



COUNTY ADVISORY BULLETIN

CAB

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FAMILY AND CHILDREN FIRST/CHILDREN SERVICES (SUB HB 274)

INTRODUCTION

Sub HB 274, effective August 8, 1996 makes a number of changes relative to procedures involving public children services agencies and Family and Children First Councils (FCF). Most significant for boards of county commissioners are provisions allowing commissioners to review FCF expenditure proposals and a provision prohibiting juvenile judges from serving on a children services board and requiring the commissioners to appoint an additional member. Other provisions including involving the court in FCF dispute resolution, requiring a risk assessment procedure on children service cases, setting minimum in service training requirements for children services workers and supervisors, allowing removal of perpetrators rather than victims, giving information regarding disposition of a complaint to an alleged perpetrator and changes in the definition of dependent child, are of interest to commissioners and are briefly summarized in this CAB.

PROVISIONS REQUIRING BOARD OF COMMISSIONERS ACTION

COMMISSIONER REVIEW OF FAMILY AND CHILDREN FIRST COUNCIL EXPENDITURE PROPOSALS (ORC 121.37(D)(4))

HB 274 added language in section 121.37 at CCAO's request, which allows a board of county commissioners which is served by a single or multi county Family and Children First Council or intersystem cluster, to pass a resolution which would require that each time the council proposes to enter into an agreement, adopt a plan, or make a decision that requires expenditures for two or more families, to submit that proposal to the board of commissioners for approval. The board of commissioners has 15 days after receipt of the proposal to pass a resolution approving or disapproving the proposal. If no action is taken in the 15 days, the proposal is considered approved. If the commissioners adopt a resolution disapproving the proposal within the 15 days, the council must submit a modified proposal subject to the same conditions. No such proposal may be implemented without the commissioners approval.

This review procedure

- does not apply to decisions made by the council regarding expenditure of funds on an individual case or an individual family
- does not apply to individual case decisions rendered by the local dispute resolution process, including cases resolved by court under 121.38
- does apply to establishing new programs, changing existing programs, and pooling of funds or setting new target populations, if the proposal entails expenditure of funds
- applies to expenditure of all funds--federal, state, local or private. It is not limited to county funds
- is permissive, not required. If the board of commissioners does not wish to review FCF proposals, the board need not pass a resolution requiring such review

If a board of commissioners has concerns relative to an FCF proposal but has not had time to resolve those concerns within the 15 calendar day deadline, the board has the authority to pass a resolution disapproving the proposal to prevent its automatic approval and proceed to work with the council or relevant parties to resolve the concerns, so that a modified proposal may be presented for subsequent approval. It may sometimes be necessary to stop the 15 day clock to allow remaining differences to be worked out, even if the board has no problem with the overall proposal. All proposals should be reviewed not only for immediate fiscal impact on the county but for longer range potential fiscal and systems impact on the county and county agencies.

APPOINTMENTS TO CHILDREN SERVICES BOARD (ORC 5153.05/5153.08)

Under prior law, for many years, the juvenile judge or the judges' appointee has served on the children services board (CSB) along with at least four members appointed by the county commissioners. HB 274 removes the juvenile judge or the judge's appointee effective August 8, 1996 and requires that the commissioners appoint all members of the CSB. Under 5153 the commissioners have always had the authority to appoint from 4 to 9 additional members depending on the population of the county. Effective August 8, 1996, the board of commissioners must appoint at least 5 members to a CSB for 4 year staggered terms, so that no more than 2 terms expire at the same time. The juvenile judges agreed to be removed from the CSB, because of the potential for conflict of interest in the dispute resolution process.

OTHER PROVISIONS OF INTEREST TO COMMISSIONERS

FCF DISPUTE RESOLUTION PROCESS (121.38)

In the FY 96-97 state budget (HB 117) each county was required to establish a family and children first council or a local intersystem services to children cluster. Each council/cluster was required to develop a service coordination plan, which designates service

responsibilities or a procedure to determine service responsibilities among the various local agencies. The plan also required a local, binding dispute resolution process to resolve disputes between local agencies.

HB 117 required submission of the service coordination plan (SCP) by January 1, 1996 to the Ohio Family and Children First Cabinet Council, which was to approve or reject the SCP by May 1, 1996. If a county failed to submit a plan by January 1, 1996, the Cabinet Council was to develop a plan. All plans were to be implemented by July 1, 1996. Under HB 274 a plan was to be submitted by March 15, 1996. The date of approval was changed to June 1, 1996, and the date for implementation of a state imposed plan was changed from July 1 to August 1. The implementation date for all other plans remains July 1, 1996.

Under HB 273, the dispute resolution process may be identical to that developed under HB 117, except that such a process is not binding. Under HB 274 an agency which is determined responsible for services by the dispute resolution process may appeal to the juvenile court within seven days of the determination. The court must hold a hearing within 90 days. Each agency involved in the determination must be a party to the case. The judge is to determine which agency (or agencies) is responsible for services, pursuant to the comprehensive service plan developed by the council, and may not order an agency to provide services to a child whose condition or needs do not make the child eligible for services under laws governing the agency. The law requires the agencies designated in the dispute resolution process to provide services pending a decision by the courts, and provides for agencies ultimately deemed responsible by the court to reimburse other agencies for interim services. It is significant that the court may only order services from a local agency if the case has been through dispute resolution and that only the agencies involved in the dispute resolution are allowed to appeal to the court. Court determinations requiring expenditure of funds under this process are not subject to review by a board of commissioners under ORC 121.37(D)(4).

LIMIT ON SERVICES PROVIDED BY PUBLIC CHILDREN SERVICES AGENCY (PCSA) (ORC 5153.16)

- Services to adjudicated children only. - Though it does not change the requirement that a PCSA investigate any complaint of abuse, neglect or dependency or provide emergency services, HB 274 does limit ongoing care by a PCSA to children adjudicated by the court to be abused neglected or dependent.
- Visitation Supervision - Prohibits any court from requiring a PCSA to provide supervision of visitation rights unless ordered by the juvenile court in a criminal or protective case or unless ordered by the common pleas court in a domestic violence case. (Some courts have routinely ordered supervision in divorce cases).

RISK ASSESSMENT REQUIREMENTS (ORC 5153.16(B)(17))

Requires a PCSA to perform a risk assessment, pursuant to rules adopted by the Ohio Department of Human Services, to determine the relative risk of abuse, neglect or

dependency to a child in connection with the investigation of a report. This system has been developed by ODHS and PCSA's together and will provide a standard procedure for investigating abuse/neglect/dependency and some standards against which to measure whether a child is at risk. This standard operating procedure should help to ensure that children's situations are thoroughly assessed and should reduce the risk of children falling through the cracks and consequently reduce liability for counties.

TRAINING REQUIREMENTS FOR CASEWORKERS AND SUPERVISORS (ORC 5153.122)

The bill requires each caseworker hired by a PCSA to complete at least 90 hours of training in the first year of employment and no less than 36 hours in each year thereafter. Supervisors are required to complete 60 hours of training in the first year in a supervisory position and 30 hours annually thereafter. Most training is provided at state expense through regional training centers. More training is becoming rapidly available through video hookups.

OPTION TO REMOVE PERPETRATOR, NOT VICTIM (ORC 2151.353)

In the past, the only option open to a court to protect a child from abuse or neglect was to remove the child from his or her home. Sub HB 274 gives courts the option to remove the alleged perpetrator from the home instead. This will be especially helpful where more than one child is being abused, and will allow for less disruption for the victim.

INFORMATION PROVIDED TO ALLEGED PERPETRATORS (ORC 2151.421(H)(4))

A PCSA is required to advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report of the disposition of the investigation, i.e. whether the abuse or neglect is substantiated or not. The law, however, prohibits the agency from providing such a person a statement of the allegations, statements of the witnesses or police or other investigative reports.

IMPLICATIONS OF FAMILY AND CHILDREN FIRST COUNCILS FOR COMMISSIONERS

The authority in HB 274 for commissioners to review FCF expenditure proposals represents the first step in the recognition by the Governor's Office that county commissioners must be involved in FCF if collaborations are to work at the local level. CCAO urges commissioners, through the language in ORC 121.37(D)(4) is permissive to take advantage of this opportunity to have direct input in expenditure of dollars by local FCF councils. If there is any doubt on the part of commissioners of the commitment of the Administration to FCF, one only need look at the significant staff hired by the Governor as regional coordinators and the numbers of staff pulled from state agencies to work on this project in the past year. Another indication is the Wellness Block Grant funded in the budget correction bill (SB 310) to be sent to FCF councils to attempt to reduce teen

pregnancy. This grant gives more substantial money to FCF's to plan and gives the state staff an opportunity to give technical assistance to FCF councils which will strengthen and focus those councils which are foundering. Again, the administration agreed in this block grant to require the FCF to designate a fiscal agent in consultation with the board of county commissioners. The administration has also committed to working with CCAO and others to rewrite the basic FCF statutes in ORC 121.37 in the next state budget bill.

Most commissioners originally viewed FCF as a loosely structured effort on the state's part to foster collaboration among local agencies and did not get deeply involved. As the Administration adds dollars and increasing collaboration/consolidation authority to FCF councils, the very loose structure has become problematic and commissioners and the administration have both seen a need for more involvement and oversight on the part of local elected officials. The potential for coordinating local efforts and reducing duplication, thus getting more results for each dollar spent locally, makes FCF councils an excellent opportunity locally. However, without a structure to guarantee ultimate oversight by elected county commissioners an FCF council could become a super agency above all local agencies with no accountability to the local voters, another layer of bureaucracy responsible to and appointed by no one.

The administration appears committed to the vehicle of FCF to provide more coordination of service planning and delivery. It behooves commissioners to use the opportunities offered in HB 274 and the Wellness Block Grant to exercise some local elected oversight and to get involved. Most agencies on FCF councils relate to the board of commissioners in some significant way. No one is in a better position to foster and insist on collaboration and coordination than the board of county commissioners.