



South Dakota Legislative Research Council

Issue Memorandum 95-7

OVERVIEW OF 1995 CHILD WELFARE LEGISLATION

Introduction

The well-being of South Dakota's children is at a seven-year high, according to the *Kids Count Data Book*. The book is released annually by the Annie E. Casey Foundation, a private, charitable organization dedicated to helping children. Statistics for South Dakota show decreases in infant mortality, low birth-weight babies, and the number of children living in poverty. The picture, however, is not entirely rosy. The state reported increases in violent teen deaths, juvenile arrests, births to unmarried teens, and the percentage of families headed by single parents. While South Dakota ranks high among the states in terms of the welfare of its youth, the need for improvement is evident.

The 1995 South Dakota Legislature dealt with a number of bills which directly or indirectly impact the state's children. This memorandum examines those which were signed into law by the Governor.

Senate Bill 39

The large number of juveniles awaiting placement in the state's correctional facilities precipitated this legislation. It allows authorized personnel of the Department of Corrections and law enforcement officers to take temporary custody of certain adjudicated children without an order of the court.

Formerly, court services officers were the only ones allowed such custody without a court order.

Senate Bill 42

The sex offender registration program established in 1994 is enhanced under the terms of this bill. Those convicted of a sex crime must now register regardless of the dates of their convictions. Initially, only those convicted of such a crime on or after July 1, 1994, needed to register. In addition, the definition of sex crime is broadened to include kidnapping, if the victim is a minor, and promoting the prostitution of a minor. Attempting to commit a sex crime and crimes committed in other states which would fit the state's definition of a sex crime are also included.

Also new this year is the provision requiring the Division of Criminal Investigation to verify the current addresses of those registered on at least an annual basis. The division will accomplish this by mailing nonforwardable verification forms to the registered parties at their last reported addresses.

Senate Bill 82

This bill gives the court a little more latitude in the termination of parental rights of a child. If the court deems it to be in the best interest of

the child, it may terminate the rights of a parent upon the petition of only one parent. The parental rights may be terminated regardless of whether both parents are present at the hearing. Both parents, however, must be notified of the hearing on the termination. If the paternity of the child has yet to be judicially determined, the notice must go to any person who claims to be, or is named as, the biological father.

Senate Bill 166

Under this legislation, superintendents of schools and operators of child welfare agencies, such as day care centers, may submit names of potential employees to the Division of Criminal Investigation for a criminal record check. Previously, they were only allowed to determine whether or not the potential employees were registered sex offenders.

Senate Bill 45

Under the terms of this bill, anyone convicted of killing a child under the age of thirteen is eligible for the death penalty. Unlike in the past, no other aggravating circumstances need exist for the death penalty to be authorized.

House Bill 1020

House Bill 1020 has two main components. First of all, it allows the Department of Social Services to waive licensure of agencies which ordinarily would need to be licensed as child welfare agencies but are already similarly regulated by another state agency. Agencies requesting a waiver must provide documentation of approval by the state agency currently regulating them before the waiver is granted.

Secondly, this bill allows for the disclosure of

investigative records relating to reports of child abuse or neglect to two additional parties. The parties granted the access are certain tribal agencies which provide child welfare agency services and those private child welfare agencies whose licensure has been waived by the Department of Social Services as described above.

House Bill 1022

This piece of legislation pertains to child support. It allows the Department of Social Services to recover genetic testing costs in certain child support cases. It also permits a tribunal within this state to modify a child support order of another state if one of the parties is a South Dakota resident.

House Bill 1071

House Bill 1071 appropriates \$250,000 to the Department of Social Services. The department uses the funds to award grants for the establishment or maintenance of shelters and other services for victims of domestic and sexual abuse.

House Bill 1078

This special appropriations measure provides the Department of Corrections with \$292,000 to cover the costs of juveniles awaiting placement in the state's crowded correctional facilities.

House Bill 1166

House Bill 1166 repeals the requirement that a physician concur in a psychiatrist's decision to use psychotropic medications to treat a minor. The use of these medications in minors, however, still requires the informed consent of

the minor's parent or legal guardian, and in cases where the minor is at least sixteen years of age, the implied consent of the minor as well.

House Bill 1210

This piece of legislation was among the most controversial of the 1995 Session. It provides criminal penalties for various crimes against an unborn child. Among the crimes included are homicide, vehicular homicide, aggravated assault, and manslaughter. It does not apply to acts committed during an abortion.

House Bill 1313

A court is permitted, under the terms of this bill, to suppress the name of a minor who is a victim in a prosecution for rape, incest, or sexual contact.

Conclusion

In a recent presentation sponsored by the Danforth Foundation, Dr. Harold Hodgkinson of the Center for Demographic Policy in Washington, D.C., pointed to some troubling statistics with regard to the youth in South Dakota. Twenty-three percent of the state's three and four year olds live below the poverty line. A disproportionate number of them are Native Americans. In addition, Census

projections indicate the percentage of Native American children will rise dramatically over the next several years, making the problem even worse. Plus, as these children living in poverty grow older, their problems are apt to grow with them.

Along with high poverty rates, Dr. Hodgkinson highlighted another statistic impacting little children in South Dakota. Just over 70% of the state's kids have both parents, or their only parent, in the workforce. These parents often struggle to find adequate day care. It is especially hard for those residing in the many rural areas, where day care facilities may not even exist for miles around. Further compounding the problem are the many parents in South Dakota who must work long hours for low pay or maybe even hold down more than one job. In short, the state's need for affordable, quality day care is evident. Despite this fact, however, it is an issue which has received little attention on a statewide basis.

As Dr. Hodgkinson concluded, it is easy to see that the state could reap great benefits, both economical and social, by focusing on the needs of its youngest citizens. The difficult aspect is deciding what to do and how to pay for it.

This issue memorandum was written by Clare V. Cholik, Legislative Librarian for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.
