

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-first Legislature – First Regular Session

COMMITTEE ON REFORM AND HUMAN SERVICES

Minutes of Meeting
Thursday, January 31, 2013
House Hearing Room 1 -- 9:00 a.m.

Chairman Montenegro called the meeting to order at 9:05 a.m. and attendance was noted by the secretary.

Members Present

Ms. Dalessandro	Mr. Mendez	Ms. Townsend, Vice-Chairman
Mrs. Gonzales	Mr. Seel	Mr. Montenegro, Chairman
Mrs. Lesko	Mr. Smith	

Members Absent

None

Committee Action

HB2259 – DPA S/E (8-0-0-0)	HB2074 – HELD AT REQUEST OF SPONSOR
HB2348 – DPA (5-3-0-0)	

CONSIDERATION OF BILLS

HB2074 - expedited foster home approval – HELD AT REQUEST OF SPONSOR

Chairman Montenegro announced that HB2074 will be held at the request of the sponsor.

HB2348 - foster home licensure; immunizations. – DO PASS AMENDED

Vice-Chairman Townsend moved that HB2348 do pass.

Vice-Chairman Townsend moved that the Lesko four-line amendment dated 1/30/13 (Attachment 1) be adopted.

Ingrid Garvey, Majority Senior Research Analyst, advised that HB2348 is an emergency measure that states the Arizona Department of Economic Security (DES) must not require a foster parent to immunize the foster parent's natural or adoptive children as a condition of licensure (Attachment 2). Ms. Garvey explained that the Lesko four-line amendment dated 1/30/13 specifies there is no right of action against the state for the consequences of a decision regarding immunization.

In response to inquiries, Ms. Garvey addressed amendment concerns relating to limited liability and parent recourse.

Mrs. Lesko, sponsor, stated that DES requested the amendment as a preventative measure. She said the issue of a possible lawsuit was brought to her attention; to negate concern, an amendment was added to include a limited liability clause.

Mrs. Lesko advised that the intent of HB2348 is to increase the number of qualified foster care homes enabling additional children to live in a single home rather than a crisis shelter or a group home. Developmentally disabled and kinship foster care homes (which account for most of the foster care homes) do not require foster parents to immunize their natural or adoptive children. She said that DES will continue to check the immunization database to monitor a foster child's immunization record. If an immunization is due, the foster child can be vaccinated, which in turn, protects the child from those without immunizations. Mrs. Lesko stated that DES has discretion in placing a foster child in a home and can place on a case-by-case basis. She related that foster children are already exposed to risk at the following locations:

- Emergency shelters
- Group homes
- Daycare centers– waivers for medical and religious reasons
- K-12 schools – waivers for medical and religious reasons

Mrs. Lesko stated that HB2348 will aid in placing the 14,400 foster children in need of foster care homes. She related that it is financially more affordable for the state to place foster children in single homes rather than group homes.

Susan Van Tienderen, representing self, testified in favor of HB2348 and cited her experience with attempting to acquire a foster parent license. She related that her natural born children are not fully immunized and, due to DES requirements, she is unable to obtain a license because of this. Ms. Tienderen advised of her interest in adopting children and stated that she has met numerous other families in her situation. She said that with the shortage of foster homes in Arizona, she is unable to understand why families are being denied the ability to provide a safe, loving and stable home for a foster child.

In response to questions, Ms. Tienderen explained the “requirement to vaccinate” rule in the Arizona administrative code and said that if the subject is approached in conversation, the applicant is denied a license. She advised that foster children can still be immunized when the natural born or adopted children of the caregiver are not.

Cecilia Jones, Chief Executive Officer, Human Resource Training, Inc, testified in opposition to the proposed Lesko amendment and provided a background on the function of her agency. She expressed that as a private agency without control over child placements, she is concerned with the state relinquishing its liability. She explained that not all foster children are immunized and some foster children have never even been to school. When a child is removed from a home, DES attempts to place the child in a foster home within two hours. She stated that by placing all the liability responsibilities on the smaller child welfare agencies, the Legislature forces the

agencies to decrease the risk of liability by denying potential foster parents for lack of immunizations. She stated that she believes the Lesko amendment creates a further burden on private agencies and undermines the original bill.

Mrs. Lesko explained that DES requested the amendment as a preventative measure. She responded to Ms. Jones' concern of transferring liability to private agencies and relayed she will look into the matter and make additional changes if necessary.

In response to Mrs. Lesko's question, Ms. Jones advised the DES immunization database is often overlooked when a CPS agent is in the middle of an investigation while in the process of placing numerous children in the middle of the night.

Chairman Montenegro inquired if Ms. Jones was only against the amendment and not the bill. Ms. Jones replied that she has concerns with HB2348 and would like to see safety measures within the language of the bill for private agencies.

In response to a question, Ms. Jones reiterated the role of private agencies in relation to DES.

Anne Kiley, representing self, testified in support of HB2348. Ms. Kiley read a letter written by a former foster child, Campbell Amy Brown, detailing her experiences in the Tucson foster care system. The correspondence summarized how she went from foster home to foster home and group home to group home, totaling 42 homes by the age of 18 years of age. Her siblings were rarely seen and are nothing more than acquaintances. People assumed that she was a difficult child due to the numerous foster homes; however, she was active in sports, played violin, volunteered in the community and graduated high school with a 4.2 grade point average despite attending seven high schools, two middle schools and dozens of elementary schools. She wrote how she prayed every evening for a home and explained how she did not care if her foster family was immunized or not; she just wanted a home. She stressed the importance of children living in loving homes in order to become stable, functioning members of society. In closing she encouraged Members to support legislation to create additional foster care homes for this vulnerable group of children.

Ms. Kiley reminded Members that children only have one childhood.

Marcia Reck, Director, Arizona Adoption and Foster Care, representing self, testified against HB2348 and the Lesko amendment, stating that she echoes Ms. Cecilia Jones' concerns. Ms. Reck advised that over the last four years, the number of families she knows of that have been denied as foster care providers due to immunizations was only two. She addressed the possible consequences for families with children under the age of three when people choose not to immunize and questioned the liability responsibility.

Mrs. Lesko, clarified that HB2348 does not remove the discretion from DES on where the agency places the child and reiterated that DES has the authority to place the child on a case-by-case basis. She questioned the difference of placing a child among people in an emergency shelter where vaccinations are unknown versus placing the child in a single home without vaccinations. Ms. Reck replied that when placements are done quickly, DES personnel could miss viable information pertaining to vaccinations.

To that point, Mr. Mendez questioned if it was Ms. Reck's opinion that the state should not put children at increased risk by keeping them out of homes with children who have not been immunized. Ms. Reck answered in the affirmative.

Discussion ensued on the concern of removing the state's liability, the actual risk of exposure to disease, and the cost of denying foster care licenses to families lacking all immunizations.

Mrs. Lesko stated that with the shortage of foster care homes in Arizona, the goal of HB2348 is to provide additional homes to the 14,400 foster care children in the system.

Gina Apilado, representing self, in favor of HB2348, cited her family's experience when her daughter had a severe reaction to a vaccination. The vaccination caused severe damage to the child's immune system that required years of recovery. Ms. Apilado said that she learned an immense amount of information relating to vaccinations. She stated that vaccines are good public policy but due to a genetic predisposition, they are not an option for her family. She expressed her aspirations of adopting or fostering children in her home but learned that because of the lack of vaccinations, she could not qualify as a foster parent.

In response to a question, Ms. Apilado stated that due to immunization requirements in Arizona, her family contacted a private adoption agency to adopt a foster child or a sibling group of two from another state. She said that they are currently waiting to be matched with a child or sibling group which will likely come from Texas, Florida or Nevada.

Daniel Van Tienderen, representing self, testified in support of HB2348. Mr. Van Tienderen commented on previous statements regarding the liability issue of foster children contracting a disease due to a lack of immunizations. He questioned the probability of trying to pinpoint the exact location of where a child contracted a disease when they are exposed to numerous environments such as: daycare, school, home, church, etc. He stated his astonishment when he was denied the ability to become a foster parent because his children are on a selective schedule for vaccinations. The state has a severe shortage of foster care homes and qualified families are being denied a license because of vaccinations.

In response to a question, Mr. Tienderen stated that his family is willing to adopt if HB2348 succeeds.

Marvina Case, representing self, testified in favor of HB2348 and provided details of her experience while attempting to become a licensed foster care parent. She was denied because of her child's lack of immunizations due to medical reasons. She said that her family is willing to foster a sibling group and cited local statistics on the extreme shortage of foster care homes in her area. Ms. Case informed the Committee that her family has welcomed foreign exchange students in place of foster children.

In response to a question, Ms. Case advised of her aspiration to adopt four or five foster children.

Beth Rosenberg, Director of Child Welfare and Juvenile Justice, Children's Action Alliance, testified as neutral on HB2348 and in opposition to the proposed Lesko amendment due to liability reasons.

Chairman Montenegro questioned if Ms. Rosenberg has the same concerns as Ms. Jones. She answered in the affirmative.

Vice-Chairman Townsend announced the names of those who signed up as neutral on HB2348 but did not speak:

Kathy Ber, Director of Legislative Services, Department of Economic Security
Susan Martin-Warren, representing self

Vice-Chairman Townsend announced the names of those who signed up in support of HB2348 but did not speak:

Cindy Theorin, representing self
Crista Gofron, representing self
Tammy Falkner, representing self
Wendy Ross, representing self
Kris Jacober, representing self

Vice-Chairman Townsend announced the names of those who signed up in opposition to HB2348 but did not speak:

Suzanne Schunk, representing self
Monica Talavera, representing self
Kori Mangum, representing self
Leticia Medina, representing self
Cynthia Sewell, representing self
Christie Scharrer, representing self
Priscilla Salas, representing self
Noel Maloney, representing self
Kim Baird, representing self
Krista Bragg, representing self
Alice Davis, representing self
Stephanie Schuh, representing self
Talasha Thues, representing self
Amber El-Hoss, representing self
Kevin Fugate, representing self
Andrea White, representing self
Olivia Fryer, representing self
Alyssa Fagan-Clark, representing self
Angelica Favela, representing self
Pamela Royster, representing self
Wendy Jones, representing self
Rahimah Phillips, representing self
Christine Shrader, representing self
Vanessa Camp, representing self
Sue Braga, Executive Director, Arizona Chapter of the American Academy of Pediatrics

Question was called on the motion that the Lesko four-line amendment dated 1/30/13 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Townsend moved that HB2348 as amended do pass. The motion carried by a roll call vote 5-3-0-0 (Attachment 3).

HB2259 - vocational rehabilitation; prosthetic appliances; orthodontics – DO PASS
AMENDED S/E
S/E: same subject

Vice-Chairman Townsend moved that HB2259 do pass.

Vice-Chairman Townsend moved that the Montenegro 15-page strike-everything amendment to HB2259 dated 1/29/13 (Attachment 4) be adopted.

Ryan Sullivan, Majority Assistant Research Analyst, explained that the proposed Montenegro 15-page strike-everything amendment to HB2259 dated 1/29/13 (Attachment 4) exempts orthodontic devices from the state transaction privilege tax (TPT) (Attachment 5).

Representative Tom Forese, sponsor, explained that this tax issue was brought to his attention by a former constituent and orthodontist specializing in the product Invisalign™; an alternative to metal braces. He stated that the city in which the orthodontist resides started taxing the product differently resulting in a significantly higher tax.

In response to Members' questions, Representative Forese stated that in the past, the tax was not applied to this type of product, the tax rate for metal braces is lower and that the constituent resides in the city of Chandler. He related that when the issue was brought to Chandler's attention, the city graciously agreed to work with the Member. The matter was an issue of interpreting the difference between the definition of a product and a service.

To that point, Mrs. Lesko commented on the necessity of simplifying the TPT sales tax.

John MacDonald, Arizona Dental Association (ADA), testified in support of the proposed Montenegro strike-everything amendment to HB2259 and cited the procedural history. He stated that as originally drafted, the language essentially made the same change but was put into a different section of law. In working with the Arizona Department of Revenue, ramifications were identified and the decision to insert the language into a different section of law was made to prevent unintended consequences. Mr. MacDonald informed Members of the possibility for a Floor amendment to address a procedural change. He stated that the ADA will still support the bill.

Sean Laux, Legislative Liaison, Arizona Department of Revenue, testified as neutral on the proposed Montenegro strike-everything amendment. He advised that the Governor's task force spent six months figuring the differences between the model city tax codes and the state TPT base. The recommendation suggest that both the state TPT base and the model city tax codes be identical, thus eliminating the possibility of differing interpretations.

In response to a question, Mr. Laux stated that the Montenegro strike-everything amendment clarifies language and prevents misinterpretations of taxable transactions.

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns, testified as neutral on the proposed Montenegro strike-everything amendment stating that the language allows state and local governments to remain in conformity on the tax issue. Mr. Guillen thanked Representative Tom Forese for working with the City of Chandler and the League of Arizona Cities and Towns.

Vice-Chairman Townsend announced the names of those who signed up in support of the strike-everything amendment to HB2259 but did not speak:
Kevin Earle, Executive Director, Arizona Dental Association
Edward Myers, Attorney, Arizona Center for Disability Law

Question was called on the motion that the Montenegro 15-page strike-everything amendment to HB2259 dated 1/29/13 (Attachment 4) be adopted. The motion carried.

Vice-Chairman Townsend moved that HB2259 as amended do pass. The motion carried by a roll call vote 8-0-0-0 (Attachment 6).

Without objection, the meeting adjourned at 11:03 a.m.

Abby Selvey, Committee Secretary
February 19, 2013

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