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DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF CHILD AND FAMILY SERVICES
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Cindy Pitlock, DNP
Administrator

August 12, 2022 at 9:00 AM Public Hearing Transcript

Leslie Bittleston: Good morning, everybody. I don't see anybody else signing in. So, we will go ahead and call the public hearing to order at 9:02 a.m. My name is Leslie Bittleston from Division of Child and Family Services Programs Office. Moving on to agenda item number 2, I would like to introduce the Administrator of the Division, Dr. Cindy Pitlock will be joining us today. Dr. Pitlock, would you like to say anything?

Cindy Pitlock: No. Thank you, Leslie. For the record, Cindy Pitlock. I serve as the Administrator of the Division of Child and Family Services. Thank you for the chance, for the intro.

Leslie Bittleston: Also from the division is Deputy Administrator Sharon Anderson, Dan LaBarbera and Kayla Williamson from the Programs Office. We also have the Deputy Attorney General Jennifer Spencer online. And I believe that's it. Alright. Moving on to agenda item number 3, public comments. Before we get started, this is a public comment opportunity. We asked that the folks who wish to make public comment state their name for the record and limit public comment to three minutes. Is there any public comment.

Liz Florez: This is Liz Florez for the record. Just for clarification, I see on the agenda there will be another opportunity for public comment, is that still correct?

Leslie Bittleston: Yes, ma'am, it is correct.

Liz Florez: Okay great, okay thanks. Thank you.

Leslie Bittleston: Alright, any other public comment? Hearing none, we will move on to agenda item number 4, which is to review the regulations which is attachment R056-22 and just a reminder for the folks present today that this regulation change is part of SB366 which was enacted in the 2021 legislative session and it requires the division to obtain or collect data regarding youth competency hearings. The state, DCFS previously held two public workshops with draft language around the collection of data with youth competency hearings, evaluations held for juveniles. And after those two public workshops were completed, all of that information was sent to the Legislative Counsel Bureau for drafting of the actual regulations. The drafting of the regulations is attachment R056-22. I will review that attachment now. Does everybody have a copy of that attachment? Perfect. Okay. The regulation -- regulation relating to juvenile justice requiring each department of juvenile services and the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services to submit certain data and information relating to any preceding -- any preceding to determine the competency of a child to the division, requiring an expert appointed by the juvenile court to evaluate and report on the competence of the child and to include certain information in the written report and provide -- and providing other

matters properly related there too. Moving down on to page number 2, section 1, the blue language is all of the new language that has -- that we proposed to be included in Nevada Administrative Code 62H. Section 2 defines an intellectual disability. Section 3 defines a mental illness. Section 4 outlines the data to be collected and this regulation is allowed pursuant to NRS 62H.400 and it is to be provided on an annual basis for the preceding 12 months. It is to be aggregated by age, race, ethnicity, sex, gender, identity or expression, include the most serious delinquent act. And then, overall the number of the children determined to not be competence. The number of children for whom the juvenile court ordered treatment, if they were found to be incompetent, I'm now at letter E, the number of children for whom the juvenile court ordered treatment, who has been since deemed competent after treatment. Moving on to page 3, it outlines the juvenile services and the Youth Parole Bureau shall report the data are required in this section using the following codes, the letter A will be a delinquent act. The letter C will be conspiracy. The letter F will be a felony and the letter G will be a gross misdemeanor. Section 5 talks about the expert who is appointed by the juvenile court and directs that expert to specifically outlined in the evaluation report provided back to the court what the reason for the incompetent determination is. This was one of the things that was addressed during one of the public workshops around how our folks -- to determine what the evaluator determine to be the results of the evaluation. So, this section is to require the evaluator to clearly identify the results, whether the child is competent or incompetent and if they are incompetent, why are they incompetent. And then the last bullet number 2 defines a developmental disability. So, that is the language that the division is proposing to put into NAC 62H regarding the collection of data, of competency evaluations in the juvenile department and the Youth Parole Bureau. Sorry, I'm pulling up my agenda. So, that concludes my presentation of the newly -- of the new language. I lost my agenda. Okay, yey. Okay. Okay, so that moves us on to number 5 of the agenda which is public comment. Again, public comment is limited to three minutes per individual and we asked that each individual who provides public comment to state their name for the record. Is there any public comment at this time?

Joe Saiz: Good morning, Leslie. Joe Saiz, Division Director with Washoe County Juvenile Services. I just want to turn to section 5 and I appreciate the new language following our last public hearing. I had an opportunity to talk to a couple of jurisdictions around the state related to the reporting of competency. And one of the concerns that has come up, at least with the two largest jurisdictions, my jurisdiction and Clark County, is that there are -- there is a pocket of children who -- who do not receive a competency evaluation pursuant to NRS 62D.155. And there are situations where parties agreed to and then subsequently stipulate to a child not being competent. And -- so the example that I'll give is that a young child comes to our attention, an 11-year-old, who is clearly developmentally immature and may have a developmental disability. The court and the attorneys without wasting everyone's time may enter into an agreement where the child is deemed not competent. And -- so my only concern with section 5 is that it requires an expert who is appointed by the juvenile court and who prepares the competency evaluation to make the determination as to why the child is incompetent. And there are just a pocket of situations where that may not happen. There is no evaluation and there's just an agreement on the court's behalf. There's a waiver of 62D.155 and a child is deemed not competent. And so my concern is that we might be underreporting it. This is the only basis for reporting on competency. I would estimate that probably 15% to 20% of the children that we worked with, who are deemed incompetent, there's a waiver of the evaluation and an entry of incompetence. I tried to get some numbers from my partners down south in Clark County and it's really difficult for all of us to try to -- try to tally the total numbers but there are situations. It's the exception, not the rule but there are situations in other jurisdictions where does this happen. So, I just want to point that out as we continue to move forward with how we're going to collect this data.

Leslie Bittleston: Thank you, Joe. Is there any other public comment at this time? No. Just to follow up on what Joe said, that is something that we will take and look into, to determine if any changes to this language are -- is warranted. Aside from that, this language is up for adoption today. So, with the adoption of any language that -- what am I trying to say? This language is up for adoption today. If there is other language or a revision that maybe needed later, the division can start the process over of going back to public workshop and going back through the process again. With that being said, that is always something that we look into with our Deputy Attorney General just to ensure that our language is good. And if we do need a change, we will address that later. Okay. Is there any other public comments at that time -- at this time, excuse me. Great. Okay, moving on to agenda item number 6, this is the DCFS Administrator approval of regulations. Our Deputy Attorney General Jennifer Spencer is on the line, if she would like to provide our legal language around the adoption of regulations.

Jennifer Spencer: Thank you, Leslie. This is Jennifer Spencer. So, I think with what Mr. Saiz has brought up today, we will look into that. So, I am reticent to say we're going to approve them today because something new was brought up today that I think is something good that we should look into.

Leslie Bittleston: We'll do. With that being said, we will not adopt the language today. We will take it back for consideration and to determine if a change is needed. If a change is needed, we will bring it back to public workshop and public hearing again. Are there any questions? No questions? That actually concludes our meeting for today. So, we are adjourned.

Unidentified Female: Thank you, everyone.

Unidentified Female: Thank you.

Unidentified Male: Thank you.

Unidentified Female: Thank you.

[end of meeting]