

HOUSE COMMITTEE ON HUMAN RESOURCES

SUBCOMMITTEE ON HUMAN SERVICES

March 09, 1999 Hearing Room E

3:30 PM Tapes 7 ñ 8

MEMBERS PRESENT: Rep. Jackie Winters, Chair

Rep. Betsy Close

Rep. Jeff Kruse

MEMBER EXCUSED: Rep. Kitty Piercy

Rep. Bill Morrisette

STAFF PRESENT: Janet L. Carlson, Administrator

Diane M. Lewis, Administrative Support

MEASURE/ISSUES HEARD: Overview of "System of Care" Settlement Agreement and Federal Adoptions and Safe Families Act

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 7, A		
004	Chair Winters	Opens an informational meeting at 3:40 P.M.

010	Kay Toran	Administrator, State Office for Services to Children and Families (SCF), submits and presents written testimony regarding the "System of Care" settlement agreement (EXHIBIT A).
046	Larry Young	Attorney General's Office, explains components of the settlement agreement: <ul style="list-style-type: none"> • It is a binding contract between the Juvenile Rights Project (JRP) and the state of Oregon. • It requires "initial" reforms be implemented by June 30, 1999. • It will be implemented by June 30, 2003. • Enforcement provisions exist in contract.
058	Rep. Kruse	Asks how the settlement can be legally binding when no elected officials signed off on the agreement.
063	Young	Responds that the agreement did not require an elected official's signature. Explains that Kay Toran, who was appointed by the director of Department of Human Resources (DHR), was the state's authorized signature.
069	Rep. Kruse	Comments on his concern of a state administrator telling the legislative body that they must budget for additional resources required by a contract that they did not assist in approving.
075	Toran	Responds that the contract is between the Executive Branch, which the SCF administrator was authorized to represent, and the Juvenile Rights Project (JRP). Explains that the alternative would have been to not enter into an agreement, which would have resulted in a lawsuit against the state with a federal judge.
082	Rep. Kruse	Maintains that it would have been prudent for the Executive Branch to notify the legislative body of proceedings, and then return with a proposal to be signed off by elected officials. States that the settlement decisions made by the Executive Branch went out of their jurisdiction.
093	Toran	Responds that questions were raised at the Ways and Means subcommittee level after she notified them about the proceedings. Explains that there were never implications that the legislative body was being forced to do anything. States that Ways and Means made decisions based on information provided to them.
103	Rep. Kruse	Asks if the "process" or the "outcomes" are the binding components of the agreement.
112	Toran	Responds that the state is required to do both. Explains that the settlement lays out objectives and goals. States that the agency is being monitored by JRP and is provided with ongoing feedback.
124	Rep. Kruse	Asks what happens if the agency diverts from the process laid out in the settlement but achieves the same required outcomes.

130	Toran	Responds that she cannot speculate on what would happen if the agency began to divert from the guidelines of the agreement. States that there is a "good faith agreement" and it is the intent of the agency to follow the agreement that they made with JRP.
137	Rep. Kruse	Asks if it is the intent of SCF to "stick to the letter" of this agreement.
142	Toran	Responds affirmatively.
143	Chair Winters	Asks where the state is, in terms of time deadlines and the implementation of the contract.
145	Toran	Responds that, at the end of this biennium, the state will have implemented System of Care in eleven counties. Explains that the budget request included the ability to bring on twenty percent of the child population in SCF custody. States that this will be done by bringing on an additional ten or eleven counties.
157	Chair Winters	Asks who the partners are in the System of Care delivery system.
160	Toran	Responds that part of the application process for counties is the expectation by SCF that community "partners" will participate in the development of the plan at the community level. States that there has been a broad-based community partnership that has participated in the application and implementation process.
170	Chair Winters	Asks if community partnerships vary among counties.
173	Toran	Responds that when the applications are reviewed, most of the key partners are similar.
178	Chair Winters	Asks Toran for her comments regarding SB 408 (1999), and the impact it will have on System of Care.
186	Toran	<p>Replies that Diane Lancaster is available to discuss the Adoption and Safe Families Act (ASFA). Explains that SB 408 was drafted as enabling legislation for the implementation of ASFA. Explains that ASFA is designed to ensure:</p> <ul style="list-style-type: none"> • Safety of children who come into the care and custody of the child welfare system. • Permanency achieved in a timely fashion. • Child well-being.
190	Dianne Lancaster	Assistant Administrator, Programs Operations, SCF, submits and presents written information regarding Adoption and Safe Families Act, 1997 (ASFA) (EXHIBIT B). Refers to EXHIBIT B, page 1, and discusses federal requirements that necessitated the passage of state legislation in order to provide for compliance.

245	Lancaster	<p>Refers to EXHIBIT B, page 2, and discusses major effects of ASFA on Oregon child welfare:</p> <ul style="list-style-type: none"> • Extreme conduct --if found, requires a permanency hearing to be held within thirty days.
265	Rep. Kruse	Asks for a definition of "extreme conduct."
266	Lancaster	<p>Replies that "extreme conduct" are cases of intense abuse, neglect, torture, and sexual abuse of a child. Explains that in these cases, SCF is not required to ensure unification of the child and family. States that she will provide the committee with a complete list of circumstances considered "extreme cases."</p>
276	Rep. Kruse	Asks if SCF has made an attempt to define "aggravated circumstances."
278	Lancaster	<p>Responds affirmatively. Explains that SB 689 (1997) placed "aggravated circumstances" in statute. States that Oregon added "aiding and abetting" to the definition as required by federal law.</p>
287	Lancaster	<p>Continues by referring to EXHIBIT B, page 2, and discusses the second major effect of ASFA in Oregon:</p> <ul style="list-style-type: none"> • Reasonable efforts toward permanence.
302	Rep. Kruse	Asks if adoption agencies, outside the state system, are held to ASFA guidelines
310	Lancaster	<p>Explains that ASFA talks to the state as a whole, including the child welfare agency, the state court systems, and any state agency that is part of the Title IV-E or IV-B plan. Providers who contract with the agency are held to ASFA guidelines.</p>
318	Lancaster	<p>Continues by referring to EXHIBIT B, page 2, and discusses the third major effect of ASFA in Oregon:</p> <ul style="list-style-type: none"> • Shorter timelines for permanency hearings -- the original eighteen month timeline has been reduced to twelve months. Permanency hearings will be expedited in extreme cases.
330	Chair Winters	Asks if language exists in ASFA that requires the state to diligently ensure that reuniting efforts are carried out.
335	Lancaster	<p>Responds affirmatively.</p> <p>Continues by referring to EXHIBIT B, page 3, and discusses the fourth major effect of ASFA in Oregon:</p> <ul style="list-style-type: none"> • Petitions for termination of parental rights when children are in care more than 15 of 22 months unless:

		<ol style="list-style-type: none"> 1. The child is with relatives. 2. There is a compelling reason as defined by the court. 3. The state has failed to provide services necessary to eliminate the need for substitute care.
355	Rep. Kruse	Asks if the court's definition of "compelling reason" will keep the state in the situation it was in before ASFA.
360	Toran	Replies that currently there is no definition of "compelling reason." States that the decision of who will define "compelling reason" is yet to be determined. Explains that SCF is lifting language from ASFA. Maintains that state systems must work closely together in order to prevent a wide open "gate" creating "legal orphans."
377	Rep. Kruse	Comments that the language before him is very broad, and maintains that the state must be more specific regarding language definitions, in order to avoid falling into the past situation it is working to redesign. Hopes that the federal government will allow Oregon to determine its own definitions.
389	Toran	Concurs.
390	Lancaster	Refers to EXHIBIT B, page 3, and discusses the implementation timetable. Explains that processes and guidelines for children coming into care before November 19, 1997 are different than children coming into care after November 19, 1997. States that the ASFA implementation is going to put a large number of cases, both older and more recent, into the system within a short period of time.
415	Chair Winters	Asks for the number of cases involved.
TAPE 8, A		
005	Lancaster	<p>Refers to EXHIBIT B, page 4, and discusses case number statistics. Explains that ASFA implementation creates a "bulge" group of children who have been in care at least 15 months.</p> <ul style="list-style-type: none"> • As of February, 1999, 3,589 children have been in care at least 15 months. • Twenty five percent of these are living with relatives. <p>Refers to attachment A in EXHIBIT B, and discusses the geographic distribution of the "bulge" group.</p>
014	Margie Lowe	Assistant Administrator for Management Operations, SCF, discusses budget concerns regarding care and placement of children. States that the number of children coming into the system is growing. Explains that the number of children being placed with relatives is also growing.
030	Rep. Kruse	Comments that federal pressure should not be driving the placement of children.

037	Lancaster	Continues by referring to EXHIBIT B, page 4, and discusses the issue of determining "the date the child entered care." States that it is the wish of SCF that one date be set and used by federal, state, and local governments.
054	Lancaster	Refers to EXHIBIT B, page 4, and discusses the issue of "notice and opportunity to be heard given to caregivers." Explains that this affects foster parents and pre-adoptive parents.
063	Lancaster	Refers to EXHIBIT B, page 4, and discusses the expansion of criminal records checks. Explains that this is required before any federal dollars can be spent on a case and affects both foster and adoptive parents.
070	Chair winters	Asks about the time it takes to run a criminal background check.
071	Lancaster	Responds that within the state it is a matter of hours or only a few days. Explains that federal checks take an average time of two to six months.
080	Lancaster	Refers to EXHIBIT B, page 5, and discusses the cost of ASFA implementation.
085	Lowe	Refers to Attachment B, of EXHIBIT B, and discusses the 1999-01 ASFA policy package. Explains that substance abuse issues are the greatest barriers to having a child returned to the home. Reports that less than half of parents and family members follow through with treatment or comply with substance abuse assessments. Discusses contracts between SCF and alcohol and drug coordinators.
123	Lowe	Refers to EXHIBIT B, attachment B, and discusses the termination of parental rights hearings. Explains that determinations of how many children were receiving ASFA services and how many children still needed ASFA were conducted. The Citizen Review Board (CRB) found that between 700-800 children required additional services.
135	Chair Winters	Asks if the cost to CRB is included in the SCF budget.
137	Lowe	Explains that CRB funds came from the Chief Justice's budget request. Continues by explaining that of 3,000 children in substitute care over 15 months, 750 of them require termination of parental rights.
152	Chair Winters	Asks what percentage of cases will use mediation services over court proceedings.
153	Lowe	Will provide the committee with percentages. Explains that until ASFA, mediation did not exist state wide in Oregon.
161	Lowe	Refers to EXHIBIT B, attachment B, and discusses law enforcement data system (LEDS) clerks.

165	Lowe	Refers to attachment B, and discusses concurrent planning. Explains that this creates an alternate plan and avoids starting over again should the original plan fail.
180	Lowe	Refers to attachment B, and discusses the increase in the amount of children moving from foster care to adoptions assistance. Explains that this increase will also increase the workload. Reports that the two present FTE handling adoptions assistance cases are currently working with 5,000 active cases.
195	Chair Winters	Asks how many termination proceedings were conducted annually prior to ASFA.
197	Lowe	Believes that the number of termination cases prior to ASFA was very similar to current numbers in the ASFA policy package, attachment B.
202	Toran	Reminds the committee that a factor to be taken into consideration is that termination cases do collapse and become relinquishments cases.
207	Chair Winters	Asks what happens to a child whose parent is incarcerated.
210	Toran	Responds that these cases have visitation rights. Explains that case workers take children to visit their incarcerated parent. Explains that if a parent is sentenced longer than 15 months, there are policy decisions that must be made. States that corrections is aware of ASFA.
222	Chair Winters	Comments that there could be a situation where a parent is sentenced for two years and the child will need foster care longer than is permitted by ASFA.
226	Toran	Concurs and states that this is where she brings in the definition of "compelling reasons" for exempting a child from the ASFA timeline.
236	Lowe	Refers to attachment B, and discusses child Title IV-E eligibility. Reports that seventy-five percent of children receiving adoptions assistance have Title IV-E funding.
252	Lowe	States that the agency has a need to better coordinate services not only with alcohol and drug treatment system, but also with the mental health system. States that this is in terms of child and parent need. Explains that many families have dual diagnosis issues.
265	Chair Winters	Asks about the age range of children in child welfare.
270	Lowe	Refers to EXHIBIT B , attachment A, and notes that statistical data for children over ten years indicates that their adoption rates are lower. Notes that just over half of the children in the child welfare system are under ten years.

281	Lowe	Continues by referring to EXHIBIT B, attachment B, and discusses provisions of ASFA. <ul style="list-style-type: none"> Adoption incentive funds--- provided to states that exceed previous yearly placements.
313	Rep. Kruse	Asks how ASFA impacts Title IV-E waivers.
315	Lowe	Responds that the waiver provides SCF with tools in order to look at ways of strengthening the front end of the delivery system in order to shorten the length of stay for children. Explains that the federal funds SCF receives from Title IV-E can be used for other purposes besides foster care.
338	Rep. Kruse	Asks for the specific impact that ASFA has had on Title IV-E.
339	Lowe	Responds that ASFA allows more states to have waivers. Explains that there is no big impact to Oregon.
342	Lowe	Refers to the last page of attachment B, and discusses additional positions required for certifiers. States that twenty-seven percent of foster care homes are provisionally certified. Explains that the state must change this number or it will lose \$5.5 million federal funding.
359	Lowe	Discusses budget requirements for contracts with Portland State University.
369	Rep. Kruse	Asks for more specifics regarding the generation of funding and if there are state match requirements.
392	Lowe	Will provide the committee with funding details. Explains that other than the adoption incentive funds, which do not require matching, all other funds are match funds provided by Title IV-E and Title 19. States that these are entitlement programs.
408	Lowe	Speaks to the consequences of noncompliance, EXHIBIT B , page 5. <ul style="list-style-type: none"> Jeopardizing Title IV-E and Title IV-B(2) resources. Sixty days are allowed for a correction plan, before initial financial consequences are implemented.
TAPE 7, B		
020	Lowe	Continues discussing consequences of noncompliance.
042	Lancaster	Refers to the worksheet in EXHIBIT B , attachment C. States that this attachment provides excellent information regarding requirements of ASFA.

055	Chair Winters	Thanks the panel for the information. Closes the informational hearing and adjourns the meeting at 4:40 P.M.
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Submitted By, Reviewed By,

Diane M. Lewis, Janet L. Carlson,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ Written information regarding System of Care Settlement, Kay D. Toran, 2 pp.

B ñ Written information regarding Adoptions and Safe Families Act, Dianne Lancaster, 21 pp.