving on a suspended driver's license, so an additional \$100.00 fee is charged. Any additional fines or charges continue to stack the drivers license reinstatement fees.

- o Question- What mechanism is used to determine the amount of uncollected fees and the length of time the fees have been uncollected?
- o Answer- Ms. Shields said that a conviction date is on each court order transmitted to the Office of Driver Services and a reinstatement fee is automatically assessed.
- o Question- Can the Office of Driver Services prepare a report with a cost versus benefit comparison regarding the collection of monies under the drivers license reinstatement fee waiver program.
- o Answer- Ms. Shields said that as of January 1, 2016 there were 240,891 records with some type of reinstatement fee owed. To conduct an accurate report would require a more narrow scope of time. She said that a search for the oldest uncollected reinstatement fee was done and shows the oldest recorded uncollected fee was reported June 1968.

Representative Hammer recognized Robert Brech with the Arkansas Department of Health who said that the portion of the reinstatement fees directed to the Blood Alcohol Testing Program administered by the Health Department is exempt, so there is no impact to the Department.

Discussion of the Decision by the Division of Developmental Disabilities Services (DDS), Department of Human Services to Decertify Support Solutions [Exhibit E]

Melissa Stone, DDS Division Director, DHS, Forest Hill, Assistant Director, DDS, and David Sterling, Chief Counsel, DHS, were sworn in under oath by Representative Hammer. Representative Hammer recognized Melissa Stone. Ms. Stone gave an overview of the home and community-based waiver provider, Support Solutions, which has been decertified by DDS to operate in Arkansas. She described the DDS Licensure Certification Unit process:

- o Provider organizations make a request to provide services under the DDS home and community-based waiver program
- o Providers choose which services they will offer
- o Providers are allowed to choose which counties it will serve
- o Once specific criteria is met by the provider, approval is given by the DDS Licensure Certification Unit
- o Providers that receive approval are allowed to serve the DDS population throughout the state, which is a total of 4,200 clients

Ms. Stone said that the Support Solutions provider was certified in 2010 to provide all the DDS services offered under the home and community based waiver. Support Solutions was certified and approved at the same time that the Alexander Human Development Center was closing. The closing of the Alexander Human Development Center created a need for additional providers for the hard to place DDS clients. Ms. Stone said that Support Solutions provided services to sixty clients who had been receiving services at the Alexander Human Development Center. In 2016, a series of problems occurred with clients being served by Support Solutions. DDS tried to remedy the problems by

providing technical assistance and putting corrective action plans in place. However, by the end of July, 2016, based on a systematic pattern of non-compliance and the frequency of incidents, DDS determined the problems could not be remedied. On August 11, 2016 DDS notified Support Solutions that its certification was being revoked. Support Solutions had ten days to appeal the decertification, but chose not to do so. On August 18, 2016, DDS received notification from Support Solutions that it would be closing its operations in Arkansas. Ms. Stone then referenced the list in Exhibit E which shows the certified providers in Arkansas from which the Support Solutions DDS clients or their guardians could choose as their new provider. Currently, thirteen Support Solutions clients have chosen Central Arkansas Disability as their new provider. DDS is in the process of transitioning clients out of the care of Support Solutions, with the goal of completing the transition of all of the clients no later than September 30, 2016.

Legislators asked questions concerning the decertification of Support Solutions:

- Question- Is Support Solutions a non-profit organization?
- Answer- Ms. Stone said that Support Solutions is a for-profit organization.
- Question- Are all the providers listed in Exhibit E non-profit organizations?
- Answer- Ms. Stone believes they are but will verify their status.
- Question- Is DDS having difficulty locating providers for the Support Solutions clients?
- Answer- Ms. Stone said the provider network has been very responsive to the need for placement of these clients. With the exception of three clients, all of the West Memphis population have chosen new providers and are moving towards completing the transition.
- Question- Are any of the clients going into a Human Development Center?
- Answer- Ms. Stone said one client will be returning to a Human Development Center.
- Question- Subsequent to Support Solutions being decertified as a provider, who is responsible for the care of the clients during the transition period?
- Answer- Ms. Stone said that Support Solutions is continuing to provide service to clients. During the transition, weekly visits are being conducted by the DDS staff.

Ms. Stone was asked to describe the adjustment clients have to make when going into a community-based setting from a Human Development Center. She said there are clients who transition many times between a Human Development Center and a community-based setting. The DDS client population experiences periods when placement in a Human Development Center is necessary to stabilize the client.

Legislators asked questions and continued discussion regarding Support Solutions:

- Question- Is DDS the agency responsible for investigating allegations of abuse, or does the Department of Human Services Division of Adult Protective Services (APS) investigate, and what steps are taken during an investigation?
- Answer- Ms. Stone said that in the investigation involving Support Solutions, there was a joint effort between the APS and DDS divisions. When an allegation is made that an adult has been abused or neglected, it triggers a call to the APS hotline. In this particular case, the West Memphis Police Department voiced its concerns and is also investigating.

- Question- Why did DDS wait so long to revoke Support Solutions license considering the level of severity of the allegations of abuse?
- Answer- Ms. Stone said that her review of the allegations cited in 2015 did not compare to those cited in 2016 in terms of frequency or severity. In April 2016, Support Solutions was placed under a provisional status, corrective action plans were immediately put in place, including frequent monitoring. Under the DDS policy, Support Solutions was given sixty days to monitor and adhere to the corrective action plan. At the end of the sixty days, when the problems were not corrected, their license was revoked. Ms. Stone said it is her opinion that the DDS staff worked very appropriately to follow the DDS policy while ensuring that the clients' health and safety was intact.

Ms. Stone was asked to provide a report to the Joint Performance Review Committee legislative staff when all the former Support Solutions clients have been placed with new providers.

Discussion of the Procedures and Guidelines Used by the Department of Human Services (DHS) Consulting Team (formerly known as the Qualifications Review Committee) When Evaluating Job Applications for Hiring or Promotion

Larry Stricklen, Human Resources Administrator, DHS, Herb Scott, Deputy Personnel Administrator, and Mike Bonds, Statewide Program Manager, Office of Personnel Management (OPM), Department of Finance and Administration, and Tarek Bahloul Personnel Manager, DHS, were sworn in under oath by Representative Hammer. Mr. Bahloul gave an overview of the DHS hiring procedures. He said the majority of applications are transmitted electronically through the Arkansas State Jobs website and the process for DHS applicants is:

- DHS applications are downloaded two times each day
- The DHS Recruitment and Placement Unit receives the applications
- Three teams review the applications to determine if minimum qualifications are met
- Each team consists of two full time personnel, one processor, and one manager
- The Consulting Team reviews requests for reconsideration
- Approximately 200,000 applications were received for fiscal year 2015-2016
- 71,508 applications met minimum qualifications
- 125,506 applications did not meet minimum qualifications
- 1% of the applicants requested reconsideration

Legislators asked questions and discussed the job application process:

- Question- How do applicants know they can request reconsideration?
- Answer- Mr. Bahloul said that each applicant receives an e-mail indicating their application has been successfully submitted. Following a review of the application, an e-mail is automatically sent informing the applicant of their status. Applications that do not meet minimum qualifications receive information in the e-mail with instructions on how to request reconsideration.
- Question- What are the components of minimum qualifications?
- Answer- The Office of Personnel Management (OPM) provides all state agencies with the minimum qualifications established by legislation, which include

education, training, experience, or a combination of both. Some classifications require a specific license and/or certifications.

- Question- What is the process for reconsideration?
- Answer- A further review of the application is performed by a reviewer. Should the first reviewer be uncertain of his/her decision, the application is sent to Mr. Bahloul for his review. Should Mr. Bahloul also be uncertain of a decision, the application is sent to Mr. Stricklin. Following the reviews, if the Consulting Team believes it is warranted, the application is then sent to OPM for further review.
- Question- What authority does OPM have regarding applications that are appealed and sent to the agency?
- Answer- Mr. Bonds said that the OPM Qualification Review Committee was authorized by Arkansas Code 21-5-207 to establish substitution capabilities for an applicant's education and experience. The policy making authority, OPM policy 10.03, details the process used in reviewing applications.
- Question- What is the process for background investigations of DHS employees?
- Answer- Mr. Bahloul said that a DHS hiring supervisor initiates a background investigation depending on the type of job. The information is then forwarded to the DHS Human Resources Processing Unit to be entered into the ASSIS system to ensure that all the required documentation is in the hiring packet.
- Question- What new name was given to the DHS Qualifications Review Committee?
- Answer- Mr. Bahloul said the name of the Committee changed to DHS Consulting Team.
- Question- What agency oversees the DHS Consulting Team?
- Answer- Mr. Bahloul said that OPM has oversight and can conduct audits, as well as the Division of Legislative Audit. Two audits have been conducted with no findings.

Mr. Bahloul was asked to provide copies of the most recent audits to the Joint Performance Review Committee legislative staff. He was also asked to work with legislative staff to prepare and provide a flow chart showing the job application process.

Representative Hammer announced that the JPR Committee will meet Thursday, September 15, 2016 at 9:30 a.m. Room A, MAC Building.

There being no further business, the meeting adjourned at 3:40 p.m.