MINUTES

JOINT COMMITTEE ON CHILDREN'S ISSUES

October 29-30, 2003
Room 313-S–Statehouse

Members Present

Representative Brenda Landwehr, Chair
Senator Nick Jordan, Vice-Chair
Senator Janis Lee
Senator David Jackson
Representative Patricia Barbieri-Lightner
Representative Willa DeCastro
Representative Roger Toelkes
Representative Sue Storm

Members Absent

Senator David Corbin

Staff Present

Hank Avila, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Mike Corrigan, Office of Revisor of Statutes
Renae Jefferies, Office of Revisor of Statutes
Almira Collier, Committee Secretary

Roundtable Members

See Attachment 1.

October 29
Morning Session

Roundtable on Judicial Issues

The Chair called the meeting to order, thanked the roundtable members for participating, and, after participants introduced themselves, opened the meeting for a discussion of issues and problems experienced in working with children involved in child-in-need-of-care cases and the child-in-need of-care-code (CINC) and ways the issues might be addressed through legislation, rules and regulations, or in other ways.

Informal Supervision

One of the judges stated the one-year limitation on orders of informal supervision, an order the court can approve based on cause without an adjudication of a child as a child in need of care, restricts its use. The order of informal supervision removes the barrier of establishing guilt which further strains relationships and allows the family to move forward in achieving change. It gives the court flexibility to determine the type of case in which the use of the order is appropriate and the flexibility to deal with specific circumstances and issues of a specific family. In the order of informal supervision, the court stipulates the changes that need to be made and the steps to achieve these changes to which the parties have essentially agreed. The court reviews the case in six months at which time a six-month extension can be granted. However, it may take more than a year to get the needed services in place and to monitor if progress is being made toward the stipulated changes.

Responding to a question, a judge noted in his court the attorney for the parents, the guardian ad litem, and the prosecutor agree to informal supervision. The order then gives the specific conditions of the informal supervision, *i.e.,* reintegration plan, counseling, drug or alcohol treatment program, fashioned to fit the needs of that particular family. If new issues arise subsequent to the original order, the order can be modified. Due to the one-year limitation some judges restrict the order of informal supervision to truancy cases and lesser child-in-need-of-care cases or do not use it if a parent is involved with drugs or alcohol because it takes longer than the one year allowed for recovery. This denies the option to some parents who are sincere in seeking help and committed to following through. Making this option more available might encourage agencies that have indicated the need for the force of the court to motivate parents to cooperate, short of an adjudication, to bring more families to court.

It was noted that county or district attorneys are concerned about the impact extending orders of informal supervision would have on presenting their case and original petition if the case eventually goes to adjudication. Witnesses may have gone stale or be difficult to locate or evidence may have been lost during the extended informal supervision. Reference was made to a new procedure in the code which avoids adjudication when parents give consent for establishing a permanent guardianship, thereby eliminating the need to make a finding of fitness.

Suggestions included: eliminating the one-year limitation and setting a date certain for reviews at which time a determination could be made as to whether informal supervision should be continued, changes had been achieved, or the case should move to adjudication; stipulating the need for the occurrence of a major event subsequent to the order of informal supervision in order to file for a revocation of the order and filing a petition for a child-in-need-of-care adjudication; and making the order of informal supervision similar to a diversion agreement whereby a stipulation to the facts of the petition was already made, in which case, if the parties do not comply with the order, there would already be the basis for adjudication which would avoid the concerns of county and district attorneys.

The problems of finding persons to monitor cases if the number of orders of informal supervision is increased, the fact the order also allows for Social and Rehabilitation Services custody, and the irony of extending the time for informal supervision when requiring the reintegration process to center around a one-year time frame were noted. Several questions were raised. If the problems are so serious it takes more than one year to address them, is adjudication therapeutic in bringing about change in the parent's behavior? Is it important in bringing about change in some cases to have the parent say it happened?

Reference was made to cases in which parents say they cannot handle the child who is adjudicated as a child-in-need-of-care case, and the impact this can have on the parent's ability to work in certain settings. There has been an assumption that a parent adjudicated as having a child in need of care is barred from caring for children, for example: Sue McKenna, Department of Social and Rehabilitation Services, stated that KSA 65-516 provides that when an individual is validated as having committed abuse or neglect, convicted of certain crimes, or has a child removed from the home based on an adjudication of abuse and neglect, he or she cannot work or volunteer in a child care facility regulated by the Department of Health and Environment.

The Chair, noting there are multiple considerations relative to changes in the time limitations on orders of informal supervision, asked Mark Gleeson, Judicial Administration, to get feedback from judges and others involved in this issue regarding the suggested changes for the Committee.

Continuances

Referring to the impact continuances have on delaying reintegration of children, members of the roundtable were asked to comment on reasons for continuances and how these might be addressed.

Several factors were discussed. There are problems centering around transportation. For various reasons children are not transported for hearings. Often the child has been placed in another area of the state making transportation more difficult. Some parents are in the custody of the Department of Corrections making transport and scheduling of hearings difficult. The difficulty or inability to get required services for various reasons was cited as another reason for delays. For example, the child may not be in one place long enough to receive services. The child, placed at some distance from the parents, is receiving counseling, but the parents cannot participate because of the distance. The fact, at least as understood by some judges, that contractors' services do not include needed individual therapy for parents is another factor causing delays. A significant factor is inability to afford the required services, in some cases because of the amount of child support payments. The parent is willing to comply, but the service provider requires full payment up front before an evaluation or assessment is done, or requires complete payment before the findings will be released, or therapy is too expensive. Sliding scales help address these situations, but are not a total solution. Reference was made to one contractor who, when privatization first started, funded a great many parent services based on the concept that the sooner the parents received help the sooner the children could be reintegrated. But financial difficulties occurred, and these services had to be discontinued. There are delays in making determinations because the court is waiting for the information needed to support termination or to indicate termination is not a valid action.

It was noted currently money is being spent on providing services for children who ultimately will be placed back in their home with nothing having been done to improve the family situation. The child has done everything that is required, does not want parental rights severed, and wants to return home. The child would rather be in a bad home than in a foster home. In one county, the judge got the county commissioners to create a fund in the court budget to assist indigent parents in getting required psychological services.

There is also the situation in which the parents come into court without representation, causing a delay while the parents arrange for representation or the process of qualifying for a court appointed attorney is completed.

Getting service on parents is another factor. Determining who the parent is, *i.e*., the Department of Social and Rehabilitation Services may have determined who a parent is, but the Child Enforcement Section has not notified the Foster Care Section; locating the parents so service can be given; "address is unknown" precipitating publication which is both time consuming and can be costly. Also, adding who has to be notified, such as a foster parent, has the potential for creating delays.

Other Barriers to Reintegration or Adoption

Lack of funds can impede reintegration in ways other than getting services, as noted earlier. For example, the only barrier to a father having his three children come home was payment of a $400 utility bill. While the system should not create a dependence on the state, is it good fiscal policy to continue paying $4,500 per month for foster care instead of paying a $400 utility bill? In another case, a judge entertained a motion to reduce child support so the parents could afford to move into appropriate housing. There is also a problem with federally funded housing supplements. For example, the parents are already in the apartment but cannot get the reduced rate until the child is in the home. Yet because they must pay the higher rate, they cannot afford to comply with what is required before the child can come home. A judge noted the number of children in custody went from approximately 1,000 to 700 because of a project which provided flexible funding to provide services. Every continuance is not only bad for the children and families, but also keeps the meter running for the state.

Another issue involves cases in which the parents are not married. It may be appropriate to reintegrate the child with one parent, but the other parent is dangerous to the child. However, the case cannot be closed because the potential custodial parent does not have funds to secure the domestic orders necessary to give him or her custody of the child.

It was noted current statutes prohibit termination of parental rights based on financial need alone. Yet if the parents cannot pay for services, are we not setting up the possibility of terminating parental rights because of lack of funds?

Attention was called to the impact of increased caseloads for the contractors' social workers. A judge stated, in the beginning of privatization, the contractor limited a social worker's caseload to 10, resulting in services being provided in a timely manner and good case monitoring. However, as caseloads went up, supervision and monitoring went down. Establishing time lines is an exercise in futility unless the issue of caseloads is addressed. The impact of any changes in time lines should be carefully considered.

Suggestions included increased efforts to recruit foster homes in the home county and looking at barriers to such recruitment; looking at alternatives to the current state fiscal policy in relation to reintegration, including provision of flexible funds at the local level; finding alternative ways to provide flexible funds at the local level; and addressing the issue of social worker caseloads, as, for example, setting caseload limits in the contracts.

Having to treat the termination hearing as a new process also causes delays in these hearings. Parents, who have to be served again, may have moved, sometimes multiple times, and no updated address has been provided. Getting approval for publication can be a lengthy process. A law stating that once a parent has been served and is aware of the process that service will be

satisfied by mailing the notice to the last known address would be helpful. This would make it incumbent on parents to provide a current address to the court. Why should it be incumbent on the prosecutor when the family knows the action is coming? Sue McKenna, Department of Social and Rehabilitation Services, stated the Judicial Council, which is looking at the code, is expected to recommend a single service at the beginning of the proceedings rather than repeating the process when the case comes for termination and adoption. The Chair recommended those participating in the roundtable look at the recommendations of the Judicial Council when they are available and give comments and suggestions to the Committee members.

Concern was expressed over the lapse of time between the filing date and decision date, which is often 12 to 18 months even when the case is on the appellate court fast track. Reference was made to new appellate procedures for use in neglect cases adopted by Iowa over a year ago. When a notice of appeal is filed, an informal triage system is used rather than a formal process such as Kansas uses. A short statement of the case is done. Then the appellate court triages the cases into categories and asks for briefs if warranted. Many of the appeals are taken to satisfy the parent or protect the attorney from malpractice action. Adopting a system similar to Iowa would advance the time it takes for an adoption and save money. While this change would not require legislative action, expressed legislative interest would encourage its consideration. An approach considered by one court was to send a rough record from the court reporter's CD to the court of appeals instead of having a record prepared. Most appeals involve termination of parental rights, and the only question is whether or not there is substantial evidence in the record to support the judge's decision.

It was pointed out that using one adoption contractor which necessitates transferring a child from one contractor to another can create an additional time delay of 6 to 18 months. Consideration should be given to combining foster care and adoption in one contract. Concern was expressed that the foster parent, who is often the prospective adoptive parent, is not given the adoption packet containing all the history of the child until after parental rights have been terminated and, at times not until after a decision has been made on an appeal. It was suggested attention be given to speeding up the process of getting the adoption packet to the foster parent. Referring to the fact that in the adoption placement agreement the adoptive contractor receives payment for adoption placements but does not have to pay the foster care costs may be a reason the adoption contractor says the child needs two months to adjust to the adoptive home even when it is the same as the foster home in which the child has been residing. When a contract rewards the length of time a child spends in an adoption placement, adoption is delayed. Contracts need to be reviewed for the relationship between payments to contractors and incentives.

It was noted in some jurisdictions a child-in-need-of-care case which goes to adoption requires a new attorney, a new filing and filing fee, and involves a new clerk and a new judge who may be located in another building. The new judge does not have the history of the child-in-need-of-care case and may request studies which have already been done. A similar thing happens with care and treatment petitions for child-in-need-of-care cases. Suggestions included adopting the one judge for one family concept statewide for family-related issues, such as adoption, care and treatment, guardianship, termination of parental rights, but not divorce; changing the statute to say that when parental rights have been terminated, the judge terminating those rights should hear any subsequent adoption; having all actions pertaining to a child-in-need-of-care case done through that case number; and putting a phrase in the code stating the court may proceed to adoption under the adoption relinquishment act and referring to the latter statutes.

Code Issues

It was noted the code now provides a child can be given an order not to run and notice of the possibility of ending up in secure care "after the child has been adjudicated." Between temporary

custody and adjudication, the child has a lot of chances to run away and sometimes does. It was suggested the code be changed to allow the judge, as soon as the case is filed, to sit down with the child and give him or her the order not to run and the notice about secure care. This would be more efficient than trying to get the child back and might prevent a run which would put the child in harm.

A *guardian ad litem* stated the adoption contractor contracts with different mental health providers than the foster care contractors, which is not in the best interests of the child. One child had been with a therapist for one and a half years before parental rights were terminated and adoption procedures started. At a crucial time for the child, a new therapist had to be found.

A judge stated in his court when a custody determination has been made, knowing the parent who did not get custody is probably going to appeal to try to overturn the custody order, a journal entry is filed closing the case and a domestic case is filed that states why this parent has custody, some history of the family, and other findings which hopefully the judge in the new court will consider before making a decision. Care has to be taken with what goes in the probate court file since it is an open file.

The Chair referred to a bill introduced last session to allow anyone access to foster care records and asked for comments. The bill passed the House and the Senate but was held in conference committee because adoption records were not included and the basis for the bill was a case involving an adoption. During discussion the following points were made. There is a need for the public to know what those involved with children see and the types of difficult decisions which have to be made; there is a need to explain the system to the public and, when the system is under attack, to present the other side; there are parent's rights, children's rights, and third party rights, all of which need to be considered and protected; whatever balance is struck should favor the child's rights more than the public's need to know; there is mutual interest in making the facts known, but the potential effect of revealing facts needs to be considered; when a constituent calls a legislator, there needs to be a way to determine if a legitimate concern is involved; there needs to be a balance between confidentiality and accountability for actions taken or not taken within the system; perhaps all the public has a right to know is whether or not the tax supported agency is carrying out its responsibilities.

Speaking to the concern that there had been cases in which a legislator had not been allowed in a court room, a *guardian ad litem* stated in one case his 15-year old client did not want the legislator in the room because of information that would be presented so he, as a guardian, objected. *Guardians ad litem* are also frustrated at times because they feel they cannot share the other side of the story.

It was noted that if a child dies while in foster care or after adoption, information and records are required to be sent to the Child Death Review Board.

It was noted the appellate courts, whose hearings are open, hear the facts of these cases but maintain the required confidentiality of identity by using initials. Keeping pleadings and the process open while keeping names confidential holds everyone accountable. A *guardian ad litem* pointed out there is the proceeding itself which anyone can attend. Initials may be used, but faces are still there. One wants parents to be cooperative but when everything pertaining to them is made public this may not happen. The court records may not provide all the actual facts in a case. In most courts the judge does not write out a decision detailing facts in a child-in-need-of-care case, and the petition does not necessarily include facts that will be brought at the adjudication hearing.

Suggestions Relating to Confidentiality

Reference was made to the frustration legislators feel when a constituent asking for help shares one side of a story, but they are unable to find out the other side because of confidentiality. Legislators would like to intervene in a constructive way, but are blocked from doing so. Not everything needs to be shared, but it seems the system has gone so far the other way that it has lost credibility. There is a sense Social and Rehabilitation Services is taking children out of the home when they should not; judges are not listening to what parents are saying; and social worker reports are inaccurate. *Guardians ad litem* and court appointed attorneys are seen as arms of the court so are not trusted. Suggestions were made for the formation of a statutory committee with subpoena power, composed perhaps of legislators, a representative from the Attorney General's Office, and a representative from Social and Rehabilitation Services; for increasing the scope and authority of the Child Death Review Board; for persons wanting access to a record filing a motion stating what is needed and why, with the judge being able to limit what can be accessed; broadening the situations in which a judge can authorize an *in camera* inspection; providing legislators with a profile of what is included in the records; having the *guardian ad litem*, based on existing statutory provisions for the judge to allow another person to look at the records, distill the record and share pertinent information; adding legislators to the existing statute relating to who may be present at a hearing; and developing a pilot program with a sunset provision.

Reference was made to the citizen's review board in Douglas County. This has opened the eyes of those serving on the board who, while maintaining confidentiality, have helped others understand the system and what it deals with. Authority exists to establish such review boards in other judicial districts.

The meeting was recessed until 1:30 p.m.

Afternoon Session

The Chair reconvened the meeting and asked panel participants to send suggestions and comments relative to the following handouts to Emalene Correll, Legislative Research Department.

- Articles relative to open courts (Attachment 2).
- Judicial Council's proposed amendments to the definition and confidentiality sections of the child-in-need-of-care code (Attachment 3).
- Copy of 2003 SB 67 as amended by the House Committee and the Senate Committee (Attachment 4).

Proposed Amendments to Code (see Attachment 3)

The attachment, which is a work in progress, includes only the definition and confidentiality sections of the code. Changes made at the last meeting of the Judicial Council subcommittee are included, but the comments have not been changed to reflect these changes. Amendments are also being proposed to other sections of the code.

The Chair, noting the definition of "abuse and neglect" in the Department of Social and Rehabilitation's rules and regulations is not the same as the statutory definition, stated the goal is to make these definitions identical. It is confusing to have the courts operating from the statutory definition and social workers operating from the definition in the rules and regulations. Responding to a question, Sue McKenna, Department of Social and Rehabilitation Services, stated the Department's understanding based on comments made at the public hearings conducted by the Department was that many people wanted specificity in the rules and regulations but not in the statute. Concern was expressed that having different definitions contributes to the general public distrust of the system. Rules and regulations should interpret the statute but constituents believe rules and regulations seem to be independent of the law. Parents or advocacy groups go to the law, not rules and regulations, and feel action taken by the state agency does not comply with the law. It was noted statutes usually are broad statements of public policy. Agencies promulgate rules and regulations, which have the force of law, to fill in the detail that would be unwieldy in the statute. Being too specific in a statute can cause problems, but the employees of an agency need more specific direction which is provided through rules and regulations. Rules and regulations are reviewed by the office of the Attorney General to determine whether or not they comply with the statutes and by a committee of the Legislature before they can be adopted. A judge noted if a case based on a regulation stipulating the definition of abuse utilized by Social and Rehabilitation Services is filed by a county or district attorney and comes to court for a determination of adjudication, the case must be determined within statutory definitions.

In discussion of differences between rules and regulations and statutes as they pertain to the abuse and neglect registry, it was noted in the criminal system a person is innocent until proven guilty, but in the child welfare system the appearance, not the intent, is that a person is guilty until proven innocent. It was pointed out that amending the enabling statute to determine who is put on the registry, *i.e.*, persons who have been adjudicated or convicted would address this issue and would have to be reflected in rules and regulations. This is a public policy question.

The opinion was expressed that parents' rights are protected. The Department has to make a determination and file an affidavit with the county or district attorney; the prosecutor has to determine there is sufficient evidence to file an application for an *ex parte* order; and the court makes a determination. The parents have the right to an attorney beginning with the temporary custody hearing.

The issue of the time lapse and trauma which can occur when a child is removed by law enforcement was noted. When the parent goes to school on Friday to pick up the child, the school says the child is not there and they do not know where the child is. The system does not function on weekends and holidays, so no one may call the parent to tell him or her what has happened. This is traumatic for both the child and the parent. An issue that needs to be addressed is how to improve the system so the smallest number of children possible are removed from the home, and children who have to be removed temporarily are placed with a person who has an emotional tie to them, *i.e.,* a relative or neighbor, while giving credence not only to the law but also to the human side. A judge noted, if the removal of the child on Friday was the result of an *ex parte* order of the court, the procedure noted above is correct. In other cases, law enforcement is made aware of the circumstances by Social and Rehabilitation Services, the school, or someone else, and the child may be picked up without an order. Law enforcement, contrary to the belief of many, does not automatically remove a child from a home at the request of Social and Rehabilitation Services. Law enforcement must exercise an independent determination as to whether or not the child is in an emergency situation if the system functions as it should. If the scenario takes place on Friday as noted, the parent has no where to call, and it may be Wednesday of the next week before the parent gets to court. Making provision for parents in this situation to be notified the child is in an emergency foster care situation and is safe, and assigning responsibility for this notification was suggested. This is an issue pertaining to how Social and Rehabilitation Services, law enforcement, and the courts operate. If the parent knows before coming into court that his child is safe and being taken care of,

who the assigned worker is, and that there will be a court hearing, the parent is going to come into court with a different attitude. The system functions reasonably well in most cases, but there is still the human element which needs to be considered. A district attorney noted their office files on significantly less than one-third of the children placed in police protective custody.

Adding another definition to the child-in-need-of-care code was suggested by a roundtable member. The new definition of ”families in need of services” would include families who, if services are not provided, are in danger of rising to the level of child in need of care as defined by statute. Through Social and Rehabilitation Services the family could be informed of the availability of the services the family needs and then given an opportunity to receive these services, with the caveat that if they do not access the services voluntarily, the services will be mandated by the court. This would deal with the problems discussed earlier and focus responsibility with Social and Rehabilitation Services and the family.

In response to a question regarding the last three sentences stricken in subsection (u) on page 14 of the proposed code changes, Sarah Sargent, a member of the Judicial Council subcommittee, stated a separate section providing for the appointment of a permanent custodian includes a list of rights and responsibilities for such custodian and clarifies the rights which are transferable and the rights which may remain residual with the parent, as for example, to receive notice of certain decisions. The judge would explain to the parents to what they are consenting.

Answering a question about the proposed changes to the definition of "sexual abuse" [Section (z), page 15] Ms. McKenna stated the language may be somewhat different, but none of the behaviors currently constituting sexual abuse are omitted. The proposed amendment, by deleting references to other statutes and inserting general language, eliminates the need to refer to other codes or do a search of all criminal codes, thereby making it easier to understand. It was noted leaving in the references to other statutes and adding, "includes but is not limited to," would include the language which makes it easier to understand, would update this section if changes were made to the referenced statutes, and would include the case law pertaining to these statutes.

In response to a question, Ms. McKenna stated "interaction" includes verbal and visual contacts, *i.e.,* not allowing a child to close the door when using the bathroom or showering. A district attorney observed that inclusion of "interaction" could increase litigation, since someone could claim solicitation is not interaction because it was a one-sided conversation from the perpetrator to the victim. This is another reason for keeping the references to other statutes. Noting it is difficult to develop a definition that includes all the behaviors to be sanctioned and excludes behaviors considered a normal part of growing up, roundtable members were asked to give any suggestions to Ms. McKenna to be taken to the Judicial Council subcommittee.

Responding to a story of a 17 year-old making what proved to be false accusations, a *guardian ad litem* stated if he heard these allegations on their face, he would probably advocate for the child being removed from the home because he would not know what the truth was. The court system has to err on the side of the safety of the children first. Referring to the problem of constituents and the general public mis-perception of Social and Rehabilitation Services and the court system, it was suggested attention be given to how the courts and agency present themselves to the public, along with educating the public. People who will never have a child in the system need to understand the system in order that they can be supportive of it. There is a need for a balance, which needs to be continually evaluated, between the safety of the child and the rights of the parents.

A judge noted that for judges who handle multiple types of cases including those involving children, scheduling hearings, continuances, and trials becomes difficult because of the statutory time limitations for court proceedings in each type of case. A judge shared disappointment that extending the time of temporary custody from 48 to 72 hours to allow more time for investigation and

development of a safety plan to facilitate the child returning home without waiting for adjudication or disposition had not resulted in a larger number of safety plans being submitted in his court. A correlation between this and the large caseloads for social workers was observed. Parents are usually suspicious at first and hesitant to be open about the family situation, and contacting other parties takes time. A district attorney stated that by working closely with the state agency personnel the 72 hour provision has given time for an investigation of the family, getting family preservation services in place, getting relatives involved, and the development of a safety plan.

Referring to the earlier discussion of run-aways and no-run orders, a judge noted two problems with the statute. First, a no-run order cannot go into effect until after adjudication so there is nothing to prevent the child from running one or multiple times between the temporary custody hearing and adjudication. The second is the statute says the court, after a no-run order is issued, may authorize the placement of the child in a secure facility if the child runs. The court is not empowered to order such placement. Cases were cited to illustrate the problems that arise. Consideration should be given to amending the statute to empower the court to order a child into a secure facility or make other arrangements to make sure the child does not run again and authorizing the use of an electronic monitoring device if the child runs again. The question was raised as to whether a simple contempt proceeding might be used or whether that alternative has been preempted by the statute noted above?

Noting that judges have to live with the services provided by the contract which Social and Rehabilitation Services controls by determining the level of services, a question was raised as to whether or not the judiciary could have more input into this process and the determination of what services get cut. The Chair stated that after family preservation had been cut, the state agency was asked to track whether there was an increase in the number of children placed in foster care and, if so, if any of the increase could be attributed to the lack of family preservation dollars. Roundtable members were asked to share any ideas relative to the financial side which affect the system.

The Chair thanked the roundtable members for their interest, concerns, and suggestions and expressed the hope that panels such as this would develop greater communication between legislators and the judicial system. To foster better legislation which is enforceable, the Chair asked roundtable members to comment on legislation sent to them for their review. The roundtable was closed at 4:00 p.m.

Pilot Projects Recommended by Committee in 2002

Mark Gleeson, Office of Judicial Administration, presented written testimony (Attachment 5) relating to the Parent Advocate Orientation pilot projects, one in an urban and one in a rural judicial district, authorized by 2003 HB 2125. In child-in-need-of-care cases, up to two persons designated by the parents of the child can be present in court under the pilot guidelines. The designees must have participated in a parent advocate orientation program approved by the Judicial Administrator. The Office of Judicial Administration has viewed this as an opportunity to provide persons designated by parents, as well as the parents if they so desire, with information on child-in- need-of care proceedings.

Judicial districts selected for the project are the 18th Judicial District (Sedgwick County) and the 21st Judicial District (Riley and Clay counties). Six project requirements were identified. The project design is simple and takes advantage of Internet technology. A person interested in being a parent advocate will go to the Internet at home or the local library and participate in an online orientation program for approximately 1.5 to 2 hours, recording their participation by answering a series of questions about the content. The intent is to create an orientation program that will provide accurate, easy-to-understand, basic information to people with little or no understanding of the court

system as quickly as possible and with the fewest obstacles to completion. The design of the materials is close to completion and is currently being reviewed by judges, attorneys, parents, and potential designees. There will be an independent evaluation of the project.

In response to a question, Mr. Gleeson stated it is hoped the program will start in January 2004, giving it 11 months before the 2005 Session, the sunset date in the statute.

Update on Oklahoma Action on Child Support Enforcement

Jim Robertson, State IV-D Director, Department of Social and Rehabilitation Services, presented written testimony (Attachment 6). Mr. Robertson stated after Oklahoma refused service to a Kansas resident, a Kansas child support enforcement official contacted the Oklahoma child support enforcement agency in July, requesting reconsideration of the policy to restrict services to residents of other states if the child was over 18 years old. Also officials in the federal regional office were asked to evaluate the appropriateness of this policy under federal law. In September, the Oklahoma Director notified all states the policy had been rescinded with respect to interstate cases.

In answer to a question, Mr. Robertson stated the federal office had issued a written opinion that the policy adopted by Oklahoma was not an option. If the child support is enforceable in the state in which it was issued, it has to be collected by the other state.

The meeting was adjourned until 9:00 a.m., October 30, 2003.

October 30, 2003
Morning Session

The Chair called the meeting to order.

Transition from Foster Care, Chaffee Funding, and Use of Funds

Sandra Hazlett, Director, Children and Family Policy, Department of Social and Rehabilitation Services, presented written testimony (Attachment 7). Ms. Hazlett stated the Chaffee Foster Care Independence Program (CFCIP) is designed to help support youth transitioning out of foster care. In FFY 2003, Kansas received $1,538,906, approximately half of which is expended by the child welfare contractors, with the remaining amount expended primarily by the state agency, and some included in funding for the Native American Tribes in Kansas. In September, 2003, Kansas also received $468,414 for education and training vouchers for post secondary education and vocational training for youth who age out of foster care. These funds have been appropriated through FFY 2005.

The federal legislation puts only two limitations on the use of the federal funds which are used for five general purposes stipulated in the legislation. Last year approximately 2,200 youth were served by the adoption and foster care contractors utilizing a variety of service providers. Services are provided individually or in groups in formal and informal ways. Contractors must provide services in at least six of eight categories: educational support, vocational and employment support, budget and financial management, housing, health education, mental health and emotional well being, youth

development, and mentoring. Chaffee funds are also used by the area offices for services or supports necessary for a successful transition to adulthood for youth 18-21.

The ETV allocation is being used to develop a program that has expanded the eligible population of youth who can receive assistance in post secondary education and training to include youth with a finalized adoption after the age 16, youth with a permanent order of guardianship after age 16, and to continue the eligibility of youth participating in the program on their 21st birthday until they turn 23. Funds have also been used to rebuild and strengthen the Youth Advisory Council, which will be actively involved in decision making, shaping policy, and monitoring implementation of services for youth. Last spring an Independent Living Stakeholders group was formed with representatives from groups such as business, banking, the Kansas Insurance Department, and youth advocates to act in an advisory capacity to Social and Rehabilitation Services in recommending ways to work toward a comprehensive statewide independent living program in Kansas.

Foster Youth Agenda

Kathi Ledbetter-Williams, Executive Director, Foster Youth Agenda, presented a written outline of testimony (Attachment 8). Ms. Ledbetter stated the program is a new initiative in Wyandotte County to inform, educate, and influence outcomes for Jackson and Wyandotte County youth who are in care. The youth council is comprised of 12 current and former foster youth between the ages of 16 and 24 whose cases originated in Wyandotte County, Kansas or Jackson County, Missouri. Ms. Ledbetter-Williams turned the meeting over to Council members to introduce themselves and explain the program.

Ms. Johnson, age 23, stated she entered the system at birth, was with the same foster mother for 16 years, with both positive and negative experiences. At age 16 she went to live with her biological father and is currently an undergraduate student in communications, with a goal of becoming a corporate attorney. At age 18 she sprained her ankle and, since she did not have insurance, the doctor's bill remains on her credit report. Noting that the motto of the Foster Youth Agenda is "Making Life Better for Foster Youth," Ms. Johnson reviewed facts about foster youth four years after leaving care including, 46 percent lack a high school diploma, 13 percent have graduated from a 4-year college, 62 percent have not maintained employment for a year, and a significant proportion have spent time in jail. Those who succeed do so because someone poured a lot into them.

The Foster Youth Agenda, Ms. Johnson noted, is a grass roots faith-based organization with the philosophy that the best decisions are made by those who will be affected by them. Recognizing that foster youth, like everyone else, need an agenda, the program exists to inform, to educate, and to influence the outcomes of Wyandotte and Jackson County foster youth. Council members work to increase public awareness of challenges faced by foster youth and the policies that affect delivery of services to them and to provide youth-friendly and understandable information on how government systems at all levels work, how decisions made at all levels impact youth exiting care, and the critical issues affecting transitions to adulthood. Recognition that both good and bad things are happening in foster care, attention needs to be given to improving the system. The Council also helps youth aging out of care to understand their leadership responsibility to other youth still in care by their example and by showing them how to empower themselves. Another emphasis is to provide foster youth with opportunities to develop ongoing relationships with caring adults, develop as leaders, learn marketable skills and competencies, become involved through community service and civic participation, and effect policy and system changes. Council members must complete 100 hours of community service per year. An activity of the Council will be to hold open forums to inform the public of foster care issues and to bring together players in the system and the community to provide information and find ways to partner. Plans are to develop a foster care handbook for foster youth

to inform them of their rights, opportunities available such as scholarships, and where they can go for information and assistance. Ms. Ledbetter-Williams later stated the foster care handbook will be finalized in January and copies would be sent to the Committee. Ms. Johnson stated there is also a web page, www.fy.com with current information. The Council wants to conduct training sessions in the middle schools and high schools for foster youth to inform and empower them. On November 23, the Council will hold a voter registration drive at Arrowhead Stadium with members of the Kansas City Chiefs participating as a drawing card for youth and a major radio station in the metropolitan area helping to facilitate the drive. Foster youth need to understand they can discuss issues, but to effect changes they need to exercise their right to vote.

Jessica Edwards, age 17, stated her three years in foster care included four placements, five different high schools, and six different case managers. Her plans are to continue in foster care when she reaches 18 and to become a lawyer. Whether or not her foster care experience was positive or negative depended primarily on the case manager at the time. Ms. Edwards listed the following areas to be included in the training and development activities of the Council: strategic planning, communication skills, financial literacy, provisions of the Chaffee Independent Living Act, the power of the vote, how a bill becomes a law, the nuts and bolts of the foster care system, foster parents and foster youth as partners working together toward independence, rights of foster youth, and foster youth advocating for foster youth. A goal is to educate foster youth, foster parents, and government leaders in the community about the affects of local and state decision making on foster youth. Open forums for all parties including foster youth, foster parents, mental health and social services agencies, and local and state decision makers are being held. The Council is finding what services are available and assisting youth exiting the system to understand available services and to connect with them. Opportunities for foster youth to develop skills to become effective voices for the service needs of foster youth and opportunities for leadership are provided.

Ra'Meka Meeks, 21 years old, stated she had 9 placements, with as many or more social workers and therapists, between the ages of 9 and 14 at which time she was placed with a close family member who died a year later. She was then adopted by her grandmother. Her experience with foster care was not good. When her grandmother adopted her, Medicaid coverage ended. While in foster care she had to have extensive dental work done as a result of injuries suffered in a serious car accident. At age 18 additional dental work was needed and there was no longer Medicaid coverage. As a result, she had to use money from a prior accident which had been put aside until she was 18. Ms. Meeks summarized her education experience which included Junior College and completion of various health care certifications through Job Corps and stated she is currently employed at the University of Kansas Medical Center.

Randy Burgess stated he entered foster care at age 7 when a school nurse removed him from home because of bruises. He was returned home at age 9 and has been in and out of the juvenile system. Last year he joined Youth Boys which showed him what he could do and what he could be. During this time he made some bad decisions and is back in the juvenile system. When attending a conference a man saw in him something he did not see and got him set in the right direction. His goal is to continue with college and do something in marine biology. Some football injuries are still causing problems because he did not have Medicaid and could not get proper medical care. Mr. Burgess did a rap expressing his views.

Each of the youth noted the need for the state to provide matching funds for the Chaffee funds based on their medical experiences. Ms. Ledbetter-Williams stated there are about 91 foster youth in Wyandotte County between the ages of 18 and 21. In response to a question, Ms. Ledbetter-Williams stated her understanding is that Kansas has not opted to match the Chaffee funding so youth can have a medical card until age 21. Ms. Hazlett, Department of Social and Rehabilitation Services, stated the medical card program for foster youth covered by the Chaffee Act is not in place yet because the Department became aware only last month that state legislation

providing for the program had been passed. It is her understanding the program will be retroactive to the time the legislation was enacted and should be in place soon.

Answering a question, Mr. Burgess stated he had never received a Medicaid card because he was in the custody of his mother who made too much to qualify. Yet she made too little to cover medical expenses.

In answer to a question, Ms. Edwards, who came into the system at age 13, stated she had multiple case workers because of one social worker's illness and social worker's promotions. Her multiple placements were because of disagreements with foster parents.

Ms. Johnson, in response to a question, stated she would have taken advantage of the type program the Council is developing in schools. Ms. Ledbetter-Williams stated they work through school counselors who identify the foster youth who are then given an individual invitation that allows them to get out of class to attend a program. An area the Council hopes to focus on, if adequate funding becomes available, is connecting youth with centers such as Sylvan to fill in educational gaps that may be the result of numerous moves. Responding to a further question, she stated, in general, youth in residential facilities probably have more problems with participation in social activities and having other youth over because of the structured environment than do youth placed with foster families although this varies depending on the foster home. Jackson County, Missouri has cooperated with The Foster Youth Agenda even to the extent of allowing incarcerated youth to serve on the Council. Also, there needs to be more work with foster parents to help them understand that a foster child, just as a biological child, at age 13 is struggling with becoming independent and how to help the child during this time.

Committee members thanked the youth for appearing, commended them on what they are doing, encouraged them to continue their work, and noted they can make a difference. The Chair suggested they appear before committees during the legislative session so more legislators can become aware of the problems and positive things which are happening.

Tuition Forgiveness Program

Diane Lindeman, Board of Regents, presented written testimony relating to the tuition assistance program (Attachment 9) stating the program of tuition waivers for youth released from the foster care system at age 18 provided for in 2002 HB 2872 and funded through the Chafee Foster Care Independence Grant, was implemented July 1, 2002. Because of terminology in the bill, Washburn is not a participant in the program. Participating post-secondary schools can provide up to three waivers each year which covers tuition and fees required of the student. Room and board and books are not included. To qualify youth must have been in the custody of the Department of Social and Rehabilitation Services on the date they reach 18 and been accepted in a participating Kansas educational institution within two years after completing high school or a GED certificate. Grantees must be full-time students, be in good academic standing as determined by the school, and maintain part-time employment to cover non-allowable expenses. Schools are asked to verify continuing eligibility. Efforts are being made to identify a single point of contact for each participating school. Applications are sent to Social and Rehabilitation Services for verification of eligibility, and the school submits a voucher for the covered costs. During the 2002-03 academic year, 18 students from 12 institutions received waivers at a cost of just over $24,000. So far applications from 15 schools for a total of 22 students, probably one-half of whom are returning students, with a cost of just over $23,000 have been received. The program which expires on June 30, 2006, will be reviewed in 2004 and 2006 to determine if it is meeting its objectives.

In response to a question, Ms. Lindeman stated some of the first students were in a one-year vocational school program and some who were in a junior college have transferred to a four-year school. Revisors were asked to check on whether there are limitations if a student dropping out of the program returns to the program.

Some of the youth who had appeared earlier, answering a question, stated they were not aware of the tuition assistance program. Concern was expressed that the program is not advertised sufficiently or in a way that is effective in reaching foster youth who might qualify. A question was raised as to whether or not this program is marketed in high schools. It was also suggested institutions being required to accept no more than three waivers per year be revisited. It was noted this would mean the maximum number of students in a Regents' institution would never exceed 12, creating such a small cost that the institutions should be able to absorb it without using the limited Chafee funds which could then be used for other things. Raising the limits or removing the limits might better justify using Chafee Funds.

State and Federal Monies for After School Programs

Bobbi Mariani, Director of Economic and Employment Support, Department of Social and Rehabilitation Services, presented written testimony relating to funding of after-school child care programs (Attachment 10) pointing out that in September, 2003, approximately one third of the child care assistance utilizing state and federal dollars is for school age children. Requirements for receiving reimbursement from Social and Rehabilitation Services are licensure by the Department of Health and Environment and enrollment in the Child Care Subsidy Program or designation as a summer program or a statutorily defined extraordinary school program. Beginning in 1992 and continuing through 2001, at which point funds were no longer available, the Department made grants available through the Child Care and Development Fund comprised of state and federal monies, to assist after-school programs with start up or to improve the quality of the program. During FFY 1999 and 2000, approximately $225,000 was available to after-school programs.

Staff Report on Questions Raised by Committee

Hank Avila, Legislative Research Department, called attention to a spreadsheet showing where surrounding states and Kansas are on specified standards (Attachment 11) based on information from the Kansas Department of Health and Environment, the Children's Foundation, and each state noted on the spreadsheet. Kansas overall ranks high in terms of meeting the specified standards. Exemptions for each state appear at the bottom of the attachment. In response to a specific question about Boys and Girls Clubs some states said they try to work with them and some encourage them to participate.

Mr. Avila then referred to a listing of the questions raised by the committee in September; the answers submitted by Health and Environment additional information regarding surveyors, licensing, and the number of different types of actions taken from FY 1993 through FY 2002 (Attachment 12). In response to the question regarding the number of deaths and injuries in school-age programs including drop-in programs, the Department noted it does not currently compile a report of the number of deaths and injuries in regulated programs which must be reported to the state, but staff indicated there had been no deaths or serious injuries in the last five years. Unregulated programs are not required to report death or injuries to the state so there is no data available. The Children's Foundation stated the Centers for Disease Control no longer report this information.

In response to the question of why 12 hours or more of operation was adopted as the threshold for licensing, the Department answered this decision was based on a consensus following

a series of meeting across the state that before or after-school programs attended by children every day should be licensed and that summer programs should continue to be licensed using the same threshold. Also, the Life Safety Code and the Uniform Building Code use a 12 hour a week threshold for fire safety requirements for programs serving school age children. The third question related to what happens if programs required to be licensed do not do so. The Department noted KSA 65-514 makes operating without a license a class C misdemeanor, subjecting the operator, if convicted, to a $5 to $50 fine per day for each day the operator refuses to comply. Also, the Department can request the court to enjoin a program from operating without a license but does not have administrative authority to close a program operating illegally. The Department prefers to help programs comply because of the need for such programs. Question 4 referred to what points had been agreed upon at this time. Criteria outlined by the Department in testimony at the September meeting of the committee was discussed at a meeting of the licensing agency staff, the Boys and Girls Clubs, Salvation Army, and Kansas Association of Parks and Recreation. It was agreed the groups represented would draft proposed regulatory language that would address the issue, with the Department assisting with the logistics of the process, and the Department would draft a definition of "drop-in" programs for review by the other groups and prepare language for the parent notification. At a meeting with representatives of the YMCA, the Department agreed to facilitate a meeting with the groups who had met earlier and the YMCA. Mr. Avila stated it was his understanding this meeting scheduled for October 27 had been canceled so there was nothing further to report.

Mr. Avila called attention to a listing of 2003 after-school legislation in other states provided by the National Conference of State Legislatures (see Attachment 12) indicating a lot of activity across the country addressing the various issues pertaining to after-school programs.

Report from Kansas Department of Health and Environment

Bridgitt Mitchell, Assistant to the Secretary, Department of Health and Environment, presented written testimony outlining the Department's activities relating to the regulation of school-age programs since the committee's September meeting (Attachment 13). The Department has met with the interested groups with the parties assuming responsibility for specific tasks as noted in Mr. Avila's report. The October 27 meeting that was cancelled was rescheduled for November 5, 2003.

Child Welfare Contract Extensions

Sandra Hazlett, Director of Children and Family Policy, Department of Social and Rehabilitation Services, presented written testimony (Attachment 14) stating the Department had solicited input in various ways from child welfare stakeholders, foster parents, current and former foster children, family and grandparent advocacy organizations, members of the judicial system, attorneys who work with children and families, CASA, independent living organizations, state legislators, community mental health centers, community developmental disability centers, substance abuse centers, contractors, subcontractors, and other state agencies relative to what they liked or would like to have changed in the family preservation, foster care, and adoption programs. They were also asked to identify systemwide concerns that did not relate to any specific program or contract. Summaries and conclusions were drawn from an analysis of the responses. Many commentators affirmed the state's child welfare public and private partnership, but recognized the need to build on the successes. The most prevalent concern in family preservation was the need to expand the program. Concerns were raised about the transition between family preservation and foster care services and continuing the family preservation services along with foster care services after reunification was advocated. Areas in foster care noted as needing improvement were recruitment and management, communication and information sharing, and case planning and service provision. Consideration needs to be given to changes in the care and adoption contracts

to address problems with transitioning foster children between the two programs and to improve planning for youth who are viewed as less likely to be adopted. Areas for improvement in adoption services were staff coverage and performance, responsiveness to prospective adoptive parents, and services for older youth and children with special needs. Other themes recurring in more than one program area were:

- recruitment, payment, and management of foster homes;
- provision of mental health services and access to the medical card;
- staff turnover, performance and training;
- additional clarification of roles and expectations for all partners;
- court relationships, expectations, and information requirements;
- continuing lack of certain resources and needed flexibility for providers of services in western Kansas;
- better planning for youth with special needs;
- better ways to help youth who may not have a permanent family when they transition to adulthood; and
- accountability and performance monitoring requirements.

After careful study of the responses, the Steering Committee determined the changes to be considered were significant enough to warrant a one-year delay in the start date for the next round of contracts to allow for further study of the issues raised. The Steering Committee has identified the following areas of the current public-private partnership that need revision in order to achieve the vision for children and families and some areas where it is desirable to raise the bar on successes already achieved:

- program structure,
- quality and array of services and best practices,
- balancing financial structure, accountability, and outcomes,
- balancing competition and collaboration, and
- managing contract transitions.

The Department will use an additional, more focused process to allow contractors to share their ideas with the Department and an advisory team before entering the stages of a formal RFP process that preclude such a free interchange of ideas.

The Department is seeking specific input from contractors to help develop specifications for the pending RFP to be followed by oral presentation of their responses to the steering committee and the Child Welfare Contracts Advisory Committee at a closed meeting in December. The Child Welfare Contracts Advisory Committee includes interested individuals knowledgeable about the child welfare system, but who do not have a specific contracting role and who will be precluded from developing bids in response to the upcoming RFP. The RFPs are scheduled to be released in May 2004, with responses due in September 2004, contracts awarded in January 2005, and a start date of July 2005.

The Chair asked Ms. Hazlett to provide the committee with the names of the members of the Steering Committee and the Welfare Contracts Advisory Committee.

Ms. Hazlett, responding to a comment, stated the Department heard what was said about combining the foster care and adoption contracts and included consideration of this change under program structure. The issue is how do we move children through the system more smoothly.

Staff Report on Health Insurance Coverage for Children of State Employees

Staff, referring to the fact the federal law prohibits the covering of children of state employees through Title XXI, noted this issue had been looked at and there had been some legislative activity starting in the 2001 Session with the introduction of 2001 SB 151. As introduced the bill required, beginning with the 2002 insurance plan year, if a parent were enrolled in a health care plan administered by the State Employee's Health Care Commission, the Commission would be required to provide 100 percent of the cost of coverage for any eligible children. Eligible children were defined as any children who would otherwise be eligible for insurance under Title XXI except for having a parent who was eligible for the state employee's plan. The bill was amended in the Senate committee to make it a pilot program and to require the Commission to provide financial assistance for those state employees with eligible children. The Senate returned it to committee for further amendment to require parents to make a contribution if they would have had to make a contribution under the state employee plan. At the end of the Session an insurance omnibus type bill, SB 19 (Attachment 15), was introduced that included some of the provisions of SB 151. Basically, the legislation requires, within the limitations of appropriations beginning with plan year 2002, the Kansas state employees health care benefit program must establish a pilot program that provides active state employees enrolled in the state plan financial assistance in the form of a percentage of the cost set by the Commission within the limits of the appropriation, to cover an eligible child or children in the state health care benefit program. The Commission is to establish guidelines for eligibility. No appropriation was made for the pilot program this year. Since no one knew how many state employees have children who are not covered by insurance, the Commission contracted with a group to collect this data which has just been sent to the Commission. The indication is that approximately 3,500 state employees would potentially qualify for the assistance envisioned in the legislation, resulting in a potential fiscal impact in the range of $1.3 million to $1.5 million.

The committee was recessed until 1:30 p.m.

Afternoon Session

Continued Use of Monthly Eligibility Cards

Amanda Reichard, Director of Special Projects, Health Care Policy, Department of Social and Rehabilitation Services, presented written testimony (Attachment 16) noting beneficiaries in the state child health insurance program receive yearly plastic medical cards and the Medicaid beneficiaries receive monthly paper medical identification cards with a small portion also receiving a plastic card. The goal since 1997 has been the elimination of monthly medical cards primarily to reduce cost and the logistical components involved. The use of plastic cards also helps reduce the stigma associated with Medicaid. However, there has been an overwhelming negative reaction from the provider communities who have expressed concern that the yearly card would create a liability for their offices because the card lacked important beneficiary-specific information. Despite having other avenues to access this information, providers view the additional effort to access it as administratively and economically burdensome. Some say it would take one full-time person to do the required checking because of the number of Medicaid patients served.

To address this concern and others, staff from Medicaid's fiscal agent, EDS, will conduct a study of the issues surrounding a transition from monthly to yearly cards. Following the study, but no later than the spring of 2004, EDS will submit a document summarizing the findings of their study, recommendations for mitigating any foreseeable negative effects on providers, and proposed

processes for implementing yearly medical cards. The Department is committed to a transition to a yearly card, but doing so will require careful planning to ensure that providers at not overburdened in the process resulting in a loss of providers serving Medicaid beneficiaries.

Referring to a copy of a paper medical identification card (Attachment 17), it was noted the words "Data contained on this card may have changed after printing" appear at the bottom of the card which means the provider has to check before submitting a claim. The conferee stated, with a paper monthly card the provider is less likely to check, because the information is less likely to have changed. In response to a question, Ms. Reichard stated the cost for the paper identification is about $58,000 per month. About 1,000 requests are received per week for paper cards to be reprinted because they have been lost or destroyed. Ms. Reichard was asked to provide the cost of plastic cards to the committee.

A recommendation was made for Social and Rehabilitation Services to make a thorough study of the issue of making the transition to plastic cards and report to the Senate Ways and Means and House Appropriations Committees in January.

HealthWave Followup

Andy Allison, Director, Health Care Finance and Organization, Kansas Health Institute, presented a written outline of testimony covering the results of an evaluation focusing on the Title XXI state child health insurance population, including charts and statistics (Attachment 18), noting the intent is to provide helpful information to policymakers and program personnel and to inform the national policy audience. Data was collected in the late winter and early spring of 2001 and an enrollee survey was done a year later. Mr. Allison stated by February 2003, at least 68,000 children had been in the state child health insurance program at one time or another. In comparison with Medicaid children, new HealthWave Title XXI enrollees have higher incomes, greater employment, head of households are more likely to have attended college, and it is more likely there are two parents living in the home. This indicates that Title XXI reached a new group of working families that would not otherwise have been eligible for public health insurance. On the other hand, more than 75 percent of the children entering HealthWave under Title XXI had some previous experience in the Medicaid program.

New Title XXI enrollees are less healthy than the general population of children, although 72 percent of the children are rated as having very good or excellent health; one in four is identified as having a special health care need which is ten percentage points higher than the general population of Kansas children; one-third had an unmet health care need at some point during the year prior to enrollment; most children had a physician in the year before enrolling, but one-third did not receive a preventive visit which was also true of children in the general population. About 57 percent of new enrollees were uninsured when they entered the program, and 30 percent had been uninsured all year; families of new enrollees often have multiple types of health insurance coverage with 58 percent having at least two kinds of coverage, including the state child health insurance; and 66 percent having at least one uninsured parent. Fifty-one percent of new enrollees were eligible to enroll in job-based health insurance through at least one parent. This does not mean the parent could afford the coverage.

One-third of Title XXI enrollees and 85 percent of Medicaid enrollees signed up for the program in an area office rather than using the mail-in application. This raises a question about what will happen to enrollment if some area offices are closed. In response to a question, the conferee stated he would get urban and rural comparisons for the committee.

Caretakers and Title XXI enrollees a few months after they were enrolled were asked what services were covered by the program. Approximately 90 percent knew about most services. However, 24 percent did not know for sure that dental care was covered; 44 percent for mental health care; and 25 percent for preventive care such as check-ups and immunizations.

Of the 800 families with a child who had recently been disenrolled at the time of recertification, 98 percent said they would recommend the program to another family member or friend, and 80 percent gave the program a rating of "excellent" or "very good" compared to 5 percent rating it as "fair" or "poor." Significantly more parents of Title XXI disenrollees thought children on Medicaid were treated as well as other children and thought friends and family looked down on Medicaid.

The number of children enrolled in public health insurance has grown through February of this year by 77,000 children which is about 80 percent since the Title XXI program was introduced. About 43 percent of this growth is in the Title XXI portion. Factors which contributed to the significant growth in Medicaid since the start of the state child health insurance program are the outreach program, the economic times, and the fact that at the same time the state child health insurance program was introduced, a new policy of providing 12 months of continuous coverage was initiated which led to an increase in the length of time children remained enrolled in Medicaid. Eighteen months after enrollment, 80 percent of Title XXI enrollees were covered by either the state child health insurance program or Medicaid, although about one-third of them had left the program briefly. The most striking result is, despite the fact that over half the children are uninsured when they enter the program, only about 17 percent are uninsured 18 months later.

Based on three independent insurance surveys there were still at least 50,000 or 8 percent of children uninsured in the 2001 time period. The majority of these children were probably eligible either under the state child health insurance program or Medicaid.

In summary, Dr. Allison stated the following:

- HealthWave has reached a distinctly new group of working class families that would not otherwise be eligible for public health insurance, but the vast majority of these children have prior experience in Medicaid.

- Children come to the state child health insurance program with a wide variety of health insurance backgrounds; many have family members that are uninsured or have some other type of health insurance; many children have recently been uninsured and at least half appear to have no alternative source of coverage.

- The introduction of the state child health insurance program and associated changes in enrollment policies led to a very large increase in the number of children covered by public insurance in the last four years; a disproportionate number of these new enrollees have unmet and ongoing health care needs; some children enrolling in the state child health insurance program would probably have insurance coverage even if the program did not exist.

- Even after their children leave the program, families have a very positive perception of the program, and families with children in the program view it more positively than Medicaid.

The following policy implications were noted by Dr. Allison:

- Initial efforts to market and implement the new state child health insurance program have met with success in terms of coverage.

- State policies continue to change which may impact the program, *i.e.*, program integration which raises the question of whether the image of the Title XXI portion is bringing up the image of Medicaid or might Medicaid bring down the image of the state child health insurance program, especially in view of the discussion of the plastic versus paper card, recent gyrations in premiums, and area office closures.

- Opportunities for improvement remain, *i.e.*,enroll eligible children; educate their families about the program; increase continuity of coverage for those who have enrolled.

Responding to a question, the conferee stated there is not data for Kansas to estimate how many children enrolling in the state child health insurance program would probably have insurance coverage even if the program did not exist. National estimates suggest it is anywhere from one-third to one-half. Further responding to a question, he stated there was no followup on the questions relating to awareness of services included in the program to determine what materials were received from the carved out services or what the relationship might be between lack of awareness of the service and the fact the services had been carved out. This might be an important area for future study.

Directions to Staff

The Chair stated that she and Senator Jordan had requested a bill addressing child advocacy centers be drafted. The draft will be brought to the committee for discussion at the next meeting. The Texas legislation distributed at the September meeting of the committee was somewhat overwhelming and gave too much control to state government when it is important for these centers to maintain their neutrality if they are to serve as large a purpose as they do now. The revisor found some legislation in Florida that can serve as a start for Kansas legislation.

Considering changes in the tuition waiver for youth aging out of foster care and possibly making some recommendations was suggested.

Another suggestion was for the committee to review the discussion of changing the one year limit on informal supervision orders to determine whether there should be a recommendation and, if so, what the recommendation should be. A staff member noted that state agency staff had indicated the Department would not have a problem with removing the one year limitation if there were a requirement for a periodic review and that a permanency plan be developed for the child at the same time, two things needed to meet federal requirements. An informal supervision order sets out what the court is ordering the parents to do and does not preclude an adjudication at a later date. It was noted the judges seemed to be in agreement this is an alternative they would like to have, but district attorneys were reluctant to have the limitation removed because of the problems it could create for an adjudication at a later date. Staff was asked to E-Mail the panel participants who appeared yesterday to get their comments and suggestions.

Another area mentioned for discussion and possible recommendations was the impact of large social worker caseloads, which appear to affect services to families and children, and the reasons for such caseloads. Both the state agency and the contractors could be asked to provide their perception of the reasons and possible ways to address the reasons.

Why do some foster children have so many placements? It was noted that while moves can have a negative impact, there are in fact cases where a move is beneficial, such as being closer to home or a step down in the degree of services needed. However, all moves count against the contractor in terms of established outcomes. Limiting the number of moves without any consideration of the reason for the move may in fact not be in the best interest of some children.

Addressing the issue of why some children are not getting needed services was suggested. A part of this could be looking specifically at issues surrounding mental health services.

Requesting Social and Rehabilitation Services to report to the appropriate legislative committees in January on the pilot program in Shawnee County that puts the focus of the contractor and the court on the child, allowing Social and Rehabilitation Services social workers to spend more time with the parents was recommended.

Looking at the concept of one judge per case was suggested.

Another issue mentioned was, while the law says a child cannot be removed from the home only for financial reasons, at times children are unable to return home because the parents cannot afford the requirements placed on them. Is keeping the child in foster care rather than providing flex funds to assist parents in meeting the requirements the best approach? Does the system need to consider family preservation not only at the front end but also at the other end at reintegration?

An issue raised by judges was the limit on their authority to order a child be placed in a secure facility. Now the judge can only recommend such placement with the state agency and the contractor having the discretion as to whether or not the recommendation will be followed. Perhaps a compromise could be reached which would be in the best interests of the child. A suggestion was to make placement in a secure facility automatic if the child has run one other time during the past year. Staff was asked to report to the committee on the specifics of the law in this area.

Looking at ways to expedite the process of securing a court appointed attorney for parents was suggested. It would seem a determination of the need for a court appointed attorney and the appointment of an attorney should be done within the 72 hour window before the parent appears in court. What are the impediments to this happening and how can they be addressed? How can the financial ability of the parents be determined prior to their first appearance in court? This would address one of the reasons for continuances.

Staff was asked to send committee members a copy of the bill draft amending the child-in-need-of-care Code when it has been drafted.

After recapitulating an earlier discussion of the desirability of notifying parents when their child has been picked up and the fact there does not appear to be any reason this cannot be done, it was proposed the state agency and the contractors be asked why this is not done.

Including the issue of confidentiality and the public's right to know was recommended. The concept that the public's right to know pertains only to whether or not tax supported agencies are doing what they are supposed to be doing and following appropriate procedures was mentioned. It was noted roundtable members had been asked to provide their input, comments, and suggestions for how to approach the whole issue of confidentiality, including what the public has a right to know. Also the Judicial Administrator's Office has been asked to provide a list of the types of records and what each contains so everyone would have a better understanding of what is involved when discussing opening of records. Most people have no conception of how many people may be drawn into these records. It was noted there appeared to be agreement the public needs to know something, the child needs to be protected, and there is a need to be able to explain "our side." Is confidentiality a moot point when the parent has made information public? There are also

confidentiality problems within the system itself. There needs to be a sharing of information with foster parents who have a need to know. Sharing information can have an impact on the multiple placement issue. If the foster parent is told everything up front, the foster parent is in a position to say this case is more than he can handle. Then the parent can be given the support needed to accept the child or the child can receive a different placement. This could reduce the number of moves for child and avoid a failed placement. By law, foster parents are required to maintain confidentiality so there does not appear to be any reason information should not be shared with them. It was suggested Social and Rehabilitation Services put this on the agenda of items to be considered in the development of the new contracts. A state agency staff person stated the Department has a confidentiality work group whose agenda includes this issue. Adoptive parents, who should be getting information during the adoption process are not getting information until the end of the process and need to be included in the agenda.

Reference was made to the concern expressed by foster parents because they could not find out what was happening in therapy so they could be better prepared to handle the behaviors of the child resulting from a therapy session. The question was raised as to whether this was a confidentiality or a practice policy issue

Reference was made to the suggestion heard during the roundtable discussion to make adjudication or conviction the criteria for placement on the registry. A member had indicated one reason for setting it lower was there are some cases involving a child which are not strong enough to prosecute. However, there are also cases where children make false accusations, say what they think the interviewer wants them to say, or what children say is misinterpreted. The opinion was expressed that to label someone as an abuser with the possible repercussions which go with that label without an opportunity for “a day in court” appears wrong.

Consideration of adding a new definition of “families in need of service”, a recommendation made by a roundtable member the previous day, was suggested. This would be a step toward putting identification, prevention, and family preservation prior to foster care. Asking judges for comments was mentioned.

Taking a look at Iowa’s new appellate procedure was noted as something which definitely should be done. Looking at Kansas’ procedures was suggested as an agenda item for the next meeting.

Dual case planning and how to speed up the adoption process were mentioned as topics for consideration. A primary issue is the entity that has been working with the child and family has the information that should be used in the adoption process. Involving another contractor and in some jurisdictions another court and judge who have not had prior experience with the child and family and do not have the accumulated information does not seem to be in the best interest of the child. A recommendation made during the discussion was to have child-in-need-of-care cases and adoption handled in the same court.

Making the foster and adoption contractor the same, a recommendation heard many times, was suggested.

Committee members were asked to go through their notes and send any additional ideas to Emalene Correll, Legislative Research. Any draft legislation needed will be drawn up before the next meeting.

The Chair stated that approval had been given for an additional meeting day in November which might necessitate changing the November meeting date.

A motion was made and seconded to approve the minutes of the August and September meetings. Motion carried.

The meeting was adjourned.

Prepared by Almira Collier
Edited by Emalene Correll

Approved by Committee on:

December 1, 2003
(date)