

The Commonwealth of Massachusetts

THIRD INTERIM REPORT
OF THE
SPECIAL COMMISSION RELATIVE TO
EVALUATING THE ADEQUACY OF
EXISTING PROGRAMS
IN THE COMMONWEALTH
FOR THE
CARE AND TREATMENT OF CHILDREN

(under Chapter 6 of the Resolves of 1972
as most recently revived and continued
by Chapter 1 of the Resolves of 1973)

The Commonwealth of Massachusetts

MEMBERS OF THE SPECIAL COMMISSION

Appointed by the President of the Senate:

John J. Conte, *Senate Chairman*

Arthur H. Tobin

Joseph B. Walsh

Ronald C. MacKenzie

Stephen J. McGrail

Appointed by the Speaker of the House of Representatives:

Charles F. Flaherty, Jr., *House Chairman*

Charles J. Buffone

Royal L. Bolling, Sr.

Michael J. Daly

Richard E. Landry

Edward W. Connelly

Edward J. Markey

Garreth J. Lynch

John J. Finnegan

Appointed by His Excellency the Governor:

Dr. Julius Richmond

Mr. Roger W. Brown

Mr. John P. McGonigle

Mrs. Jean McGuire

Dr. I. Ira Goldenberg

Mr. Robert L. Mollica

The Commonwealth of Massachusetts

STUDY AUTHORIZATIONS

Chapter 6 of the Resolves of 1972

RESOLVED, That a special commission, to consist of five members of the senate, nine members of the house of representatives and seven persons to be appointed by the governor, one of whom shall be an expert in the field of child psychology, one of whom shall be a guidance counselor, one of whom shall be a teacher of special classes in the public schools, one of whom shall be a justice of a juvenile court or a justice of a district court, one of whom shall be a probation officer and one of whom shall be a social worker experienced in the field of child care, placement and counselling, is hereby established for the purpose of making an investigation and study relative to evaluating the adequacy of existing programs in the commonwealth for the care and treatment of children. In connection therewith said commission shall determine the feasibility of establishing an executive office for children's affairs, the adequacy of the quality of services to children provided by the division of child guardianship in the department of public welfare, foster care and adoption programs, the department of youth services, county training schools and the present system of parole and probation, the adequacy and quality of services rendered to children in institutions of the department of mental health or to children serviced by said department, the adequacy and quality of special education of children serviced by the division of special education in the department of education and the public schools and any other problems relative to the care and treatment of children which the commission deems necessary to investigate and study. Said commission may require by summons the attendance and testimony of witnesses and production of books and records and the cooperation and assistance of any department of the commonwealth to assist it in its deliberations, including the use of expert personnel from any such department for advice and consultation whenever it may be deemed necessary.

The Commonwealth of Massachusetts

LETTER OF TRANSMITTAL

To the Honorable Senate and House of Representatives:

Gentlemen: — The Special Commission relative to evaluating the adequacy of existing programs in the Commonwealth for the care and treatment of children as created by Chapter 6 of the Resolves of 1972 and most recently revived and continued by Chapter 1 of the Resolves of 1973 submits herewith its third interim report. The undersigned members of the Special Commission approve the findings and recommendations of the accompanying document.

Sen. John J. Conte
Senate Chairman

Sen. Arthur H. Tobin
Sen. Joseph B. Walsh
Sen. Ronald C. MacKenzie
Sen. Stephen J. McGrail

Rep. Charles F. Flaherty, Jr.
House Chairman

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INTRODUCTION

The Special Commission on the Care and Treatment of Children has reviewed H6120, An Act to Reorganize and Modernize State Government by Creating a Department of Human Services, with emphasis on the effects that the proposal will have on the delivery of children's services. Such an undertaking is important in view of the existing inadequacies in the network of youth-related services, facilities and programs, because the realignment of the administrative structure provides the opportunity to improve upon the effectiveness and responsiveness of the general delivery system. With the possibility presented to initiate a desperately needed overall improvement in the nature and availability of services to children in the local areas, the Commission has therefore examined the reorganization legislation from this specialized perspective.

Under the proposed reorganization of the state's government children's services were not integrated into a separate administrative unit, but were left scattered among the range of functionally categorized government units. The children's services under consideration here therefore are those contained within the jurisdiction of the Department of Human Services, which is responsible for the majority of state services for children, excluding education.

Specifically, the proposed Family Services Administration of Human Services incorporates the present Department of Youth Services, and the Division of Family and Child Services, which includes foster care, child protective services and public welfare social services. The legislation contains no sub-divisions or further organization of the Administration, but the two departments are to be merged by administrative guidance.

The Rehabilitation Administration is responsible for all handicapped people, both children and adults, so that children can be treated in any one of the four divisions: Developmentally Disabled, Vocational Rehabilitation, the Blind, or in the Handicapped Children's division. This administration is the result of the combination of programs from the mental retardation component of

the Department of Mental Health, the Rehabilitation Commission, the Commission for the Blind and the Handicapped Children's programs. Services exclusively designed for children will include those such as clinical nursery schools, day care services, and the present Handicapped Children's program of the Department of Public Health, but there is little further visible identification of services devoted solely to children for the other programs serve adults as well.

The same is true for the Community and Mental Health Administration which combines the mental health components of the present Department of Mental Health and the health service components of the Department of Public Health. The mental health services for children are indistinguishable from those for adults in most cases. Public Health services for children include Family Health Services, such as maternal and child health programs.

The Office for Children is to remain as it was originally established, as a separate unit responsible for the monitoring and regulating of services and as an advocate for children's services. The reorganization legislation will supposedly have little effect on the powers and duties of the Office for Children.

In general, it became increasingly evident during the hearings conducted by the Commission that the plan as currently designed has not afforded sufficient planning, emphasis, or safeguards for children's needs and services. To enact this legislation in its present form would in no way enhance the limited reserve of available services, and could potentially even result in a worsening of the situation. It is our feeling that the needs of the state's children would be better served by further consideration of alternatives designed to promote an improvement in the quality and availability of children's services. The following is a summarized report of the shortcomings contained in H6120 for services to children.

SEVERELY DISTURBED CHILDREN

The group of children with perhaps the most urgent need of improved services and increased availability are the severely disturbed. These are children generally diagnosed as autistic, early child schizophrenic, early child psychotic, "atypical child," or with other severe disorders of behavior or communication, and most often

they are functionally retarded and speech handicapped as well. All too frequently, this group of children is confronted with the most critical shortage of programs, even in the form of minimal custodial institutional care.

The difficulties that these children's parents have confronted in the past in the search for a placement for their children has most frequently been caused in part because of the absence of specified responsibility by one agency for these children. Due to inter-departmental disagreement over the nature of these children's conditions and denouncement of responsibility for treating them, service all too often consists merely of referrals from agency to agency without ever securing an appropriate therapeutic or habilitative placement.

This situation has not been alleviated under H6120 Administrations. Responsibility for treating these children could be interpreted as being assigned to any of the three service administrations: Community and Mental Health, Family Services, and Rehabilitation. Consequently, the same pattern of disclaiming responsibility can continue, since no one administration is directly charged with responsibility for these severely disturbed children.

The closest inference of responsibility is in the Rehabilitation Administration, which includes a category of clients defined as "Developmentally Disabled" persons. Such disabilities include mental retardation, cerebral palsy, epilepsy, other related neurological conditions or conditions requiring similar treatment. These severely disturbed children by implication must then be considered developmentally disabled on the basis of a mentally retarded comparison.

These misleading labels have been consciously avoided in other recent legislation, for they have often resulted in placements and treatment unsuited to an emotionally disturbed child's specific needs. Children's conditions which are labelled as related to a mentally retarded condition have traditionally been served primarily through weekly psychotherapy by the Department of Mental Health. This treatment is both inappropriate and inadequate; especially for autistic children for an example. Rather, what is needed is long term habilitation services such as special education, speech therapy, physical and occupational therapy and program

planning, as well as long term supportive services similar to those received by other disabled persons.

Because of the dangers involved in inappropriate labelling, these severely disturbed conditions should be recognized as distinct disabilities. And without a clearly defined and appropriately assigned departmental responsibility for this group of severely disturbed children the present situation is certain to continue unchanged.

CHILDREN IN NEED OF SERVICES

Included in the Human Services reorganization is the repeal of the present so-called "stubborn child, wayward child, runaway, and habitual truant laws," and the creation of a new category of "children in need of services." These provisions would decriminalize this category of problem children, and outline civil proceedings to insure treatment and therapy in a manner consonant with the young person's problem.

However, this reform measure is not a proper subject for inclusion in H6120. This provision is, first of all, unnecessary because acceptance of similar legislation is anticipated in the current legislative session. The Commission also feels that the reform of these children's criminal codes is inappropriately placed within a reorganization proposal, which deals with administrative structure and organization. Rather, such issues should be pursued separately.

Regardless of whether they are to be included in this legislation, the provisions established are too rigid, inadequate and confusing. As outlined, H6120 requires a court proceeding in each instance where a complaint is filed that a child is in need of service. Unlike the legislation currently before the Legislature, it does not allow the flexibility of pre-court diagnosis and evaluation of the child by a probation officer, nor does it allow for a pre-court diversion to an appropriate plan of treatment if the probation officer finds that more beneficial to the child than a court proceeding.

In addition, these provisions are not clear concerning the status of truants and school offenders and absentees. While definitions of these categories are included under those in "children in need of services," the existing statutes, Chapter 77 of the General Laws, are not repealed. Therefore, present laws establishing these

categories as crimes and authorizing incarceration in county training schools continue in effect. While the intent appears to support the inclusion of truants under the new category and the repeal of Chapter 77, there is confusion because of this oversight.

ADOPTION

At present, all adoption workers are centralized in one unit, within the Division of Family and Child Services, with each worker assigned responsibility for a specific region. In this case, centralization is essential, for placements are generally arranged with a family that is located at as great a distance as possible from the child's original family. Therefore, it is necessary for adoption workers to have full and immediate access to all areas of the state rather than a concentrated contact with a single region.

H6120 is based on a regional approach to services and is designed to foster closer contact between administrators and citizens. An adoption specialist is provided for each region, which in effect decentralizes and fragments the adoption unit. While this approach for adoption workers is conducive to developing community contacts and placement homes, it also hampers the statewide approach to and operation of adoption placements.

In order to allow for continued statewide collaboration and operation, special communication arrangements and perhaps unified administrative units should have been established. The Commission feels that without sufficient planning and guidelines in the area of adoptions, this reorganization plan will only heighten difficulties already encountered by adoption workers in placements and will result in a worsening of service to children in need of adoption.

REGIONAL BOUNDARIES CONFLICT

Because the Department of Education is a separate cabinet-level department which is responsible for a large segment of children's needs, coordination and close collaboration between the Departments of Education and Human Services is essential in order to complete the network of children's services and guarantees that state resources will be utilized in a manner which is best suited to type and quantity of demand for children's services.

This applies to the general duties and responsibilities but especially to specialized programs and services, such as the Special Education Act which is effective in September, 1974. In previous special education programs requiring interdepartment coordination, progress has been frustratingly slow and services and facilities available at a bare minimum. For the new Special Education Act to develop to its full impact however, this coordination is imperative. Successful implementation of this legislation depends in large part upon substantial coordination at the regional level between the two departments, in setting up programs and evaluating needs of the community. However, if present reorganization proposals are accepted, built-in barriers will work against collaboration, simply because the numbers of regions proposed differ: Education proposed five, while Human Services proposed four to ten and indications are that the number will be seven. Therefore, instead of resolving problems in interdepartmental collaboration and enhancing the promise of the Special Education Act, reorganization appears to be leading to a further aggravation of the situation.

The Commission feels that any action on either the Human Services or Education reorganization legislation should include a reconsideration of the regional boundaries, to insure that the two are as similar as possible. In addition, more attention ought be focused on alternative instruments to aid in opening communication between the two departments, so that the needs of children can be dealt with more effectively.

MERGER OF DYS AND DFCS

Under the proposed Family Services Administration, the existing Department of Youth Services and Division of Family and Child Services are abolished and merged into one new unit, without statutorily defined divisions containing specific responsibilities and functions. This merger was conceived on the theory that both agencies now service clients with generally similar characteristics offer similar types of programs and contain similar elements of management requirements so that a merger of the two child-related units appeared theoretically sound.

However, while the actual legislation was designed to allow for maximum administrative flexibility by not prescribing the intended

organizations, plans for implementation and administrative structure were insufficiently prepared and there was little or no evidence of departmental readiness to transform the two agencies into a single, viable, functioning agency. For one example, different arrangements would be necessary for those children presently under the custody of DYS who had needs which were not similar to the majority of children who would constitute the bulk of those under Family Services. As late as June, 1973, arrangements for these others had not been finalized. There was also little evidence of readiness to establish responsibility and accountability for those youth committed by the juvenile courts.

In view of current problems in both DYS and DFCS in controlling their services, programs and funding and in fulfilling their current responsibilities, it appears that such an administrative combination is neither practical nor advisable.

DECENTRALIZATION

An examination of the provisions for children's services under the reorganization of Human Services can not be completed without also considering the general system outlined for delivering all services in the department. The question of who determines service priorities and allocates state resources and how public accountability is provided for, influences the degree to which children's services will be provided and improved. While H6120 was designed to decentralize administration to allow for citizen participation through an extensive system of area and regional councils and directors, the Commission has found the specific proposals to be inadequately drawn to meet its supposed intentions. In its present form, H6120 does not appear to allow for effective citizen participation, nor to promote governmental accountability. As a result, and most importantly, there is little indication that adoption of H6120 with its top level realignments and local councils will result in a greater availability of resources to children in the communities.

The weaknesses contained in the plan are numerous. While the key to this reorganization appears to be the creation of at least forty regional and area directors and service administrators, their authority and duties are not legislatively defined. The Secretary

determines this through administrative authority and making regulations, and retains the power of appointment and removal over them. The regional and area citizens Human Services Councils are not vested with sufficient powers to counterbalance these administrators, nor to allow significant input to the actual decision making process on the local level. The Councils are to be selected in a manner to be determined by the Secretary and are limited to advisory powers with regard to budgets, personnel and service priorities. Their only powers are approval by the area councils of the appointment of the area director.

The experience of the Mental Health area boards has shown that when citizens' boards are not delegated significant authority beyond advisory powers, their recommendations and interests can easily be circumvented by the central administration. H6120 is designed in the same model, so that the same ineffectiveness, frustrations and impotence are built-in. Likewise, the Commission found no evidence of commitment to citizen involvement in the planning process of reorganization itself and in fact heard repeated criticism of exclusion from any meaningful participation in discussions concerning reorganization.

This specific decentralized administration for human services has therefore created an expensive layer of administrators, without any guarantees that the system will be responsive to a community's needs and actually result in improved services to children.

CONCLUSION

The Special Commission has found the initial proposal to reorganize the Department of Human Services inadequately designed to bring about an increase in the level of human services offered to children. In general, no indications were discovered which would reflect that services would be more readily available to the local consumers, nor that governmental agencies would be more accountable for their statutorily prescribed responsibilities than in the past. In fact, the measures which pertain to specific programs for children were found to maintain serious flaws. Therefore instead of reinforcing the state's resources for children's services and adding significantly to their status, the proposal

creates more barriers to the actual delivery of services through shortsighted planning.

For example, adoption services are likely to suffer under the decentralized plan without sufficient provision for continued state-wide contact. Also, the problems in identifying agencies responsible for severely disturbed children have not been relieved and in fact have been reinforced. Implementation of the Special Education Act is endangered because regional boundaries do not coincide universally with the Department of Education's regional boundaries. More importantly, the two agencies that are most in need of strengthening even prior to reorganization — the Department of Youth Services and Family and Child Services — have been combined without apparent preparation or structuring to the degree necessary. And discussion of citizen involvement as a central basis for the administrative restructuring is relatively meaningless in view of the structure as established in this legislation.

However, more important to a consideration of the reorganizing of Human Services than a review of this proposal's shortcomings is the question of establishing a single unit for administering all children's services. This issue has not been fully explored as to its possibilities and potential forms. The Commission heard much testimony supporting the concept of a separate secretariat for children's services, for several reasons:

The level of children's non-educational services is proportionate to neither their numbers or need. A separate agency would strengthen staff accountability in providing children's services and also establish a strong proponent for raising child services to a position of greater priority.

Present functional labelling of problems promotes treatment of only part of a child, rather than the totality of the child's needs.

Duplication of services exists for children's services among both the present and proposed Department of Human Services. Therefore, reorganization may reduce some overall duplication in government services, but a great deal of duplication still exists among the range of children's services.

The functional scattering of services results in difficult coordination and cooperation, and children suffer as a result.

The Commission therefore intends to investigate the question of establishing a separate secretariat for children, as well as considering means to actually improve the provision of services to children on the local level in reorganization.

STATE

Nov 1817

The State of New York

In SENATE,
January 1817

Report of the
Commissioners of the
Land Office

in answer to a
Resolution of the
Senate, passed the 14th
of December, 1816

