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Children's Behavioral Health Task Force
December 14, 2007

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The Children's Behavioral Health Task Force met at 9:00 a.m. on Friday, December 14, 2007, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public meeting on consideration of the task force report. Members present: Jim Jensen, Chairperson; Scot Adams; Beth Baxter; Judge Elizabeth Crnkovich; Senator Lavon Heidemann; Ruth Henrichs; Senator Joel Johnson; Candy Kennedy; Tom McBride; and Terri Nutzman. Members absent: Todd Landry and Ruth Henrichs. []

JIM JENSEN: Good morning, everyone, and thank you for your attendance. You all know the reason for our meeting today, and hopefully we can accomplish what needs to be done in a fairly good order. There is an agenda that was circulated. Any additions, corrections to that agenda? Seeing none, we will proceed to that. Also, the minutes of November 28 that were circulated--no changes to that? I don't see any, so they will stand approved as presented. So we're down to number four; that's consideration of the task force report, and we did circulate that. Everyone has that, and the only item that we do have was presented. Jeff, does everyone have a copy of that?

JEFF SANTEMA: No, not yet, sir.

JIM JENSEN: Tom McBride suggested that there was nothing in the report concerning children or parents who actually give up the custody of their children, make them state wards, or ask to become state wards because of the cost of behavioral health services, and we did discuss that. And so Jeff drew this up at Tom's request for your consideration. Any comments? Well, you have it before you. Read that over. I'll give you just a minute or two. It's really just one sentence: "The task force recommends that the Division of Behavioral Health Services and the Nebraska Legislature develop and implement administrative and legislative strategies and mechanisms to reduce the number of instances in which parents seek to have their children adjudicated as state wards in order to access needed behavioral health services." I will tell you that there

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Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

have been bills introduced in the past. We've had some very emotional hearings. I don't know how many times that this has been brought forward. But it certainly is an area that there is great concern over. Now I kind of mentioned to Jeff and then to Tom: Do we ever have circumstances where...the last three words, "needed behavioral health services"--do we have any circumstances where there are needed health services other than behavioral health,...

_____: Yes.

_____: Um-hum.

JIM JENSEN: ...that you would do that? And maybe we could either add or take the word "behavioral health," or just say "behavioral health or other medical services."

LIZ CRNKOVICH: Actually, with all due respect to Jeff, I have a legal concern. Children are not adjudicated as state wards, so that language would be inaccurate.

JEFF SANTEMA: Thank you. How should we change that, Judge?

LIZ CRNKOVICH: Well, I have to think for a minute,...

JEFF SANTEMA: Sure.

LIZ CRNKOVICH: ...because they're adjudicated as either because their behavior is such that it would be criminal behavior if they were adults, or because they are out of parental...I mean, the statutory...so 3A, the language that's used, that Tom is envisioning, is that they are adjudicated as children who, through no fault of the parents, are homeless, destitute, and without proper support. So we don't want...I don't know that we want all that language, but...

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

JEFF SANTEMA: Right.

LIZ CRNKOVICH: ...and I'm not trying to criticize,...

JEFF SANTEMA: Could another word other than adjudicated be used?

LIZ CRNKOVICH: ...but it's significant, in terms of the phraseology.

JEFF SANTEMA: Exactly, and I apologize. Could we use a...could another word other than "adjudicated" be used, just not getting into...

LIZ CRNKOVICH: Well, how about number of instances in which parents seek to have their children made state wards or seek to have their children placed in the custody of Health and Human Services.

KATHY MOORE: Right, that would be...

LIZ CRNKOVICH: That's better.

_____: (Inaudible) custody?

LIZ CRNKOVICH: Yeah.

KATHY MOORE: Well, they don't always relinquish. I would just say "placed in the custody."

LIZ CRNKOVICH: Yeah, who seek to have their children placed in the custody of Health and Human Services, in order to access needed healthcare services.

KATHY MOORE: You know, I would strike "behavioral health" and just say needed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

services,...

LIZ CRNKOVICH: Yeah, that's...

KATHY MOORE: ...because often we're talking a status offender or someone whose behavior has escalated due to their inability to get services. So I would just say "services."

JIM JENSEN: And of course, and Senator Heidemann, for your consideration, one of the reasons this was never passed out of committee is because of the A bill...or not A bill, but at least the cost of doing this was large, and we have no idea. Some day I thought perhaps even some sort of a pilot might have even helped somewhere along the line. But these are recommendations, and...

LIZ CRNKOVICH: Can I ask a question? Is that because it opens the door...I'm curious. Is it because by doing it this way it would open the door to many more cases, because one way or the other, the cases that come through the court we're paying anyway, so I just (inaudible).

SENATOR JOHNSON: Well, Senator, that...I agree with the judge in that instance, that it...I can certainly see where it might cost some funds in the short term, but in the long term, why, I would think it wouldn't take very far in the long term (inaudible).

LIZ CRNKOVICH: I guess where untreated kids are going, then they're coming in on delinquencies.

CANDY KENNEDY: Exactly. I think that our recommendations, number one, in the future, we're talking about hopefully that when we get to this point it won't be as...there won't be as many youth that are getting to this point, with the changes or recommendations. But exactly, a lot of the youth in the families are having to maneuver

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

through the system differently to make this happen like that. So...and it is the same...you're right, the same cost.

LIZ CRNKOVICH: And the irony is that once in the system and in the custody of the department, sometimes--and in fact, quite often--parental responsibility starts to go, and by that I don't mean that...I mean, their view and everything else, it's now our problem, not theirs. So there's...I kind of like Tom's language, and I at least recommend that we again, you know, consider it, look into it, or whatever, with or without an A bill. But it...

BETH BAXTER: I think there are current provisions within probably administrative code. I know we did a pilot project in the Region 3 area, where we used voluntary case agreements. The youth...the children were really at-risk. It was kind of the last stop for them before, you know, potentially moving into the protection and safety system. And so we just applied the wraparound family-centered practice principles, had an intensive case manager for that family, and used...developed this voluntary case agreement that followed protection and safety guidelines and that, and had about an 80-85 percent success rate of keeping children out of the system. And those who had just recently gone into the system, getting them back to their families. So there's probably ways that we can do that currently, but I think bringing attention to it and having additional language would be helpful.

TOM McBRIDE: There have been some states that have been successful in maneuvering their insurance programs to where uninsured families in particular had an opportunity to buy into different programs that were state-sponsored, and I think that's something to look at. You know, the parent...the necessity of having to give up the custody of your child, you know, is so disheartening, and I think that we need to eliminate that as much as possible. The great thing about this is, this recommendation (inaudible). No,...

LIZ CRNKOVICH: Oh, no one has to take responsibility. (Laughter)

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

BETH BAXTER: Well, I think the results are...I mean just...there are also some additional challenges that we think about, and I don't know...I don't believe it happens...it's not a pervasive issue, but there are times when providers are very reluctant to take a youth into particularly a congregate care, you know, residential treatment, group home type of care, for liability reasons, that if the youth destroys something, who's going to pay for that? And so we've had some challenges, you know, youth within our professional partner program who were not state wards, who needed a certain level of care, and there was considerable reluctance on a provider's part to serve that youth because they didn't know who was going to pay for some kind of damage that potentially could have happened with that youth.

CANDY KENNEDY: And Beth, even more than reluctance, don't you think there are some that just can't, I'll say? How's that?

SENATOR JOHNSON: Well, I think it's rather ironic that state that professes, and we as people profess the value of the family unit, and then here is something that actually destroys or impedes that family unit. So it would seem to me that if indeed we do value that family unit, and I think we all do, that we ought to work in that direction.

KATHY MOORE: Yeah. I'm really glad, Tom, that you brought this up, because I think we have just missed it, and it would have been a terrible oversight. So...

JIM JENSEN: Jeff, why don't you read the...at least the last line, how it would read, and then we can take a vote to see whether we want to include that.

JEFF SANTEMA: The amended motion would now read, "The task force recommends that the Division of Behavioral Health Services and the Nebraska Legislature develop and implement administrative and legislative strategies and mechanisms to reduce the number of instances in which parents seek to have their children placed in the custody

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

of the Department of Health and Human Services in order to access needed services."

JIM JENSEN: Any comments on that? All those in favor, say aye. Opposed? Any other changes, recommendations?

KATHY MOORE: Well, I have maybe a question first. On page 16 where it refers, under the funding section, and it says, "a more complete summary of state funding can be found in Appendix G." And then when we got the mailed copy--and I apologize; with snow and travel I didn't have a chance...I was working from my electronic copy for too long. But I'm assuming that refers to page 11?

JIM JENSEN: You got a 16?

_____: I don't think so.

JIM JENSEN: I don't have a 16.

KATHY MOORE: You don't have a what?

JIM JENSEN: I don't have page 16.

_____: There is no page 16.

KATHY MOORE: Oh.

JEFF SANTEMA: I think the reference there, Kathy, is where the more complete funding information was in the HHS Powerpoint presentation that was included as an appendix.

KATHY MOORE: Right. What I'm referring...the statement I'm referring to--maybe I'll get another...they got renumbered. I'm working from two copies. Under the section that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

says, "The Current System," when you go back about four pages, there is a category called funding. And in that category, it refers to Appendix G. That's my only point. So you probably don't need...and then, when you turn to Appendix G, he's referring, I assume, to the Powerpoint, and the piece that I see is on page 11, so you should...of Appendix G, if that makes sense. And it looks like this. Well, first of all, we can't really read it, and I think the funding piece is such an important piece. And like I say, I apologize because I didn't reconcile these two copies until yesterday, and it was too late. So first of all, I would want a separate page for that chart, but secondly, if I'm reading that chart correctly, it primarily focuses on out-of-state placements, and what I didn't see in here, I don't think--and maybe I'm just missing it--is that breakdown that describes the dollars spent, for instance, at the regional center versus other community placements. I don't really see, and so maybe I'm just missing it. I see this pie chart, but I don't see the budget page, if you will, and I think we need to see that in order for this whole report to have meaning.

JEFF SANTEMA: Okay. So include a budget...be sure to include a budget page in the appendices that compares the cost of regional center care to community-based care for adolescents.

KATHY MOORE: Right, or whatever the various categories that there are, um-hum. []

JIM JENSEN: Now Jeff, we don't have a page 16 in our report. There would be...

KATHY MOORE: No, I was referring to the wrong...

JIM JENSEN: Yeah, but I mean that's...do we know that?

JEFF SANTEMA: Yes.

KATHY MOORE: It's now page 13, if you want to be clear about what I was saying.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

Look at page 13.

JEFF SANTEMA: And making the HHS presentation, maybe each slide a separate page, or at least that (inaudible).

JIM JENSEN: Well, okay.

KATHY MOORE: Does that make sense, Senator? On page...

JIM JENSEN: Well, yes, but I just wondered if somebody is reading this and they're going to ask the same question. What happened to page 16?

KATHY MOORE: No, because I was just...my reference to 16 was because I was working from the copy that we were e-mailed.

JIM JENSEN: Okay. But when we go to print, will...

JEFF SANTEMA: We'll address it, yes.

JIM JENSEN: Okay.

KATHY MOORE: And so yes, blowing up at least this slide to its own page and then adding...

JIM JENSEN: The budget.

KATHY MOORE: ...the budget, um-hum. And I suppose my last...again, on page 13, above "funding," where it talks about foster care and adoption system, it references various child placement agencies--foster care providers, similar agencies, and it doesn't make any reference to Health and Human Services. And I just wondered if that would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

leave people confused.

JEFF SANTEMA: HHS as a placement.

LIZ CRNKOVICH: It's the simple things.

KATHY MOORE: Right, it is. And I'm so sorry. Yeah, it's like your third reading, and all of a sudden it's like, this just didn't...it didn't seem to imply a system, because Health and Human Services should be the licenser and the contractor and everything, so.

JIM JENSEN: Okay. Anything else whatsoever? And again, I think we can make these changes and then go ahead and print those.

KATHY MOORE: And I'm, yeah, if there's a...I mean, my title needs to be changed, but I assume we can deal with that after we approve. And there's just a couple...

JEFF SANTEMA: And I did change that, Kathy.

KATHY MOORE: To executive director instead of CEO?

JEFF SANTEMA: Yes.

KATHY MOORE: Okay, good.

JIM JENSEN: Okay, then with the addition of just what Kathy Moore said and then that children's behavioral health...or the draft recommendations from Tom, anything else whatsoever? Before we vote on this, I would ask: Is there any public comment from anyone? Seeing none, we're ready for, I believe, a motion to approve the report from the task force.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

TOM McBRIDE: I'd make a motion that we approve the report from the task force, to be forwarded with the additions as indicated earlier.

KATHY MOORE: I'll second.

JIM JENSEN: There is a motion and a second. Any further discussion? Kendra, will you do roll call?

KENDRA PAPENHAUSEN: Jim Jensen.

JIM JENSEN: Yes.

KENDRA PAPENHAUSEN: Todd (sic) Adams.

_____ : (Inaudible).

KENDRA PAPENHAUSEN: Beth Baxter.

BETH BAXTER: Yes.

KENDRA PAPENHAUSEN: Liz Crnkovich.

LIZ CRNKOVICH: Yes.

KENDRA PAPENHAUSEN: Senator Heidemann.

SENATOR HEIDEMANN: Yes.

KENDRA PAPENHAUSEN: Ruth Henrichs. Senator Johnson.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

SENATOR JOHNSON: Yes.

KENDRA PAPENHAUSEN: Candy Kennedy.

CANDY KENNEDY: Yes.

KENDRA PAPENHAUSEN: Todd Landry. Tom McBride.

TOM McBRIDE: Yes.

KENDRA PAPENHAUSEN: I'm sorry. This is...I'm sorry. Scot Adams. (Laughter)

SCOT ADAMS: I'll be abstaining on the vote, but I do have to say that it's just a fascinating situation where Todd and I...this happens all the time--Todd Adams, Scot Landry, Todd Scot, Scot Todd, and so I apologize, but (inaudible).

KENDRA PAPENHAUSEN: I'm sorry.

SCOT ADAMS: I should be getting used to it by now, I guess.

KENDRA PAPENHAUSEN: Are you...I'm sorry. Are you abstaining?

SCOT ADAMS: I am abstaining. Thank you.

KENDRA PAPENHAUSEN: Tom McBride.

TOM McBRIDE: Yes.

KENDRA PAPENHAUSEN: Kathy Moore.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

KATHY MOORE: Yes.

KENDRA PAPENHAUSEN: Terri Nutzman.

TERRI NUTZMAN: Abstain.

KENDRA PAPENHAUSEN: Eight, zero, two, two.

JIM JENSEN: The report has been approved. I do want to thank everyone who participated in the task force, and this is not the end. We still will have meetings ahead of us, and I appreciate everyone's participation. I really do think it's been a very enlightening and for me, rewarding point to come up with the report, and we'll see what happens from here. Any other discussions?

KATHY MOORE: Well, I think looking forward...and I haven't really formulated this, but with Senator Johnson contemplating the preparation of any legislation, etcetera, I was absent for the last meeting and missed the decision on behalf of Health and Human Services to abstain from the votes. But if that is going to continue to be the case, I wonder if we need to consider a reconfiguration of the task force, because much of the work that went into these recommendations kept relying on the fact that our task force existed from now through 2010. And having participated in the original drafting of LB542 and then the multiple amendment processes that went forward, there was a draft that did not include Health and Human Services directors as voting members of the task force. And the assumption on my part was that as usual, Health and Human Services would provide all of the staffing and materials. And there was a request made at that meeting on behalf of HHS that they wanted, in fact, to be full voting members of the task force. So if, in fact, that is not going to be the case, I would ask Senator Johnson, I guess, to consider drafting an amendment that would change the configuration of the task force, so that we would have the expertise and the input from Health and Human Services, but we would not get into the same bind that we found ourselves in a couple

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

of weeks ago.

SENATOR JOHNSON: Well, I'm glad you brought it up, and we have given it a little thought, and maybe it can be done as simply as to make them nonvoting, ex officio members. We still then would have them participating and giving us their good ideas and so on, and yet not dependent on the vote or for quorum purposes or whatever.

KATHY MOORE: Excellent. That would be...I just wanted...I wasn't sure whether any discussion had occurred at the last meeting. I didn't think so.

LIZ CRNKOVICH: No. No one at the last meeting was aware that when the committee was formulated, it was the department who asked to be voting members. You were the only one because you were one of the original folks on the committee. Had the other participants known that, under the circumstances, it would have shed a whole new light, not any more beneficial, but certainly more enlightening, in terms of the last meeting.

KATHY MOORE: Okay, yeah. Yeah, I was quite surprised when I learned of that, so.

LIZ CRNKOVICH: I was surprised, frankly, that these legislative committees are not taken very seriously. And the response to my sincere reaction was surprise that anyone on the legislative committee would take it so seriously as to suggest that it would have substance and be meaningful. I must say that shocks my conscience as a citizen. I was asked to be on this committee. I cancelled well over eight or nine days of work that were jam-packed. We hear 30 cases a day. I have to schedule cases into May or June, but I took the time to do that and to put other people's lives on hold, because this task force was considered by myself to be so important, for the benefit of those with whom I work--the children and the families. And I was happy to be on this task force, because I came with zeal and excitement that perhaps we could make real change in the state of Nebraska for the benefit of our children and our families. I have never been so disheartened in the entire 20 years that I have worked in juvenile justice as I have been,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Children's Behavioral Health Task Force
December 14, 2007

as a result now of working on this task force. But I will continue to participate, and I continue to hope for the best. Thank you.

JIM JENSEN: Thank you. Any other comments? Thank you. That will conclude...oh, Jeff.

JEFF SANTEMA: Senator Jensen. I apologize, Senator, if I could just ask a quick question of you and the task force. Does the task force have any objection to Senator Jensen overseeing the final formatting of the report and making any necessary nonsubstantive editorial changes, those types of things, before the report is printed? Would there be any objection from the task force to that?

_____ : None.

_____ : No, I think that's excellent.

KATHY MOORE: And I'd like to really thank former Senator Jensen for...and certainly Senators Heidemann and Johnson, but the leadership, I think, that Senator Jensen has brought to this, and the extension of his knowledge that he brought into this from his past experience has been critical. So I really do think that what we've done in these previous four months or however long we've been meeting will lay an important foundation for the coming three years, two years, however long it is left and therefore, want to make sure that we've got the best structure and the best protocols, if you will, for our decision-making process.

JIM JENSEN: Thank you. Okay. We're adjourned. Thank you everyone for coming.