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DEPARTMENT OF
HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES



Ross Armstrong
Administrator

Helping people. It's who we are and what we do.

Intent to Adopt Regulations Related to NAC 62

DATE: Tuesday, October 5, 2021

TIME: 11:00 AM

Location: Virtual Meeting

TRANSCRIPT

LESLIE BITTLESTON: Good morning, everybody. It is 11 o'clock, but I am still seeing people trying to log in so, I will give it another couple of minutes before we get started.

Okay, good morning, I don't see anybody else logging in. So, we will get this meeting started. I call the meeting, public hearing, dated October 5, 2021. And then -- intent to adopt regulations related to NAC 62 to order at 11:01 a.m. Just a housekeeping item really quick, all of the materials for this public hearing today are located on the Juvenile Justice Oversight Commission website, including three public comments that we did receive prior to this meeting. So, the materials are located there. Going on to agenda item number two, which is public comment. Public comment is open to anybody for up to three minutes per public comment. Please state your name and your organization and you will have three minutes. If there is any public comment you may begin now. Thank you.

SHELLY SCOTT: Good morning, Leslie. This is Shelly Scott. I'm a deputy district attorney in Washoe County. I wanted to confirm that the comments submitted by JoLee Wicks and myself have in fact been received by you and Mr. Armstrong and I'm willing and here to address any of our written comments in person.

LESLIE BITTLESTON: Leslie Bittleston for the record. Yes, ma'am. We have received those comments. They are one of the attachments that are located on the JJOC website for everybody to see. So, thank you for those comments.

ROSS ARMSTRONG: And Ms. Scott, this is Administrator Armstrong. I don't have any questions related to those comments. They were very helpful. Thank you.

SHELLY SCOTT: Thank you, Mr. Armstrong.

CATHERINE JORGENSEN: Ms. Bittleston, this is Catherine Jorgenson. I'm with the D. A.'s office in Clark County. I had sent a letter to Mr. Armstrong on September 28, 2021, regarding our concerns about whether these proposed regulations exceed the authority of their enabling statutes. I don't have any additional comments at this time beyond what's in the letter. So, if there's any questions for me, I'm happy to address them.

LESLIE BITTLESTON: Thank you for the comment. Yes, we did receive the -- the letter that you submitted as public comment, and it is also available on the JJOC website. Thank you very much.

CATHERINE JORGENSEN: Thank you.

LESLIE BITTLESTON: Anybody else or Mr. Armstrong?

ROSS ARMSTRONG: Yeah, this is Mr. Armstrong. I just -- thank you Ms. Jorgenson and I want to let you know that I have reviewed it and I don't have any questions at this time.

LESLIE BITTLESTON: Thank you. Anybody else for public comment?

PAULINE SALLA: This is, this is Pauline Salla. I just wanted to make sure that public comment wouldn't be the only time that we're allowed to have conversation. I just want that -- I just want to be clear on that.

ROSS ARMSTRONG: This is Administrator Armstrong and public comment is the only time that, that we'll have discussion. And so, the rest is presentation and then consideration. If, if there's a need to open up public comment on a particular item of the regulations later in the agenda, were able to adjust things around. I did want to note that I intend to move the public comment number seven to after number eight so that we have public comment before and after the action item, which is number eight. And so, if there are questions or concerns or public comment, before we adopt the regulations, this would be the time to do so. I would note that we received the comments from the Nevada Association of Juvenile Justice Administrators, and I do not have any questions about those at this time.

PAULINE SALLA: Thank you.

LESLIE BITTLESTON: Thank you. Any other public comment at this time?

MICHAEL WHELIHAN: Michael Whelihan for the record. So, I had some questions on 62H. We were part of the NAJJA letter, too, so we want to say that we support it. We also support the use of data. So, we want to make sure that we're -- you guys understand that we support the use of data. But there's some clarifying questions. One is the federal poverty level is that it can be put into the caseload pro system, the Tyler Technologies system. So then, on

subsection 51H page three, it talks about the risk assessment at the time of discharge for mental health. So, my question is, is that -- it says a termination or discharge? So, our opinion is that you can over assess a child and that do you extend their probation because currently we don't do that. So, would you extend someone's probation because they have a high mental health score? So, we have that question. Section five, subsection K1 on page four, it says issues rating to the family. We'd like more specific definition on what you're looking for as far as what are the issues because that's kind of vague. Subsection five K2 page four, the term special needs, you know, I think it should have a definition, a standard of what you're looking for because special needs is kind of vague as well. Section five and page four, administrative charge is vague. What is the intent of the administrative -- administrative charge were you looking for? And then on subsection-section five, subsection one page four states the most serious delinquent act or status offense. So, is there a way to get a ranked list on what you guys considered the most serious offense and is it for only the current or throughout the history of the child if they have more than one referral? So, subsection-section five, subsection two, number three, page five states any data. Is this data that is going to be required by the federal government or the JJOC or just any data? And are we questioning to be able to have that data be captured in the system because NRA -- NRS 200 -- H200 says that you're supposed to have a standardized system where you can retrieve the data from and that's not mentioned in, in 62H under the NAC. And, we do have --

ROSS ARMSTRONG: Sorry, Mike. This is, this is Mr. Armstrong. What -- I had lost you on that last comment? What section are you looking at for the any data piece?

MICHAEL WHELIHAN: Well, it says right here. Let's go back to -- okay, section five, subsection two, number three, page five. It states that you can ask for any data. So, I was wondering where the authority is or what -- is it from the JJOC, federal government? What reports are we planning and are they going to be automated in the system, because the NRS clearly states that DCFS is in charge of the standardized system and reports are supposed to be coming through there so you guys should be able to pull your own data and we're the ones who are supposed to enter it. So, we're just asking for more automated reports. Section six, subsection two, number three, page six says valid court order. So, is a VOP considered a valid court order? A failed placement so is --31, page six and explanation why juvenile probation determined that the valid court order was violated. Is there going to be a drop down for that? So, like, a lot of times the judge makes those decisions so if we're in court, how are we going to capture that? The judge doesn't say it. Then section 11, page nine, it talks about a unique number as assigned to each individual and then you're asking for the name and address but NRS 62H.210 subsection three prohibits the inclusion of the name or address of any person in the standardized system. So, once the standardized system is in place, the address and name should not be submitted to the state. Section 14 pages 10 to 11, submit a form prescribed by the division. The standardized system should be able to capture this information. So, why would we be submitting forms when this -- the system is supposed to be able to pull it. So, it is, is the state's idea that they're going to create these forms in Tyler Technologies so they can be automated? So, section 14, subsection two and three, page 11, is this for youth that are adjudicated or just on parole, and probation? It is the juvenile court

that has jurisdiction. New NRS sealing of records AB 251, when a kid turns the age of 18, for misdemeanors and some other charges, automatic-automatically get destroyed, not even just sealed. So, how do we track recidivism if we don't have that record? And then if we're expected to track it, we'd be violating the new law that just passed. I understand when this NAC was created, AB251 didn't exist. So, I think we need to take some consideration into AB251 before we make this a requirement. I had one more. Section 14, subsection five, request the total number of case plans developed NRS 62E.507 and NRS62E.525 is for state committed youth. So, is this gonna apply to all? Just making sure that we have the light -- the right part of the statutes listed in there. And then it also refers to NRS 213.1078. And that's adult probation and parole. So, I don't know how that got into the NAC. So, I was feeling that maybe that -- it just got put in there in, you know, mistakenly. So, and then section 14, subsection six, page 11, the total number of children convicted in the adult criminal justice system. Juvenile probation doesn't have access to the adult system plus I talked about the AB251 earlier, and are we going to be able to get access and then what happens to direct files? We don't have even the -- we don't even know the kid that went to this, to the adult system. So, how do we track things that we don't have access to and with the obstacles of the AB251 that we won't be able to track some of them once they turn age 18 on certain offenses.

UNIDENTIFIED: Can you clarify?

UNIDENTIFIED: About the [inaudible] before adoption.

MICHAEL WHELIHAN: And now that was all.

LESLIE BITTLESTON: Thank you Mr. Whelihan. Is there any other public comment?

LIZ FLORES: This is Liz Flores for the record. I, I do require I think just a clarification if I'm understanding things correctly. So, by order of events, if I'm understanding correctly after this public comment, there will be introductions and explanations, presentations, and the adoption, and then public comment will come after the adoption. Am I understanding that correctly?

LESLIE BITTLESTON: Yes. You are correct.

LIZ FLORES: So, presumably it's difficult because since we, since we don't know what the introduction and the presentation will say, we're not sure if it will address all of the concerns that have been submitted in writing already. So, I'm just putting on the record that my hope is that all of those concerns will be addressed during the presentation so that [inaudible] and all of the jurisdictions and, and District Attorney's Office feel like all of their points were heard and considered. Thank you.

LESLIE BITTLESTON: Thank you. Any other public comment? Okay, hearing none, really quick. Just for the record, I see somebody that is on the phone last 42117. Could you please identify yourself?

DAN BALDINI: This is Dan Baldini [ph] with the 11th, 2117.

LESLIE BITTLESTON: Thank you, Dan. Welcome. Alright. Okay, hearing no more public comment, we will go on to agenda item number three, introduction of DCFS administrator.

ROSS ARMSTRONG: Good morning, Administrator Armstrong here. And so just to, to note that in this particular case with these regulations, we've had two previous workshops and we've also received written comments and suggestions for amendments prior to this intent to adopt regulations hearing. I have reviewed those. I do intend to, in the adoption part of the agenda, make some amendments based on those questions and concerns. I would note that there are some questions and concerns that are more operational focused, which should be worked out aside from this particular public hearing that the comments focused on potential language changes are the ones that are most likely to be incorporated at this one. And so, I just wanted to note that. That the purpose of this particular hearing is to, you know, adopt regulations that will then be submitted for review and adoption. So, today is not the final adoption. They become effective immediately. There's still a process after this. I appreciate everyone's engagement and their outreach prior to this public hearing and their hard work over the last two years really, in developing these regulations as part of AB472. And so, with that, I, in the administrator position and the body that approves the regulations, and so later that will be me processing that agenda item. But this time, I'll, I'll hand it over back to Leslie to continue with the agenda.

LESLIE BITTLESTON: Thank you. And agenda item number four is introduction of DCFS staff and presenter. Leslie Bittleston, Chief of Juvenile Services Programs Office in DCFS. I will be the presenter of the rest of the public hearing and with any other DCFS staff member on like to introduce themselves at this time.

DOMONIQUE RICE: Hi. I'm Dr. Domonique Rice. I am the DCFS Deputy Administrator of Quality and Oversight. Nice meeting everyone.

LESLIE BITTLESTON: Anybody else would like to introduce themselves? Thank you, Dr. Rice. And just to let everybody else know, Dr. Rice is new, so we all welcome her aboard. Alright, moving on to agenda item number five presentation of the NAC's. In the meeting materials located on the Juvenile Justice Oversight Commission website, you will find a document titled NA -- excuse me a -- document titled R021-20P. That is NAC 62B. Is there anybody on this call today that would like me to read this the NAC into the record word for word?

PAULINE SALLA: This is Pauline Salla for the record. For me that's, that's not necessary.

LESLIE BITTLESTON: Okay. Okay. I'm not hearing any requests to read in the record. The second NAC revision, NAC 62H which is titled R024-20P. Also, in the meeting materials. Would anybody like me to read that regulation word for word? Okay. Alright, not hearing anybody who would like to read either of the NAC's word for word, we will move on to agenda item number six, presentation of changes made per public workshop for public comment. In -- as Administrator Armstrong stated earlier, these NAC revisions came about as part of AB472 and then, essentially, the revisions made into Nevada revised statute based on that legislation in 2017. Part of that legislation required that DCFS create regulations in 62B and 62H. As part of this process, DCFS held two public workshops. Those dates are 08/14/2019 and October 2, 2019. Based on comment received at those public workshops, the state did make some revisions to the original regulations. Those included the inclusion of a definition of state money, the inclusion of DCFS youth parole and facility for requirements for data, clarified due dates for some of the items, and then clarification on processed of when proposed NAC revisions are set to the Legislative Council Bureau. Just to clarify what that means is once the state holds or once the division holds one or two public workshops that proposed the language is sent to the Legislative Council Bureau. At that time, an LCB attorney goes over the, the proposed language and, and prepares what is the final document which is the RO -- R021-20 and the R024-20. As part of the process, the Legislative Council Bureau does review the proposed language after it is drafted by that attorney to ensure that any proposed language is within the authority of the division. So just to clarify that we did hold the two public workshops and the documents that are presented here today were drafted by the Legislative Counsel Bureau and reviewed by the legal department within the Legislative Counsel Bureau. And that concludes agenda item number six.

ROSS ARMSTRONG: I think -- thank you, Leslie. This is Administrator Armstrong for the record. And so, I'm not sure if it is in agenda item six or eight in the adoption, but I think and I'll ask our legal counsel, Ms. Benson. I think this would be the appropriate time in the agenda for me to review which amendments that I intend to adopt based on the public comment we received in as part of the adoption process. I don't know if that's technically as part of agenda item six or eight, but I think this is the appropriate time to do that. Is that right, Ms. Benson?

SHARON BENSON: Yeah, Ross. I believe you're correct.

ROSS ARMSTRONG: Okay. Thank you. So, starting with regulations LCB file number R021-20, I do not believe any changes are needed at this time. Following public comment for LCB file number R024-20, I do intend to make the following amendments prior to adoption. And those amendments include -- not the best way to, to do this. All of the, all of the suggested changes from Washoe County, with the exception of the changes to Section 12. So that includes language changes to section four, which adds a person 21 years of age or older. It includes the deletion of successfully from section 5.1 F. It includes the deletion, the total deletion of Section 5.1J, which I know was also a concern on the NAJJA comments. The additional language in section 5.1I to include referred or subsection two for which the child receives the informal handling pursuant to NRS 62C.100 or NRS 62C.200 or a petition was filed and the child either one admitted to enter the plea resulting in the court sustaining one or

more charges alleged in the petition or three, the court sustained one or more charges alleged in the petition after a contested hearing or trial. In Section 5.1M, the insertion of referral or citation after arrest and before a violation of. For Section 5.3, changing so the, the, the public comments and deletion or alternative language and I'm choosing to adopt the alternative language which replaces the word division with Juvenile Justice Oversight Commission. And so, this would require that any ad hoc reports or data requested by the division is not at the division's discretion but will require action and a formal request by the Juvenile Justice Oversight Commission. In section 5.4, deleting section 5.4A. In section 5.5, deleting the word delinquent and adding at/or adjudication and then adding or when the juvenile court has sustained a petition alleging a child in need of supervision. In section 6.1H, replacing the word charged with detained. Again, I'm declining to make the changes suggested in section 12. In section 14.1, including the additional language of citation, petition filed, entry of dispositional orders, deleting the word and, and inserting the word commitment of the division or the placement on parole. In Section 4.6, adding the language to the extent legally possible. I do believe that this is addressed as some of the concerns from Clark County about the sealing and destruction of records. And so, it makes it clear that no probation department is required to hand over data that is illegal for them to obtain. And then section 14.7 add G [ph] which would be convicted by a court to the extent it is legally possible to obtain that information. In addition to those changes, based on, based on the comments, we're going to adopt the additional changes or amend the additional changes. So, section five, subsection 1H, which is about the mental health screening, the section that currently reads the mental health screening score of the child shall be amended to read the number of children who received a mental health screening using a validated mental health screening tool and remaining there, there -- keeping the rest of the language there. I already discussed the deletion of Section J -- 1J. And in section 1N where there was a request for what administrative charges is, deletion of the words administrative charges made and replaced with technical violation charged by a district attorney's office. Give me just a moment. And then I think -- I believe finally, the final change to the language would be to strike any of the amendments proposed in Section 11, which addresses concerns that were raised in the public comment from a Clark County District Attorney's Office. And so those are the changes based on public comment that I intend to make in just a moment. So, moving on to agenda item number eight, adoption of the NAC's. So, at -- in a, in a situation where regulations are adopted by a public body versus the administrator, it's a little bit different because there's a motion that the public body votes. So, chair -- Ms. Benson, if I get any of the language wrong, if there's any magical language that I'm supposed to use, but at this time I will adopt the regulation changes in LCB R021-20, which make changes to Nevada Administrative Code Chapter 62B. And I would ask that staff prepare the appropriate documentation for me to affix my signature of adoption and proper submission to the Legislative Council Bureau. And then moving on to R024-20, the changes to chapter 62H, I adopt those regulations as amended in the discussion I had in Section six in response to the public comment. And I would ask DCFS staff to create an amended document reflecting those changes and then all the appropriate paperwork for me to sign as adopted and submission to the Legislative Council Bureau. Sharon, is there any other --

SHARON BENSON: Administrator Armstrong, I just want to have you confirm that and I believe you stated it, but I want to make sure it's clear for the record that the division or that you did fully consider all oral and written comments prior to making this decision.

ROSS ARMSTRONG: Thank you, Sharon. And, yes, the -- just -- we received the written comments from the Clark County District Attorney's Office, the Nevada Association of Juvenile Justice Administrators, and the Washoe County District Attorney's Office with sufficient time for us to review and discuss and take into consideration as we went forward with our -- any amendments to these regulations. As I, as I indicated into -- in the, in the introduction, I think that there are some comments and concerns obviously over the operation of implementation, which I expect will be addressed by the DCFS Programs Office. And so, and so we have taken all of those comments into consideration including the comments as outlined by Ms. Bittleston, the comments and suggested changes from the time of the two workshops until this public hearing. And a small business impact statement was completed and attached to the materials as also required by law. And so having completed agenda item number eight, I would move on to agenda item number seven, which is an opportunity for any public comment. So, Leslie, back to you.

LESLIE BITTLESTON: Alright. Thank you, Administrator Armstrong. Going on to our second public comment section. Again, same rules apply as the first public comment, name and organization and three minutes. Is there any public comment at this time?

PAULINE SALLA: This is Director Salla from Humboldt County Juvenile Services. It's -- this might be a clarification because Administrator Armstrong, you were fast on going through that. So, on section 5.1G, which was NAJJAs concern about the YLS cleaning of that language because it does -- that's left for interpretation that a new YLS has to be completed even if there's one current that meets the standard. Was that -- did you address that or are you considering that day to day operational issue that we can work out?

ROSS ARMSTRONG: Thank you, Ms. Salla. There are no suggested changes to that language. I think it is operational one, but I will put on the record for your benefit in future use, if necessary, that it is our intent that the number and types of YLS would be consistent with the statewide policy that is adopted by the JJOC and we do not view this regulation and we would not enforce this regulation as requiring additional YLS.

PAULINE SALLA: Thank you. Glad that's on the record. I appreciate that.

LESLIE BITTLESTON: Is that it, Ms. Salla? You're on mute.

PAULINE SALLA: For right now, I'm just going through my writing -- my scribble is --I'm [inaudible] Mr. Armstrong was talking. So, I think someone else can go.

LESLIE BITTLESTON: Thank you. Any other public comment?

LIZ FLORES: Yes. This is Liz Flores for the record, and I was trying to keep up too. So, I -- I'm hoping for clarification if I missed it on, I think, I think Director Salla asked about YLS clarification? Can, can you remind me what was stated about the number of case plans? Did I, did I miss that? And I'm trying to find the number -- what section that was.

PAULINE SALLA: This is Director Salla. Thank you. Director Flores, that was section 14.5 on our letter.

LIZ FLORES: Thank you. So, may I get clarification? I apologize if I missed it.

ROSS ARMSTRONG: I will do the -- it's a similar situation as the YLS. There are no changes to the language. I think it's an operational item, but I would -- I will put on the record that no, no regulations are intended to with respect to case plans to require, require more case plans that are necessary.

LIZ FLORES: Thank you.

LESLIE BITTLESTON: Any other public comment?

ROSS ARMSTRONG: If there's none, I would just -- and it's always weird for me to public comment, but I just want to thank everybody's engagement on this issue and, and in terms of the changes to 62H, I think it's important to remember that these regulations are related to data reporting requirements. And so there, there is not an intention to change practice with any of these. That if we find through the data reporting there's a needed change in practice or a needed change in data reporting that we can address that through other avenues or additional amendments. But that, you know, these are really designed to clarify data reporting requirements and not change the substance of your practice.

PAULINE SALLA: This is Director Salla. Administrator Armstrong, I just want to say thank you for con-for taking our, our letters into a consideration and, and hearing us out. That's -- that we appreciate that. And I know, always mine came in from [inaudible] to you on Friday. So, I appreciate you taking that into consideration.

ROSS ARMSTRONG: This is Administrator Armstrong. Its no -- there are other systems in Nevada that are used to regulation all the time and it is not something that we have done a lot in our juvenile justice system. So, I appreciate the patience and understanding as we also navigate a process that we're all not in the trenches on, on a regular basis.

LESLIE BITTLESTON: Anybody else? Okay, hearing no other public comments that moves us to agenda item number nine, adjournment. Thank you very much everybody. I second Administrator Armstrong's comments and appreciate all of the input and patience with us as we move through this process. So, thank you very much. This meeting is adjourned at 11:37.