

LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE

Minutes

September 12, 2024

Call to Order and Roll Call

The 4th meeting of the Legislative Oversight & Investigations Committee was held on September 12, 2024, at 1:00 PM in Room 131 of the Capitol Annex. Senator Brandon J. Storm, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon J. Storm, Co-Chair; Representative Adam Bowling, Co-Chair; Senator, Jason Howell Vice Chair; Senators Danny Carroll, Donald Douglas, Michael J. Nemes, and Reginald Thomas; Representatives Jason Petrie, John Blanton, Lindsey Burke, Ken Fleming, Matt Lockett, and Scott Sharp.

Guests: Eric Friedlander, Secretary, Cabinet for Health and Family Services; Lesa Dennis, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Wesley Duke, General Counsel, Office of Legal Services, Cabinet for Health and Family Services; and Eva Markham, Chair, Board of Examiners of Psychology.

LRC Staff: Committee Staff Administrator William Spears; Committee Analysts McKenzie Ballard, Jacob Blevins, Christopher T. Hall, Taylor Johnston, Jeremy Skinner, Austin Sprinkles, Shane Stevens, and Joel S. Thomas; and Committee Assistant Ashley Taylor.

Approve Minutes from August 15, 2024

Upon motion by Senator Douglas and second by Representative Lockett the minutes for the August 15, 2024, meeting were approved without objection.

Staff Report on Child Removal and Reunification

Committee Analysts Christopher T. Hall and Austin Sprinkles presented the staff report "Child Removal And Reunification" which included findings and recommendations related to the process by which the Department for Community Based Services (DCBS) determines whether removing children from their home is appropriate and whether judges are ruling not to reunify children after the family has completed a case permanency plan. Staff's presentation is available on the Legislative Oversight and Investigations Committee webpage.

Upon conclusion of the presentation, Senator Thomas asked staff for a brief summary of their concerns related to instances where structured decision-making (SDM)

Committee meeting materials may be accessed online at <https://apps.legislature.ky.gov/CommitteeDocuments/344>

recommendations were left blank or were overridden and the agency's inability to explain patterns in aggregate data. Mr. Hall explained that when the form is completed, it makes recommendations for a case. When there is a blank cell, it is unclear if it is due to a data entry error or an issue with the way the form is completed. Mr. Hall stated the importance of having the override because the agency and its investigators need flexibility.

In response to a question from Representative Bowling concerning whether the agency is required to interview the person who made the complaint, Mr. Hall stated that staff did not review any data related to this issue. Representative Bowling asked if the department is meeting timeline requirements regarding responses to reports based on risk level. Mr. Hall said staff did not analyze that type of data but can look into that data.

Representative Petrie asked for clarification regarding "permanency plans" versus "case plans." Mr. Hall explained that permanency plans can be referred to as case plans. Representative Petrie asked if an analysis had been conducted related to the completion rates or time of completions on working a case plan for reunification of a child prior to adjudication. Mr. Hall stated that staff had not conducted an analysis of this topic. Representative Petrie commented that there can be delays after adjudication with reunification and working a plan and that this topic would be worthy of further exploration.

Response from the Cabinet for Health and Family Services

Eric Friedlander, Lesa Dennis, and Wesley Duke from the Cabinet for Health and Family Services introduced themselves. Secretary Friedlander thanked LOIC staff for their work and praised the report for identifying issues with the programs and tools used by DCBS.

DCBS Commissioner Lesa Dennis presented the cabinet's response to Legislative Oversight and Investigation Committee (LOIC) staff's recommendations. The response included clarifications for statements in the report related to blank fields in safety assessments, the SDM tool, and DCBS overrides of SDM recommendations. The cabinet's presentation is available on the LOIC webpage.

Upon conclusion of the cabinet's presentation, Representative Bowling asked if DCBS is required to interview the source of a complaint. Secretary Friedlander stated that is not required, but is best practice. Commissioner Dennis explained it is best practice for workers if the reporting source is identified. The worker determines what type of interviews are needed and they may have enough information make a decision around safety without the interview.

In response to Representative Bowling's question regarding situations where a school counselor reports the abuse of a child, Commissioner Dennis stated that DCBS tries to interview the child in a school or a neutral setting. When it is not possible, DCBS attempts

to interview children privately or separate from their caretakers if the interview has to take place at the home.

Representative Bowling asked for an explanation regarding training for DCBS case workers. Commissioner Dennis explained the cabinet has partnered with Eastern Kentucky University to provide foundational training for all staff. During training, staff spend 1 week in training and then 1 week in the office shadowing more experienced coworkers. Secretary Friedlander added that the cabinet has worked to improve training due to complaints from staff that the training felt academic. He noted that the cabinet's turnover rate has significantly decreased due to those changes.

In response to a question from Senator Douglas, Commissioner Dennis said that DCBS does not track the number of interviews conducted in neutral settings, although that information is included in each individual narrative report. The barriers that prevent interviews taking place in a neutral location are the timing of the report, the perceived risk to the child, and staffing or workload.

In response to a question from Representative Blanton regarding continuing education requirements, Commissioner Dennis clarified that workers receive initial training for 4 to 6 months, alternating between 1 week in the classroom and 1 week in the office. Social workers receive training throughout the year but there are not formal continuing education requirements after initial training is completed. DCBS is conducting an evaluation of its training system to identify areas that can be improved. Secretary Friedlander added that DCBS social workers are not licensed by the Board of Social Work. Representative Blanton stated that continuing education would be beneficial to social workers and expressed agreement with allowing for discretion in interpreting the SDM tool results.

Senator Carroll stated that he does not disagree with Representative Blanton's approval of discretionary interpretation, but to understand the efficacy of the tool, there must be data to gauge decisions. Seventy-three percent of assessment results being overruled suggests that the tool is not useful; however, the department's explanation does explain this high rate. Senator Carroll asked how much flexibility there is to customize the system to build in tools to pull out data to improve the model. Commissioner Dennis stated that they are looking into data management tools they need to develop. She agreed there needs to be a drop-down box for entering the reasoning for an override. Commissioner Dennis clarified that the system documents factors such as prior history and criminal background; however, they are discussing with the vendor how to identify which factors are static and which can change.

Senator Carroll expressed concern that repeat reports or visits to households are not taken as seriously as they should. He emphasized that reunification may not be in the child's best

interest. Senator Carroll asked how the department escalates its response in cases where there is a long history of incidents. Ms. Dennis stated that prior history is flagged in the data to make social workers aware when making decisions. The objective is to look at the risk factors holistically when making decisions. DCBS recently retrained staff on the subject of repeat history.

Senator Carroll asked about limiting discretion in cases that have significant prior history so that families will know the outcome of another incident or report. Commissioner Dennis explained that not all reports are substantiated and families are able to change and improve. Making decisions automatic would remove the human element and could ultimately be detrimental to families. Secretary Friedlander stated that reunification is a goal of federal funds that go to Kentucky. Senator Carroll mentioned his position on the Child Fatality and Near Fatality External Review Panel and emphasized the importance of useful data to improve the system.

Upon motion by Representative Bowling and second by Senator Howell the committee report was adopted without objection (roll-call vote).

Board of Examiners of Psychology

Dr. Markham introduced herself as the Chair of the Board of Examiners of Psychology. Dr. Markham referred committee members to the packets distributed to committee members and gave a brief overview of the board including its history, composition, funding, and lack of paid staff. The board is currently without legal counsel but is engaged in a request for proposals process to fill that role.

Representative Fleming stated he received three calls over the past month and a half about delays, backlogs, and testing appointments being canceled. He shared that he operates a private nonprofit mental health facility that has struggled with hiring and would like an explanation regarding the backlog. Dr. Markham clarified that the board does not control written test scheduling which is conducted by a third party and that the board does not generally cancel oral testing appointments. She suggested that specific complaints be directed to her moving forward. Without looking at the details of each situation she cannot provide specific information about individual complaints. Representative Fleming asked a question regarding the board's legal counsel, and Dr. Markham shared that the board is currently in the process of issuing a request for proposals. She does not think the absence of a board attorney has anything to do with backlogs.

Representative Fleming asked if there are barriers in statute that Dr. Markham would want changed to get people through the process more efficiently. Dr. Markham stated that the board is working with the Kentucky Psychological Association (KPA) to help licensees understand instructions and correctly sign documents, which are associated with frequent

mistakes that can result in delays. It does feel overly meticulous to reject applications that are not signed correctly; however, it is required by the law. The mail system can also cause delays and result in the board receiving documentation after a deadline. Dr. Markham did not believe that legislation would address these problems. Representative Fleming clarified that he is not suggesting a reduction in criteria for licensing and asked if digitizing the process would help. Dr. Markham responded that she would like to do so, but they have not found enough support from state government.

Senator Thomas expressed that he has also received similar complaints about the board relating to delays and board responsiveness. He asked that the board reach out to the General Assembly for help with issues such as the need for staff or legal counsel. Senator Thomas added that last month the committee discussed similar issues with the Board of Cosmetology, and the issues have ended since the legislature took action. Dr. Markham stated that most people make it through the process without issue and the exceptions are often due to applicant error.

In response to a question from Representative Petrie, Dr. Markham stated that other than making the entire process digital there are no problems that could or should be corrected in the application process. In response to a question from Representative Petrie, Dr. Markham responded that applications received 10 days prior to a board meeting will be processed at that board meeting. Any applications received after that point will be processed at the next meeting, so the application should typically not take longer than 45 days. Representative Petrie asked whether an application taking longer than 45 days should raise concerns. Dr. Markham stated that an application taking that long would be concerning and added that she would like to see any instances of that happening because she is not aware of any instances.

Representative Petrie requested that the board reach out to Representative Fleming within 30 to 45 days with ideas for the legislature to help the board to which Dr. Markham agreed. Co-Chair Storm asked that the board also copy LOIC staff on their response.

Dr. Markham finished her testimony by encouraging legislators to make her aware of any complaints they receive.

Adjournment

Upon motion by Representative Bowling and second by Senator Douglas, the meeting was adjourned.