

# ARIZONA STATE SENATE

46TH LEGISLATURE  
FIRST REGULAR SESSION

## MINUTES OF COMMITTEE ON FAMILY SERVICES

**DATE:** February 27, 2003      **TIME:** 9:00 a.m.      **ROOM:** SHR 3

**CHAIRMAN:** Senator Anderson      **VICE CHAIRMAN:** Senator Tibshraeny

**ANALYST:** Barbara Guenther      **COMMITTEE SECRETARY:** Debbie Kennedy

**INTERN:** Stephen Matcha      **ASSISTANT ANALYST:** Tracey Landers

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### ATTENDANCE

### BILLS

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<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Brotherton	X			SB 1034	DPA/SE
Senator Giffords	X			SB 1045	DPA/SE
Senator Rios	X			SB 1074	NOT HEARD
Senator Verschoor	X			SB 1089	DPA/SE
Senator Weiers	X			SB 1352	DPA
Senator Tibshraeny, Vice Chairman	X				
Senator Anderson, Chairman	X				

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### GOVERNOR'S APPOINTMENTS

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<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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Chairman Anderson called the meeting to order at 9:15 a.m., and roll call was taken.

## **APPROVAL OF MINUTES**

**Senator Anderson moved the minutes of February 20, 2003 be approved. Without objection, the minutes were approved as distributed.**

## **CONSIDERATION OF BILLS**

### **SB 1045 – TANF; technical change – DO PASS AMENDED/STRIKE EVERYTHING**

**Barbara Guenther, Research Analyst**, explained that the Temporary Assistance for Needy Families (TANF) block grants is being reauthorized this year. Arizona was one of several states that started transitioning their welfare programs into employment programs in 1995, over a year before the federal welfare reform was enacted in 1996. Arizona set their time limits for receiving TANF cash benefits at 24 months within any 60-month period. The federal government granted Arizona a waiver to continue that time limit. TANF expired on September 30, 2002. Congress passed a continuing resolution to extend the program requirements for one year while the reauthorization is being negotiated, but did not extend the waivers. Therefore, Arizona has to conform to the federal time limit, which is a lifetime cap of 60 months. Ms. Guenther explained the two-line Anderson amendment to the strike-everything amendment dated February 26, 2003 at 11:30 a.m.

In response to Senator Verschoor, Ms. Guenther pointed out that the law currently states that a person may receive TANF benefits as long as it is not more than 24 months within a 60-month period and there can be consecutive 60-month periods. This bill will continue the cash assistance after 24 months but also would cap it at a 60-month lifetime limit. The time limit does not begin with children until they reach the age of 18.

In response to Senator Giffords, Ms. Guenther explained that currently because of the federal waiver, Arizona was allowed to make that exception for children with federal funding of the cash assistance. However, it is unknown if the exception for children has to come out of state funding.

**Eddie Sissons, Executive Director, William E. Morris Institute for Justice**, testified in support of the bill. Ms. Sissons pointed out that the two-parent household is not being addressed in this bill which last year was approximately 865 clients. The two-parent household under State law can only receive TANF benefits for six months and they must participate in the Jobs Program. Ms. Sissons suggested providing a level playing field for the two-parent household.

Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).

**Senator Tibshraeny moved SB 1045 be returned with a DO PASS recommendation.**

**Senator Tibshraeny moved the five-page Anderson strike-everything amendment, dated 2/25/03 at 4:44 p.m. be ADOPTED (Attachment B). The motion CARRIED by a voice vote.**

**Senator Tibshraeny moved the two-line Anderson amendment to the strike-everything amendment, dated 2/26/03 at 11:39 a.m. be ADOPTED (Attachment C). The motion CARRIED by a voice vote.**

**Senator Tibshraeny moved the strike-everything amendment, AS AMENDED, be ADOPTED. The motion CARRIED by a voice vote.**

**Senator Tibshraeny moved SB 1045 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 5-2-0 (Attachment 1).**

**SB 1352 – duty to report – DO PASS AMENDED**

**David Lujan, Research Analyst**, explained that the bill specifies additional individuals with a duty to report when there is cause to reasonably believe that child abuse or neglect has occurred, enhances the penalty for failure to report from a class 1 misdemeanor to a class 6 felony and expands the number of child abuse crimes that fall within the duty to report. Mr. Lujan explained the Rios three-line amendment dated February 18, 2003, the Weiers 15-line amendment dated February 26, 2003 at 3:35 p.m. and the Anderson five-line amendment dated February 26, 2003 at 3:29 p.m. (Attachment D).

Senator Anderson announced that his amendment would be withdrawn.

**Jerry Landau, Special Assistant, Maricopa County Attorney's Office**, testified in support of this bill. Mr. Landau stated that this statute was antiquated and inconsistent and needed to be updated. He further stated their concerns that the current duty to report mechanism is based upon personal observation of a minor and many times there is no personal observation. This bill updates the standard to "reasonable belief" which is a criminal law standard that is widely used. Mr. Landau further commented that more people are added who are required to report. Mr. Landau stated that the Weiers amendment provides a protection of self-incrimination so persons who are in court-ordered treatment who make statements of abuse cannot have this used against them. Mr. Landau pointed out that a class 6 felony can be designated by the prosecutor up front as a misdemeanor or the judge can declare it a misdemeanor and the prosecutor has no say. Mr. Landau further declared that they support having to report abuse of persons who are now over 18, but were victimized when they were under 18. They also changed the age of consent for duty to report when the acts are consensual from 14 to 15.

In response to Senator Rios questioning if the self-incrimination applied to sex offenders in jail, Mr. Landau pointed out that only if the treatment is court-ordered would it fall under the self-incrimination aspect.

In response to Senator Giffords, Mr. Landau stated that the duty to report is based on the violation of the criminal law and sometimes there is a defense due to the relative ages of the individuals being under 18. If there is a defense, there is no crime and therefore no duty to report. Under current law, if two 13-year olds are having sexual conduct, there is a duty to report.

Senator Giffords expressed her concern of the possibility of turning parents into felons. Mr. Landau expressed his view that he would not see this happening.

Senator Giffords reiterated her concern for making parents felons and would like to add language to change this situation.

Senator Rios also expressed his concern for a parent having a duty to report that their son or daughter is having sexual relations.

**Kathleen Carey, Maricopa County Public Defender**, testified in opposition to the bill. Ms. Carey stated that one of their concerns is the fact that a judge could designate a crime from a class 6 felony to a misdemeanor is not necessarily the reality. Ms. Carey pointed out that this bill could involve other scenarios such as medical neglect.

In response to Senator Brotherton, Mr. Landau clarified that the amendment establishes a relationship between the parent and the child and neglect means substantial risk of harm.

Ms. Carey pointed out that there is a risk of two to three years of probation on a class 6 felony. She further pointed out that in her opinion the individuals questioned by Senator Rios would not be protected.

Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).

**David Derickson, Arizona Attorneys for Criminal Justice**, testified as neutral to the bill. He stated they have the same concerns as Ms. Carey, but do support the Weiers amendment. Mr. Derickson commented that this statute would be used by prosecutors and by Child Protective Services (CPS) to determine if a child should be removed from a home. He further stated that this bill could be used in divorce cases. Mr. Derickson further pointed out that this bill states that a serious emotional injury must be reported, which includes anxiety, depression or the propensity to act in a violent way.

**Senator Tibshraeny moved SB 1352 be returned with a DO PASS recommendation.**

**Senator Rios moved his three-line amendment dated 2/18/03 at 2:13 p.m. be ADOPTED (Attachment E). The motion CARRIED by a voice vote.**

Senator Rios explained that his amendment changes the proposed definition of a minor to exclude people over the age of 18 as a minor if an incident occurred when they were minors.

**Senator Tibshraeny moved the Weiers 15-line amendment, dated 2/26/03 at 3:35 p.m. be ADOPTED (Attachment F).**

Senator Rios commented that this amendment excludes people that want to go into therapy and help themselves and it does not have to be court-ordered. It further does not address the issue of some people who are already in jail who want therapy.

Senator Anderson commented that a floor amendment taking out the words "court-ordered" and just stating "treatment" would make the amendment better.

**The motion CARRIED by a voice vote.**

**Senator Tibshraeny moved SB 1352 be returned with an AS AMENDED, DO PASS recommendation.**

**Senator Rios offered a substitute motion that the bill be HELD.**

After Committee discussion, Senator Rios withdrew his substitute motion.

**The motion CARRIED by a roll call vote of 6-1-0 (Attachment 2).**

**SB 1034 – children; medication; behavioral health – DO PASS AMENDED/STRIKE EVERYTHING**

**Tracey Landers, Research Assistant Analyst**, explained that the strike-everything amendment to SB 1034 requires screening of the thyroid, allergy skin test, iron deficiency and nutrient deficiency by a physician before the Regional Behavioral Health Authority (RBHA) refers the child to a psychiatrist. It also requires a physician to provide verbal and written information about possible side effects of psychiatric medication to parents or legal guardian of a child who is eligible to receive state-funded medication.

**Senator Jarrett, sponsor of the bill**, presented a letter to the Committee from the Arizona Department of Health Services (DHS) (Attachment G). Senator Jarrett pointed out that the letter stated that these issues should not be put in statute, but addressed by policy. She further commented that the Arizona Health Care Cost Containment System (AHCCCS) provides a program to evaluate children and gives them tests. Senator Jarrett stated that studies have shown that the children involved in school shootings were on anti-depressants. Senator Jarrett expressed her concern that physicians must have guidelines when putting children on these medications. There are approximately six million children in the country who are receiving psychiatric medication. Senator Jarrett contended that AHCCCS goes by the guidelines recommended in the letter, but we do not know if the private sector does this.

**Pepper Draper, Parent/International Coalition for Drug Awareness**, testified in support of the bill. Ms. Draper indicated that her son was pushed onto Ritalin at the age of eight by the school system. Ms. Draper presented two handouts to the Committee entitled “What you need to know about serotonin-enhancing medications” (Attachment H) and “Symptoms of Hypoglycemia” (Attachment I). She stated that her son was hypoglycemic, but the doctor did not want to address this as an issue. Her son overdosed on the medication Ritalin and got the illness Tourette Syndrome, severe Obsessive Compulsive Disorder and severe Attention Deficit Disorder. He also had mania and insomnia. Ms. Draper stated that her doctor had told her that this drug was safe and had no side effects. Ms. Draper pointed out from the handout the many side effects of serotonin-enhancing medications. Ms. Draper emphasized that children many times are put on these medications needlessly as they have low blood sugar.

Senator Brotherton expressed his concern about requiring that certain tests should be performed being put in statute. Senator Jarrett stated it has to do with the vulnerability of children and the people who have authority over the children. However, she stated that the language concerning the testing would need to be modified.

Ms. Draper added that 89 percent of children who are on stimulant drugs end up going to illegal drugs.

Senator Brotherton expressed his concern that there are always exceptions and problems to everything.

**Sherri Walton, Parent Advocate, Mental Health Association**, testified in opposition to the bill. She stated that she has three children that have mental health disorders and two of them take Aderall. She also takes Aderall. Ms. Walton countered that the medications make their symptoms manageable. Her daughter takes medication for Obsessive Compulsive Disorder. Ms. Walton confirmed that she is in the private sector and tests were conducted before medication was prescribed. Mr. Walton stated that Arizona has the second highest rate of teen suicide in the nation and only approximately one-half of the children with depression are treated.

**Peggy Stemmler, Arizona Chapter, American Academy of Pediatrics**, testified in opposition to the bill. Dr. Stemmler stated that they have done an extensive review over several years of the diagnosis, potential testing and treatment. They have established their own clinical guidelines which address these issues, including evidence that does not support the use of the clinical testing specified in the bill.

**Lauro Patino, Arizona Psychiatric Society**, testified in opposition to the bill and stated that he is a psychiatrist. Mr. Patino contended that there are scientific-based studies that support the opposite of what was stated concerning the need for testing in this bill.

**Mary Rimsza, Doctor, Arizona Medical Association**, testified in opposition to the bill and stated that she is a pediatrician. Dr. Rimsza stated that the costs for this bill would be approximately \$1.26 million to do five allergy tests, thyroid test and the iron deficiency screen. This bill will tell doctors what tests to perform even if the tests are not necessary and the State will be stuck with huge bills.

**Richard Haworth, Volunteer, Citizens Community on Human Rights**, testified in support of the bill. Mr. Haworth noted two books for the Committee to read. Mr. Haworth commented that there are life changing situations when diagnosed as mentally ill as a child.

Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).

**Senator Tibshraeny moved SB 1034 be returned with a DO PASS recommendation.**

**Senator Tibshraeny moved the two-page Anderson strike-everything amendment, dated 1/24/03 at 11:15 a.m. be ADOPTED (Attachment J). The motion CARRIED by a voice vote.**

**Senator Tibshraeny moved SB 1034 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 5-1-1 (Attachment 3).**

### **SB 1089 – adoption agencies – DO PASS AMENDED/STRIKE EVERYTHING**

Ms. Landers explained that the strike-everything amendment to SB 1089 changes the definition of religious employer to a nonprofit religious corporation, association, education institution, charity or society whose religious tenets prohibit the use of contraceptives. The strike-everything amendment

also prohibits the enrollees of religious employer insurance from holding insurers liable for exclusion of prescription contraceptive coverage.

**Ron Johnson, Executive Director, Arizona Catholic Conference**, testified in support of the bill. Mr. Johnson stated that this is a new and improved version of a religious freedom, civil liberties bill. Mr. Johnson further stated that this bill creates an exception for religious employers not to be forced to pay for coverages that are against the tenets of their faith. A law was passed last year that states that if you do provide prescription coverages, you must provide prescription coverage for contraceptives as well. It did allow an exception for religious employers. However, the problem is with the definition. The definition states that if you are a religious employer, you must hire people who share the same tenets. Also, the definition states that you must serve primarily people of the same faith. Most religious organizations serve people of all faiths. Mr. Johnson is urging the Committee to not force them to pay for coverage that is against their tenets.

In response to Senator Brotherton, Mr. Johnson stated that they do not ask a person if they are Catholic when they apply for a support job. There are certain positions where they do need to ask their religious belief. Mr. Johnson reiterated that the issue to them is one of religious freedom and not one of gender discrimination.

**Barbara Meaney, Planned Parenthood of Central and Northern Arizona**, testified in opposition to the bill. Ms. Meaney stated that Arizona's contraceptive law is the result of over two years of work of a very broad stakeholder group. The purpose and intent of Arizona's law is to end decades of discrimination against women in contraceptive coverage. That was the purpose of passing last year's legislation. Ms. Meaney stated that this bill is about discrimination and not religious freedom. Ms. Meaney further stated that the definition is based on language from California that states "an employer must be a non-profit organization and be primarily employing and serving people of the same faith." This definition has been upheld by two courts in California. Ms. Meaney noted that the State has the right to protect the health and welfare of its citizens, which the Legislature did when they passed the contraceptive law last year. Ms. Meaney pointed out that the civil rights act is very narrow in its application to religious employers. The civil rights act does not give religious employers or affiliates of religious employers the right to discriminate in their hiring practices if the position is not to serve a religious purpose. Ms. Meaney noted that if this legislation passes, secular employers will have a right to discriminate against women. She further noted that it will create constitutional problems.

**Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union**, testified in opposition to the bill. Ms. Eisenberg stated that the definition of a "religious employer" is what they are talking about and the decision of the California court is instructive. The courts found that the statutes have a secular purpose, do not inhibit religion and they do not foster excessive government entanglement with religion.

Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).

**Senator Tibshraeny moved SB 1089 be returned with a DO PASS recommendation.**

**Senator Tibshraeny moved the 26--page Anderson strike-everything amendment, dated 2/25/03 at 9:10 a.m. be ADOPTED (Attachment K). The motion CARRIED by a voice vote.**

**Senator Tibshraeny moved SB 1089 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 4-2-1 (Attachment 4).**

**SB 1074 – technical corrections; public health – NOT HEARD**

There being no further business, the meeting was adjourned at 11:30 a.m.

Respectfully submitted,

Debbie Kennedy  
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)