

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature –First Regular Session

COMMITTEE ON HEALTH AND HUMAN SERVICES

Minutes of Meeting
Wednesday, March 23, 2011
House Hearing Room 4 -- 9:00 a.m.

Chairman Ash called the meeting to order at 9:13 a.m. and attendance was noted by the secretary.

Members Present

Mrs. Brophy McGee	Ms. Hobbs	Mrs. Carter, Vice-Chairman
Mrs. Gonzales	Mrs. Judd	Mr. Ash, Chairman
Mr. Heinz	Mrs. Yee	

Members Absent

Mrs. Barton (excused)

Committee Action

SB1056 - DPA (8-0-0-1)	SB1353 - DPA S/E (6-0-0-3)
SB1083 - HELD AT REQUEST OF SPONSOR	SB1396 - DP (7-0-0-2)
SB1113 - DP FAILED (2-6-0-1)	SB1559 - DP (6-0-0-3)
SB1121 - DP (7-0-0-2)	SB1560 - DPA (8-0-0-1)

CONSIDERATION OF BILLS

SB1083 - domestic relations; child custody - HELD AT REQUEST OF SPONSOR

Chairman Ash announced that SB1083 will be held at the request of the sponsor.

SB1121 - maternal mortality; review team(now: review team; maternal mortality) - DO PASS

Vice-Chairman Carter moved that SB1121 do pass.

Jessica Gordon, Majority Intern, explained that SB1121 requires the Child Fatality Review Team to evaluate the incidence and causes of maternal fatalities associated with pregnancy (Attachment 1).

Senator Nancy Barto, sponsor, stated that about 500 women die every year during pregnancy, giving birth or within a year of the end of pregnancy. There were 23 reported maternal deaths in Arizona from 2007 to 2009, including that of the late Kerry Martin, wife of former State Treasurer Dean Martin. Surveys of maternal mortality indicate that about half of the deaths are preventable through changes in systems and practices. The Child Fatality Review Team will operate under the existing Mortality Review Team, which was established by the Legislature in 1993, for which funding is provided through a fee assessed to death certificates. The team will be comprised of volunteers and any expenses incurred will not be reimbursed. She urged the Members to pass the bill.

Robert Johnson, Chairperson, Arizona Perinatal Trust, spoke in favor of SB1121. He said other states have found these teams to be very helpful in reviewing the past to determine what is better for the future. He reviewed a handout regarding maternal mortality, including statistics and causes (Attachment 2). He stated that SB1121 will allow for identification of what causes maternal mortality and what improvements can be made.

Question was called on the motion that SB1121 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 3).

Vice-Chairman Carter announced the names of those who signed up in support of SB1121 but did not speak:

Diane Ziple, Consultant for Sanctity of Life; Arizona Perinatal Trust
Sue Braga, Arizona Chapter, American Academy of Pediatrics
David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association
Pete Wertheim, Chief Legislative Liaison, IASIS Healthcare - Health Choice Arizona
Barbara Fanning, Legislative Liaison, Arizona Hospital and Healthcare Association
Jeff Gray, Legislative Liaison, March of Dimes Arizona Chapter

Vice-Chairman Carter announced the names of those who signed up as neutral on SB1121 but did not speak:

Colby Bower, Arizona Department of Health Services

SB1396 - domestic relations; support; community restitution(now: domestic relations; notification requirements) - DO PASS

Vice-Chairman Carter moved that SB1396 do pass.

Ingrid Garvey, Majority Research Analyst, explained that SB1396 specifies that the court must provide written notice to all parties in domestic relations proceedings that the parties may request conclusions of fact and law on specified issues (Attachment 4).

Chairman Ash surmised that this is a matter of instructing the court to provide notice of an already existing right, to which Ms. Garvey agreed.

Mike Espinoza, representing self, in favor of SB1396, related that Senator Sylvia Allen sponsored SB1314, domestic relations (Laws of 2010, Chapter 221), which included this language, but the Arizona Supreme Court ruled that it was not written in the right manner. An

agreement was made to pull the legislation so the courts could place the requirement in rule. The courts did not abide by the agreement, so this is another attempt to advise people of their rights before going to court.

Karen Duckworth, representing self, spoke in favor of SB1396. She opined that this is a necessary element. The family court system is daunting and people do not always understand how the process works. This notification is a tool to help people navigate the system more effectively and to encourage accountability in the judicial system.

Terry Decker, representing self, spoke in favor of SB1396. He said existing statute requires the court, in every contested custody case, to provide conclusions of fact and law; this bill reinforces the requirement and informs the public.

Vice-Chairman Carter announced the names of those who signed up as neutral on SB1396 but did not speak:

Amy Love, Legislative Intern, Arizona Supreme Court

Question was called on the motion that SB1396 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 5).

SB1113 - ALTCS; care facilities; standards - ~~DO PASS~~ FAILED

Vice-Chairman Carter moved that SB1113 do pass.

Ingrid Garvey, Majority Research Analyst, explained that SB1113 allows private state-licensed facilities that contract with the Department of Economic Security (DES) to provide intermediate care facilities (ICF) for mental retardation services for a member who has a developmental disability (Attachment 6).

Senator Andy Biggs, sponsor, stated that during a meeting with a representative of Hacienda HealthCare, he discovered that the company has a monopoly on private ICFs for mental retardation services. He later found out that is because Hacienda HealthCare was the only private entity licensed by the state prior to July 1, 1988, which is delineated in statute. This bill retains the same requirements for licensure and provision of services, but allows other facilities to provide the same services at the level required by the state. He said if he had a loved one needing these facilities, he would want as many options as possible. There are four government facilities in Arizona and one privately controlled facility, which is Hacienda HealthCare.

Mrs. Brophy McGee asked if stakeholder meetings were conducted regarding the bill. Senator Biggs responded that he met with the Hacienda HealthCare representative a number of times who asked why people oppose the bill. The original language would have eliminated Hacienda HealthCare, which was never the intention; the intention is to allow other private carriers who meet the requirements of the state to provide these services, so the bill was amended. The opposition may be over the unfortunate wording of the original bill.

Ms. Hobbs noted that she received many emails in opposition to the bill, most of which have loved ones in care. None referenced Hacienda HealthCare, but they referenced other homes.

She speculated that people fear their loved ones will not be able to continue receiving care at their present location. Senator Biggs stated that the bill does not threaten anyone's current situation.

Mrs. Yee stated that one of the reasons the bill was held last week is to allow opponents time to meet with Senator Biggs. Senator Biggs stated that he is not aware of anyone contacting his office to request a meeting, which could be checked into since a log of messages is kept.

Chairman Ash commented that the only significant change in the bill is to remove the date of July 1, 1988 because any entity that met state and federal standards prior to that date was eligible to operate under the statute. The bill simply means that if those same standards are met, an ICF is entitled to operate, to which Senator Biggs agreed, but added that there is additional language that is an obstacle for any company wishing to provide services, which states *or under contract with DES on or before July 1, 1988*. The language creates a monopoly because there was only one company under contract, which was Hacienda HealthCare; that language is being removed to create more options. It will not affect Hacienda HealthCare because the facility is already under contract with DES.

Karen Van Epps, representing self, spoke in opposition to SB1113. She expressed concern that an unintended consequence is that people may try to set up a facility without the proper background. Residents living in the current facilities are afraid they may have to leave, which is a very emotional experience. If a company has an opportunity to open a facility and it does not work, it could possibly ruin people's lives. She said the philosophy of DES is community living, but many people in these facilities do not fit into community living, and DES will make the decision of who receives a contract. She referred to Laurie Roberts' column about problems with DES and the fact that people did not even know Hacienda HealthCare is an option (Attachment 7). She requested, if this is the direction in which the state wants to go, that the families of residents be allowed to attend meetings to find out what is happening and what is required for a facility to have an ICF contract.

Mrs. Judd stated that it sounds as if Ms. Van Epps prefers the private facilities and noted that this bill will allow more of those to operate. Ms. Van Epps replied that financially and realistically it is not the philosophy of DES to establish ICFs, which are also very costly.

Mrs. Judd raised a question about the potential for removal of the language to no longer protect Hacienda HealthCare. Senator Biggs indicated that Hacienda HealthCare is still protected because it meets the requirements of the new language.

Mrs. Brophy McGee noted that SB1190 sponsored by Senator Linda Gray, which passed out of the Committee in the prior meeting, requires that parents be given written notification by the state that there is a choice in facilities. She surmised that the concern about this bill is that by removing the language for the private facility, which does look like a monopoly, and opening it up to any state agency, DES will revert back to state-only facilities when there have been problems with patient care in those facilities. Senator Biggs responded if that were the case, DES could withdraw Hacienda HealthCare's approval under current statute. There is no mandate for a privately-owned facility; the language says *or under contract with DES on or*

before July 1, 1998. He said it sounds like the issue is not with private facilities, which perhaps people would like more of; the concern is about DES.

Mrs. Brophy McGee stated that this bill may be premature in light of Senator Gray's bill, or perhaps there should be more communication or understanding of how DES will function.

Chairman Ash remarked that it sounds like there may be some complaints with DES that should be addressed to make sure the correct procedures are in place to approve the facilities. There seems to be apprehension about who may enter the market; there could be a fly-by-night company that will do a disservice, but there may also be a reputable company like the Mayo Clinic that would do a better job than is currently being done. He said he sees no reason not to open this up to other potential institutions and no one will have to change facilities. He added that it will be difficult to compete with Hacienda HealthCare because he understands the company is losing money in this area. Other companies will have to think twice about moving into this market if it is not profitable.

Kathryn Foster, representing self, spoke in opposition to SB1113. She testified that her 46-year-old daughter resided at Campbell House, a state-run ICF, for 23 years where she thrived; however, in the last three years things changed and her daughter came close to death last year due to kidney failure. She had to fight to get an ambulance to take her daughter to Baptist Hospital. She indicated that competition is what America is built on, but DES is broken and cannot manage its own four ICFs properly. If DES is able to allow anyone who qualifies to set up a business, the result will be one nightmare after another. Her daughter is currently living at Hacienda HealthCare, which she found out about from a nurse who works there, and it is a beautiful place. She opined that DES has a vendetta against Hacienda HealthCare and does not want it to operate.

Brenda Wilson, representing self, spoke in opposition to SB1113. She related that her daughter lived at Campbell House for 22 years and died on January 26, 2010. There is a need for more options, but before that happens, the Division of Developmental Disabilities (DDD) at DES needs to be cleaned up. She discussed problems with staff at Campbell House. She said after her daughter's death, she found out that the nurse was overdosing her daughter with a medication that was supposed to have been discontinued. She repeatedly asked the state for an investigation of her daughter's death, but she is still waiting. She suggested that if more private ICFs are going to be allowed, language should be included to medically guarantee client safety and make sure the company knows what it is doing. She noted that she was never told about Hacienda HealthCare; she was only told by DES that if she did not like the situation, to take her daughter home.

Matt Salmon, Lobbyist, Hacienda HealthCare, spoke in opposition to SB1113. He indicated that the concept of competition is wonderful. As the Members heard from the speakers, the article in *The Arizona Republic* details their concern, which is having the "fox guard the henhouse." The same people who will decide who can compete and who will be accepted are the same people that are currently providing substandard care. He said DES has done everything possible to close Hacienda HealthCare in the last ten years, in spite of the fact that it receives the highest marks by far of any entity providing this kind of care in the state. He submitted that if a brand new facility enters the market that does not have 30 years of history, DES will shut the facility down because

it does not like privately-run ICFs and DES will move clients to other substandard facilities. He added that he tried many times to talk to Senator Biggs about amending the bill, but he has not had an opportunity, so he requested that the Members defeat SB1113.

In response to questions, Mr. Salmon said the bill would be improved if it facilitates competition across the board. There should also be safeguards, which are currently spelled out, but if the bill passes, in a year from now there will not be any privately-owned ICFs because the state will want to close them. He reiterated that stakeholders should meet and make sure this is done right and problems at DES are resolved. He indicated that Hacienda HealthCare usually imposes more requirements on its facility than what the state requires, which is why it receives good reports.

Mr. Salmon responded to further questions concerning issues at state-run facilities in relation to recent budget cuts to DES, the basis for concern about DES closing Hacienda HealthCare and parental choice. He noted that if SB1190 passes giving parents a choice, it will be a step in the right direction.

Vice-Chairman Carter announced the names of those who signed up in opposition to SB1113 but did not speak:

- Araceli Chagollan, representing self
- Eleanora Riggers, representing self
- Susan Rich, representing self
- Jim Davis, representing self
- Rosa Ramirez, representing self
- Kathy Roland, representing self
- Barbara Newport, collections specialist, representing self
- Shawntel Fortineaux, respiratory therapist, representing self
- Rebecca Blaine, representing self
- Tami Titus, representing self
- Tina Meredith, representing self
- Crystal Martin, representing self
- Joy Mayne, representing self
- Jose Meraz, representing self
- Larry Konkle, representing self
- Robert Miller, representing self
- Verba Stone, representing self
- Brian Henrie, representing self
- Christine Goodman, representing self
- Jerry Hanks, representing self
- Gilbert John, representing self
- Bobby Goodman, representing self
- Charlene Begay, representing self
- Joelita Tsinnine, representing self
- Bruce Begay, representing self
- Joe Blackhat, representing self
- Arturo Del Rio, representing self
- Tom Pomeroy, Executive Vice President, Hacienda HealthCare

Vice-Chairman Carter announced the names of those who signed up in support of SB1113 but did not speak:

Don Isaacson, Aging Services of Arizona

Krysta Laureano, social worker, representing self

Vice-Chairman Carter announced the names of those who signed up as neutral on SB1113 but did not speak:

Susan Cannata, Attorney, The Arc of Arizona

Heidi Reid-Champigny, representing self, testified in opposition to SB1113. She stated that the issue is oversight of regulations and monitoring of possible applicants to become ICFs by DDD. She talked about her 47-year-old brother who resided at the Earl Group Home and experienced problems in the last three years. She said she recently moved him to Hacienda HealthCare, which she heard about when SB1190 was introduced. She was surprised there was another option because whenever she wanted to move him, she was always told there are no other homes available. When she visits her brother at Hacienda HealthCare, she is overwhelmed by the amount of caring, service and respect from the staff. She said she does not believe anyone opposes competition, but to allow facilities that are not prepared to manage critically challenged individuals, and expect the state to manage that, is outrageous.

Question was called on the motion that SB1113 do pass. The motion failed by a roll call vote of 2-6-0-1 (Attachment 8).

SB1353 - moving violations; assessment; enforcement; equipment - DO PASS AMENDED S/E S/E: behavioral analysts; supervised work experience

Vice-Chairman Carter moved that SB1353 do pass.

Vice-Chairman Carter moved that the Ash four-page strike-everything amendment to SB1353 dated 3/21/11 (Attachment 9) be adopted.

Jessica Gordon, Majority Intern, explained that the strike-everything amendment to SB1353 updates the training requirements for an applicant of licensure as a behavior analyst (Attachment 10).

Stuart Goodman, Intermountain Centers for Human Development, spoke in favor of the strike-everything amendment to SB1353. He stated that this measure is meant to address barriers keeping qualified behavior analysts from obtaining licensure in Arizona. Licensure for behavior analysts was implemented in the 2008 budget, but there were a number of errors and omissions because there was not a full vetting of issues in the last-minute budget process. The strike-everything amendment allows for concurrent coursework and supervision work, and makes supervision hours consistent with national standards and how universities provide supervision experiences to students.

Vice-Chairman Carter announced the names of those who signed up in support of the strike-everything amendment to SB1353 but did not speak:

Gretchen Jacobs, Attorney, representing self

Christy Farley, Executive Director, Northern Arizona University

Question was called on the motion that the Ash four-page strike-everything amendment to SB1353 dated 3/21/11 (Attachment 9) be adopted. The motion carried.

Vice-Chairman Carter moved that SB1353 as amended do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 11).

SB1559 - juveniles; restitution; adoptive parents; exception(now: juveniles; fees; adoptive parents; exception) - DO PASS

Vice-Chairman Carter moved that SB1559 do pass.

Jessica Gordon, Majority Intern, explained that SB1559 allows the Arizona Juvenile Court to waive fees, charges, expenses and maintenance under specified circumstances for a juvenile that was adopted or placed in permanent guardianship (Attachment 12).

Vice-Chairman Carter announced the names of those who signed up in support of SB1559 but did not speak:

Beth Rosenberg, Lobbyist, Children's Action Alliance

Question was called on the motion that SB1559 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 13).

SB1560 - dependent children; hearings; notice - DO PASS AMENDED

Vice-Chairman Carter moved that SB1560 do pass.

Vice-Chairman Carter moved that the Ash 11-line amendment to SB1560 dated 3/22/11 (Attachment 14) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that SB1560 provides that it is evidence of abandonment if an alleged parent of a child refuses to take a paternity test requested by the Department of Economic Security (DES) or by court order and requires a motion for removal to be served on a child's prospective permanent placement at least 15 days prior to a hearing on the motion (Attachment 15). The amendment to SB1560 specifies that any governmental entity must make reasonable efforts not to remove a child from school during regular school hours for activities and appointments not related to school (Attachment 14).

Senator Rick Murphy, sponsor, stated that this bill is an attempt to make improvements to changes made in the last few years to ensure that the intent is followed. In response to a request for examples, he indicated that a few years ago, he sponsored a bill that passed requiring DES to make reasonable efforts so services and visits are provided outside of school hours for school-

age children because children were often removed from school for visits with parents, counseling appointments, etc., which did not make sense. The bill only referenced DES, but many services are provided by the Department of Health Services or regional behavioral health authorities, which are not making those efforts, so that is addressed in the amendment.

Chairman Ash announced the names of those who signed up in support of SB1560 but did not speak:

Beth Rosenberg, Lobbyist, Children's Action Alliance

Question was called on the motion that the Ash 11-line amendment to SB1560 dated 3/22/11 (Attachment 14) be adopted. The motion carried.

Vice-Chairman Carter moved that SB1560 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 16).

SB1056 - central registry; background checks - DO PASS AMENDED

Vice-Chairman Carter moved that SB1056 do pass.

Vice-Chairman Carter moved that the Ash six-line amendment to SB1056 dated 3/21/11 (Attachment 17) be adopted.

Vice-Chairman Carter moved that the Ash 11-line amendment to SB1056 dated 3/22/11 (Attachment 18) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that SB1056 requires the Department of Economic Security (DES) and the Department of Health Services (DHS) to conduct central registry background checks on people who provide direct services to children or vulnerable adults (Attachment 19). She explained that the Ash six-line amendment to SB1056 clarifies that the Board of Fingerprinting must determine central registry exceptions for each substantiated report and allows the Board to consider a person's criminal record when determining an applicant's successful rehabilitation (Attachment 17).

Ms. Garvey related that the Ash 11-line amendment contains the following (Attachment 18):

- Adds a provision to the category of individuals subject to the central registry check by DES.
- Clarifies that DHS must verify information for individuals that work or apply to work in any position that provides direct services to children.
- Eliminates the requirement that DHS use the information in the central registry to determine qualifications for child care licensure.
- Removes the requirement that DHS notify individuals who are employed or seeking employment to provide direct services to children who are disqualified due to a central registry check and requires DES to make that notification.
- Eliminates DHS from having to provide forms to be certified by individuals working in a position that provides direct services to children or vulnerable adults.

Chairman Ash noted that Senator Linda Gray, the sponsor, is in a Committee meeting and cannot be present.

Chairman Ash announced the names of those who signed up in support of SB1056 but did not speak:

Kathy Seeglitz Ber, Director of Legislative Services, Department of Economic Security
Bruce Liggett, Executive Director, Arizona Child Care Association
Bev Herman, Arizona Association of Providers for People with Disabilities
Beth Rosenberg, Lobbyist, Children's Action Alliance

Chairman Ash announced the names of those who signed up as neutral on SB1056 but did not speak:

Colby Bower, Arizona Department of Health Services
Dennis Seavers, Executive Director, Arizona Board of Fingerprinting

Monica Attridge, Arizona Association of Providers for People with Disabilities, spoke in favor of SB1056. She related that the bill was sponsored to make a technical correction, but after she talked to Senator Linda Gray about having to fire long-term employees who showed up in the central registry with substantiated child abuse reports, Senator Gray decided that a good cause exception is needed. The Board of Fingerprinting was chosen because it is known for its integrity, impartiality and it is already set up. This will apply in very few cases, but one example is a 19-year-old mother who accidentally ran over her toddler 15 years ago. The toddler was not seriously hurt, but was taken away from the family for a few days. The toddler was returned and the report was substantiated because it happened, but the individual did not know she had 14 days to appeal. The individual had to be fired.

Question was called on the motion that the Ash six-line amendment to SB1056 dated 3/21/11 (Attachment 17) be adopted. The motion carried.

Question was called on the motion that the Ash 11-line amendment to SB1056 dated 3/22/11 (Attachment 18) be adopted. The motion carried.

Vice-Chairman Carter moved that SB1056 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 20).

Chairman Ash expressed appreciation for the work of the Staff and Members during the Session.

Without objection, the meeting adjourned at 11:16 a.m.

Linda Taylor, Committee Secretary
April 12, 2011

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)