

To: Jill VandenBosch, Sen. Karen E. Spilka
From: Lance Stewart
RE: 4/30/07 CHINS meeting regarding SB 113, An Act Regarding Child and Families
Requiring Assistance
Date: May 1, 2007

On April 30, 2007, the Senator met with members of the CHINS executive steering committee to discuss outstanding questions over the proposed legislation, Senate Bill 133, An Act Regarding Child and Families Requiring Assistance. In attendance were **Michael Dsida**, Deputy Chief Counsel, Committee for Public Counsel Services; **Mia Alvarado**, Chief of Staff, Department of Social Services; **Pat Walsh**, Deputy Commissioner, Office of the Commissioner of Probation; **Jim Morton**, Administrative Office of the Juvenile Court; **Harry Spence**, Commissioner, Department of Social Services; **Robert Kinscherf**, Assistant Commissioner, Department of Mental Health; **Lisa Lambert**, Assistant Director, Parent/Professional Advocacy League; and **Bob Truillo**, Department of Youth Services.

Court Process

The Senator raised her concern regarding the need for input from Commonwealth judges and justices on the court process proposed by SB 113. **Jim** will raise this concern with the Chief Justice at next week's judges conference; said the Chief is concerned about the resources needed to enact the bill, and specifically the proposed response time for Community-Based Crisis Intervention Services (CCIS). (Section 1, § 8 of the bill requires that initial response to a referral or request for services occurs within 2 hours, and that stabilization occurs within 6 hours.) The Chief feels that the response time itself is a good idea, but that the provisions should not be enacted without sufficient resources for such a response time. The Senator responded that at least part of the answer to this concern is that *Rosie D* requires that mental health care be provided; thus, resources must be made available. **Mike** said that Judge Blitzman is interested, but is also concerned about resources.

Reconvening Subcommittees

The group agreed that it is not worth the effort to reconvene the subcommittees.

Parental Behavior as Trigger

Bob raised the concern that, if parental behavior or needs are criteria for requesting assistance, families will be discouraged from seeking CCIS. The suggested approach to community services would subject families to questioning on "everything," rather than simply the child's behavior. As a result, families might be more likely to back out of a suggested plan.

Hearings

Some members of the committee raised the concern that aspects of SB 113 might be redundant with aspects of the Care & Protection statute. **Jim** raised the concern that the hearing contemplated in Section 4, § 39S (court can order emergency limited custody where it determines that there is a likelihood of serious harm to the child) is redundant with a Care & Protection hearing.

Jim also pointed out that the 72-hour hearing envisioned in § 39S might conflict with the notice and appointment of counsel requirements of other provisions of the bill. § 39Q requires that counsel be appointed to a child 3 business days prior to any hearing. § 39O requires that a summons and a copy of the Request for Assistance be sent to the child and any parent who did not sign the Request for Assistance, requiring the child and the parent to appear in court to answer the Request. If the court found probable cause of a likelihood of serious harm to the child, and ordered emergency limited DSS custody, followed by a 72-hour commitment hearing (as described in § 39S), the clerk may not have time to appoint counsel in compliance with the time requirements of § 39Q, or to provide notice to the child and parent in compliance with § 39O. The Senator agreed that the notice and appointment of counsel requirements should be clarified in the context of § 39S' 72-hour hearing.

Preventive vs. Acute Responses

Mike expressed a concern that SB 113 focuses on the response of schools to acute cases of truancy, rather than on preventive measures. The Senator pointed out the requirement in Section 1, § 7(a) that, where a school official files a request for assistance, the school, child and family must have completed a truancy program certified by the Department of Education. The Senator suggested that this requirement will encourage schools to address both prevention and acute cases.

The meeting included a lengthy discussion regarding the virtue of the prosecutorial model employed by CHINS. A general frustration was expressed that the model cannot adequately serve the problem-solving goals of CHINS. **Robert** and the Senator expressed the outlook that SB 113 proposes a multi-tiered system that, while largely maintaining CHINS' prosecutorial structure, seeks to prevent as many children as possible from falling through the cracks of the system.

Out of this discussion came the suggestion of **prioritizing a developmental piece of CHINS**, focusing on early truancy. It was noted that the general goal of CHINS is preventing problematic behavior by focusing on younger, at-risk children, but that most attention and resources go to older children already engaged in problematic behavior. Children who are truant in middle school are much more likely to end up in the juvenile system than children who commence truant behaviors in high school. The more any child gets behind in school, the less likely the school district is to address the needs of that particular child.

Consequently, the suggestion was made that SB 113 might do the most good if it focused initially on the behavior of younger children engaged in truancy. Specifically, **Robert** suggested that the program proposed by SB 113 could be implemented in phases, with Phase 1 focusing only on middle school-age children, while Phase 2 would extend the program to children in high school. Presuming the program was effective in addressing the needs of middle school children in Phase 1, far fewer children would need assistance when they reached high school-age at the time that Phase 2 was implemented. The hope is that earlier interventions are less expensive, and more likely to be family-based and voluntary, rather than institution-based and compulsory.

Bob expressed concern that such an implementation would skip a generation of children in need of services; **Robert** countered that current services are not serving those children anyway. The Senator expressed discomfort with the idea of ignoring high school children altogether in the implementation of the bill's program, but agreed that it might be appropriate to focus resources on early truancy.

The Senator also noted that this would be a good conversation to have with the Department of Education.

Bob noted that there is very little willingness on the part of high schools to maintain interventions, because children tend to cycle through the system. **Spence** suggested that the problem of devoting resources to preventive vs. acute care is very difficult to legislate, and that perhaps the most useful thing that can be done to the bill in this regard is to include a preamble specifying a desire to focus more resources in preventive solutions. Spence went on to note that, while early truancy is the best indicator of a child in need of services, schools lack the resources to respond to that indicator, and are not able to “reach into families”; he suggested that the Department of Education should alter certified truancy programs to prioritize early truancy. The Senator responded that it might be possible to further address early truancy through this bill and a parallel item in the budget; the Senator also agreed that a preamble specifying this concern should be included in the bill. **Lisa** suggested that the bill clarify that “early” truancy refers to the need to respond early to the presentation of truant behavior, not to the need to respond to children of an early age.

Custody v. Respite Care

The group had a discussion regarding custody vs. respite as a response to problem behavior. **Mike** pointed out that taking a child into DSS custody reduces the system’s ability to address the family’s needs; that contempt is only moderately preferable; and that resources should be devoted to respite care as a tool for resolving a family’s needs.

Spence expressed the feeling that taking a child into custody would never be appropriate unless grounds were present for a C&P hearing. **Spence** added that, where services are sought voluntarily (as envisioned by SB 113), custody is unnecessary as a sanction. Currently, where a parent refuses to take a child home, that child is placed in DSS care; **Spence** concurred with **Mike** that respite care should be used in those situations instead.

However, **Spence** expressed the concern that removing DSS custody as a possibility for CHINS cases would cause a cost problem; **Robert** suggested that it would, indeed, unless respite care could be provided for by public sector health insurance. Spence suggested that, where a parent is unwilling to take a child home, temporary short-term care might be the best option; **Mia** noted that such care is not contemplated in the bill except in the instance of the 72-hour hearing, but that such a mechanism could be explored.

Lisa expressed the concern that, when parents have health insurance, public sector health care should not pay for care ordered for kids in court; she wondered whether insurance companies could be approached to facilitate the use of personal health insurance to fulfill court-ordered care. **Robert** noted the current strain on public sector health insurance money. The Senator suggested that Lisa should attempt to rally resources as a first push on this concern. It was noted that Dr. Walter Harrison should be asked to push for a Blue Cross/Blue Shield study.

Miscellaneous Concerns

Lisa wondered whether a child brought into court on delinquency charges would still be able to plead his or her case down to a CHINS hearing. Since the CCIS piece is voluntary, and is the proposed new beginning point for CHINS, it seems unlikely that a child facing delinquency charges could move his or her case to CHINS.

Mike raised a concern regarding agency accountability, and specifically the current state of affairs wherein a child may be held in contempt for violating a CHINS agreement, but agencies providing services are not held accountable.