

HB 1174-FN

LBAO
LSR 90-2391
11/17/89

FISCAL NOTE for an act relative to laws regarding children and minors.

FISCAL IMPACT:

The Division for Children and Youth Services and the Department of Administrative Services indicate that state revenues and county expenditures will decrease by \$10,248 in FY 1991 and each year thereafter. There will be no impact on state expenditures, county revenues or local revenues or expenditures.

METHODOLOGY:

The Division estimates it would transfer \$40,992 in attorney fees to the indigent defense fund. Twenty-five percent of these expenditures (\$10,248) presently are paid by the counties. They would no longer be responsible for the costs. The Division calculates the costs to be transferred as follows:

FY 1989 actual expenses for attorneys and guardians ad litem	\$420,424
Portion for representing children	<u>15%</u>
	\$63,064
Portion representing single representation	<u>65%</u>

The Department of Administrative Services believes it might recover from some individuals but cannot estimate how many will be ordered to pay all or part of the cost of representation.

(b) The return of the child to such custody as may be determined appropriate or ordered by the court.

(c) *The discharge of any child admitted to the center for treatment.*

9 Payment of Court-Appointed Counsel. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving neglected or abused children, legal representation for the children shall be provided. Representation shall include *initial* counsel or *guardian ad litem*, appointed pursuant to RSA 169-C:10 and investigative, expert and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child.

10 Collection Through Unit of Cost Containment. Amend RSA 604-A:9, I-a to read as follows:

I-a. Notwithstanding the provisions of paragraph I, any juvenile charged with being delinquent who has had counsel or a public defender assigned to him at the expense of the state, or any person liable for the support of the juvenile pursuant to RSA 604-A:2-a, shall, at the time of disposition, be ordered by the court to repay the state through the unit of cost containment [where the defendant was not convicted or through the defendant's juvenile services officer where the defendant is convicted,] all fees and expenses paid on the defendant's behalf on such terms as the court may order consistent with the defendant's present or future ability to pay. The office of cost containment may collect from the defendant or the person liable for his support a service charge of up to 10 percent of

1 (b) The return of the child to such custody as may be determined
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services, and to the respective superintendents of such institutions, as to the rates to be charged for the care, treatment, and maintenance of such patients or residents.

3 New Section; Recognition of Foreign Probation Officers. Amend RSA 169-B by inserting after section 9-a the following new section:

169-B:9-b Recognition of Foreign Probation Officers. If a minor has been placed on probation or protective supervision by a juvenile court of another state and the minor is in this state with or without the permission of such court, the probation officer of that court or other person designated by that court to supervise or take custody of the minor has all the powers and privileges in this state with respect to the minor as have like officers or persons of this state, including the right of visitation, counseling, control, direction, taking into custody, and returning the minor to that state.

4 Supervision of Minors on Conditional Out-of-State Release. Amend RSA 169-B:19, II to read as follows:

II. If a minor is placed out of state, the provisions of RSA 169-A and 170-A shall be followed.

5 Payment of Court-Appointed Counsel. Amend 169-C:10 to read as follows:

169-C:10 Attorney; Guardian Ad Litem. In cases involving a neglected or abused child under this chapter, an attorney or guardian ad litem for the child shall be provided. Such persons, regardless of whether designated as the child's attorney or as guardian ad litem for the child, shall be compensated pursuant to RSA 604-A. In any case of

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HB 1174-FN

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand
nine hundred and ninety

AN ACT

relative to laws regarding children and minors.

Be it Enacted by the Senate and House of Represen-
tatives in General Court convened:

1 1 New Section; Recognition of Emancipation. Amend RSA 21-B by
2 inserting after section 1 the following new section:

3 21-B:2 Recognition of Emancipation Decrees from Other States. A person
4 who is under the age of 18 years, but who has documentation which supports
5 a claim that he has been emancipated in accordance with the laws of the
6 state in which he previously had been residing, shall be considered to be
7 emancipated in the state of New Hampshire.

8 2 Philbrook Center Records Included. Amend RSA 126-A:45, I(a) to read
9 as follows:

10 (a) Review and investigate all records of the New Hampshire
11 hospital, Laconia developmental services, the secure psychiatric unit,
12 [and] the Glencliff home for the elderly, *and the in-patient psychiatric*
13 *unit of the Philbrook center for children and youth*, relative to expenses
14 incurred by patients at such institutions, or expenses incurred by patients
15 receiving care, treatment, or maintenance at the direction of the
16 commissioner of health and human services, and make recommendations to the
17 director of mental health and developmental services [and], the
18 director of public health services, *the director of children and youth*

HOUSE BILL NO.

1174-FN

INTRODUCED BY: Rep. McCain of Rockingham Dist. 11

REFERRED TO: Children, Youth and Juvenile Justice

AN ACT relative to laws regarding children and minors.

ANALYSIS

This bill makes several changes in laws relative to children and minors, including requiring that New Hampshire recognize the emancipation of a minor when the minor provides documentation that he had been emancipated in accordance with the laws of another state.

The bill also requires that attorneys provided to represent children in abuse or neglect cases, whether designated by the court as the child's attorney or as guardian ad litem for the child, shall be compensated in the same manner as attorneys appointed for indigent defendants under RSA 604-A.

The bill also makes some minor statutory changes relative to the admission of children to the Philbrook center for children and youth.

The bill was requested by the division for children and youth services, department of health and human services.

EXPLANATION:Matter added appears in *bold italics*.

Matter removed appears in [brackets].

Matter which is repealed and reenacted or all new appears in regular type.



FAMILYSTRENGTH

*preserving families
preventing placement*

December 21, 1989

TRUSTEES

Nancy Ball
George W. Brown
Kip Deese-Laurent
Paul W. Hodes

Rep. Pam Bean

HC 64, Box 54, Grandview Av.
Lebanon, NH 03766

ADVISORS

Victoria F. Blodgett
Raymond Burton

Loretta Butehorn
Jo Davidson

Bruce Friedman

Larry J. Hansen

Harvey Harkness

Harold Hapgood

Joseph Hayes

Robert B. Hudson

Lisa Kaplan

Pauline Laliberte

Hon. Sue McLane

Murray A. Straus

I. Terry Sturke

Sr. Monique Theriault

William Wheeler

Dear Representative Bean,

As a legislator interested in the quality and cost of services to troubled children, I'm writing to share some information with you about this agency. I would also like to ask whether you can spare a few minutes to discuss the devastating impact Commissioner Mongan's proposed budget cuts will have on our work.

DIRECTORS

Ellie Stein-Cowan, M.P.A.
Executive Director

Jeanne Blasik, A.C.S.W.
Treatment Director

Familystrength's purpose is to prevent the unnecessary and expensive out-of-home placement of New Hampshire children by strengthening families. We accomplish this by entering the homes of at-risk children to support, teach and counsel the families intensively for a 3 to 6 month period.

We target only families whose problems are so severe that placement in a foster home, group home, YDC, residential treatment or other psychiatric placement is imminent.

Our success at preventing placement is 80%. The families are able to stay together after treatment because our therapeutic model, designed for the most difficult families

- teaches parents how to discipline, guide and nurture
- improves family communication
- tackles substance abuse problems by getting abusing family members into treatment/support programs
- helps the parents solve housing, food, budgeting, employment and household management problems
- upgrades the self-image of family members and helps them become a team.

Administrative Office • Sheila Kennerly, Operations Manager
72 No. Main Street, Concord, N.H. 03301 (603) 228-3266

Stafford County • Linda Clark, R.N., M.S., Regional Director
90 Washington St., Suite 306A, Dover, NH 03820 (603) 742-5662

Bellnap & So. Grafton Counties • Jacqueline Sparks, Regional Director
734 N. Main Street, Laconia, NH 03247 (603) 528-1474

Coos & No. Carroll Counties • Julie Skinner, M.S.W., Regional Director
177 Main Street, Berlin, NH 03570 (603) 752-3070

Rockingham County & Manchester • Julian Sherman, M.A., Regional Director
P.O. Box 996, Exeter, NH 03833-0996 (603) 778-0276

Cheshire & Hillsborough Counties • Roger Hatt, M.S., Regional Director
44 Main St., Suite 7, Peterborough, NH 03458 (603) 924-4272

This is an in-home, family centered model which recognizes that if we are to help troubled children, we must intervene where the root problems are - the family.

All referrals are received through court order (usually recommended by DCYS social workers and juvenile service officers). The so-called "settlement" fund is the source of payment.

It is therefore of critical concern to us that Commissioner Mongan is proposing to make 2 of the 3 classes of children we serve -- CHINS (Children in Need of Services) and delinquents -- ineligible for settlement funding for our services. This means that approximately 200 of the 300 families we would normally help will not receive placement prevention services during 1990. Our outcome data during the last 4 years reveal that an additional 160 placements would result! It is difficult to understand how such a decision is likely to contain costs.

If the State's goal is really to "keep a child in contact with his home community and in a family environment..." (RSA 169-C:2), and to solve problems before more expensive alternatives are necessary, then resources such as Familystrength have an important role to play. I would greatly appreciate the opportunity to talk with you in person about our work. I will be available almost any time from Friday, December 22 until January 3. I can be reached at 228-3266.

Thank you very much.

Sincerely,



Ellie Stein-Cowan
Executive Director



Family Focus
Emergency Housing
Junior/Senior Friends
Foster Grandparent Program

December 27, 1989

Rep. Pam Bean
Grandview Avenue
HC 64, Box 54
Lebanon, NH 03766

Dear Representative Bean:

It has recently come to my attention that proposed budget cuts by Commissioner Mongan and the Division of Children and Youth Services would eliminate Home-Based services for Children in Need of Services (CHINS) and delinquents.

These services have been shown to be a most effective approach to reducing costly out-of-home placements. By working intensively with families for a limited time, Home-Based programs such as Friends' Family Focus, can achieve significant improvements in these families. In eighty percent of the cases, out-of-home placements can be prevented.

At a time when placement costs are ballooning for the State, there is an ever increasing need for programs that can have a direct impact on this problem. Home-Based programs do just that.

These programs have broad support among judges and those who work in children's services as an effective means of preventing more serious problems with troubled children and their families.

Governor Gregg and the State Legislature will be deciding this issue early in January. I would like to ask for your support in keeping Home-Based services available in cases of CHINS and delinquents. I would appreciate anything you could do to help prevent proposed cuts in these valuable services.

Sincerely,

William Jarvis
Executive Director



Families First

A Counseling Service

Suzanne Onufry, M.S.W.

December 29, 1989

P.O. Box 425
West Ossipee, NH 03890
Tel. (603)539-2268

The Honorable Pam Bean, Co-chairperson
Chr., Children, Youth and Juvenile Justice
Grandview Avenue
HC 64, Box 54
Lebanon, NH 03766

Dear Ms. Bean,

I have recently become aware of the proposal that is being put forth to Governor Gregg eliminating intensive, home-based services for CHINS and delinquents.

I am saddened and dismayed at what the cut in these services will mean for the adolescents in my community.

As a provider in home-base services I have been able to see first hand the beneficial effect that counseling has on dysfunctional families. As a new agency in Carroll County I have provided services for five families who had at least one child at risk. In all five families the referred adolescent is still living in the home. Not only does home-based services provide counseling for the referred child but also for the families of these children, which in the majority of cases originates the problems.

Enclosed you will find Families First brochure which explains the services I provide. Families First provides services to families in need for an average of six months. These services which include crisis intervention, education, parenting skills, communication and networking are provided at an average cost of \$4,566 compared to an out of home placement which would cost the state an average of \$50,000. An out-of-state placement generally does not focus on a systems approach and is more individualized; therefore, the problems are more likely to reoccur as the child is reintegrated into his/her family with all of the same dysfunctions.

I am writing in hopes that all who are in the position of making this decision realize what a mistake it would be to eliminate this option for families with troubled adolescents. The options for CHINS and delinquents are few, particularly in a rural area such as Carroll County.

Please feel free to contact me with any questions or concerns.

Sincerely,

Suzanne Onufry
Suzanne Onufry, MSW
Families First

Northern New Hampshire Youth Services, Inc.

P.O. Box 807
Bethlehem, NH 03574
(603) 869-5750

North Country Family Program
P.O. Box 594
Littleton, NH 03561
(603) 444-2424

264 Union Street
Littleton, NH 03561
(603) 444-2124

January 2, 1990

Representative Pamela B. Bean
HC 64, Box 34
Grandview Avenue
Lebanon, N.H. 03766

Dear Representative Bean,

I am writing to you about a matter which effects all citizens of New Hampshire, and, especially, all troubled youth and their families.

The New Hampshire Department of Health and Human Services, Division for Children and Youth Services has proposed budget cuts which would effectively eliminate all paid provider services for Children In Need of Services (C.H.I.N.S.) including home based counseling and all home based counseling services for delinquent youth and their families. As a resident and service provider of New Hampshire, I find this situation to be very disturbing. Already, services for our youth and families are at a minimum. The elimination of existing services will simply mean that treatment of a youth's delinquency and C.H.I.N.S. offenses will have to be provided at a later point in their life, when his/her behaviors may have worsened to the point of requiring stronger and more expensive measures, such as placement or imprisonment.

The North Country Family Program is one of a network of like programs throughout the state which provide home based counseling services to troubled teens and their families. One of the primary objectives of our program is to prevent out of home placement of children and youth. This saves New Hampshire taxpayers' dollars, as our rates are much lower than that of institutional care (group home, specialized group homes, and other specialized care facilities). Our program is in compliance with Federal requirements that each state provide "reasonable efforts" to prevent out of home placements of children (Public Law 96-272).

The North Country Family Program and other similar home based programs serve the entire family - not only the identified troubled child. Thus, other children in the family, as well as the parents, are also benefitted.

Problems of the youngest children may be prevented or treated before requiring legal intervention on their behalf. This also represents a savings to our state in dollars spent on court time and additional services for these children.

Our service is unique in that it provides intensive counseling services to families in their own homes. The North Country Family Program meets with most families at least twice a week in their own environment. We are also available 24 hours a day for each family in case of emergency or family crisis. We provide our service for a maximum of only 6 months, so that our service is provided on a short term basis. The North Country Family Program has a proven success rate; in 1988, 84% of families were intact at the termination of our service. This is very encouraging because in many cases, our service is provided as a last measure before placement of the identified child.

To sum it up, our services save money for the State of New Hampshire. The elimination of home based counseling services for delinquent youth and C.H.I.N.S population will result in a much greater expense to the state at a later point. Another result will be an increase in juvenile delinquency in our communities, which will effect all of our citizens. The greatest injustice may be reflected in the human and individual impact, when we may see our state's troubled children not receive the care and treatment which they need and deserve.

I thank you for your attention to this letter, and hope that you will give this matter serious attention. I also enclose some information regarding our program and home based family counseling services in New Hampshire for your consideration.

Sincerely,



Kaarina Massarene M.S.W.
Program Director
North Country Family Program

KM/k1

Enclosures

**GUIDANCE DEPARTMENT
PORTSMOUTH SENIOR HIGH SCHOOL**

ALUMNI DRIVE
PORTSMOUTH, NEW HAMPSHIRE 03801
TELEPHONE 603-436-7100

January 3, 1990

Rep. Pam Bean, Co-chairperson
Chr., Children, Youth and Juvenile
Justice
Grandview Avenue
HC 64, Box 54
Lebanon, NH 03766

Dear Rep. Bean:

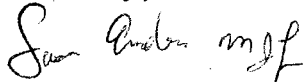
I am writing in regard to the proposal that intensive, home-based services for CHINS and delinquents be eliminated.

As a counselor for high risk students at Portsmouth Senior High School, I have had extensive experience with this population. My observation is that youth who are kept out of "the system" are most likely to benefit from intervention and to successfully remain in their home, school and/or job.

Intervention programs such as Family Strength and Mediation have accomplished this goal in keeping youth out of the court system and keeping families together.

I strongly urge you to reconsider eliminating these types of programs and, in fact, feel that they are an extremely cost effective way of serving our troubled youth.

Sincerely,



Susan O. Anderson,
Guidance Counselor

SOA:mwd

24 Bow Street
Concord, N.H. 03301

January 4, 1990

Dear Representative:

It is my understanding that the Division of Children and Youth Services has proposed budget cuts that would eliminate home-based services for children in need of services and for delinquents. As a member of the Board of the Friends Program, which operates a home-based therapy program called Family Focus, I am deeply troubled by this prospect. Seventy percent of the children referred to our program are deemed delinquent or in need of services. Often they are referred to us as a last resort before out-of-home placement. There are obvious humanitarian reasons for preferring to keep children in their homes whenever possible, rather than placing them elsewhere. However, even if we focus only on the financial picture, it makes no sense to save \$4000 (the approximate cost of providing home based services to a family for the average 4.3 month period) when in most cases the alternative, either immediately or in the near future, will be out of home placement, at a cost of at least \$27,000 per year. Furthermore, by treating the entire family of the identified, troubled youth, home based therapy helps to prevent and remedy problems that might otherwise lead to costly out-of-home placement for other children in the family at a future time.

Obviously, the State has serious budget problems which must be addressed. However, addressing them with short term solutions that will cost more in the long run does not serve the taxpayers of the State. Furthermore, addressing them at the expense of troubled children would be irresponsible and inhumane.

Please support retention of home-based services for CHINS and delinquent children.

Sincerely,

Mary N Wilke
Mary N. Wilke

JOHN A. KORBAY, P.A.
ATTORNEYS AT LAW

JOHN A. KORBAY
BRIAN G. GERMAINE

TWENTY-THREE BIRCH STREET
DERRY, NEW HAMPSHIRE 03038

TELEPHONE (603) 434-4125
TELECOPIER (603) 434-1425

January 4, 1990

M. Mary Mongan, Commissioner
Department of Health and Human Services
6 Hazen Drive
Concord, New Hampshire 03301

RE: Division for Children and Youth Services Intensive Home
Based Services Expenditure Reductions

Dear Commissioner Mongan:

I recently discovered that you have recommended that funding for intensive home-based services for CHINS be drastically reduced.

As an attorney practicing in the New Hampshire juvenile justice system, I find this recommendation to be unwise and extremely dangerous. Although only a small portion of New Hampshire citizens utilize these services, the state as a whole benefits. If home-based services are reduced or eliminated the only alternatives to children adjudicated CHINS are placement or being left with no services at all. Placement is much more costly than home-based services. If left without services, a CHINS will most likely become a burden on the state as a delinquent, and as a result another criminal is born.

Home-based services are often times the only effective alternative available to high risk children and their families. The success rate of intensive home-based service organizations, such as Family Strength, is outstanding. Not every family in New Hampshire is in need of these services, but the families that utilize these intensive home-based services have a remarkable success rate. Reducing and eliminating funding for intensive home-based services will only be detrimental to families that have the potential of successful futures.

Commissioner M. Mary Mongan
January 4, 1990
Page 2

Intensive home-based services may prevent costly measures in the future, while promoting family harmony, and preventing delinquent activity. It is one of the only successful services available to CHINS, and it is an economically wise expenditure for the state. I would respectfully request that you please reconsider your proposal.

Very truly yours,
JOHN A. KORBLY, P. A.

COPY
Brian G. Germaine

BGG:php

cc: Governor Judd Gregg
Rep. Pam Bean



One Granite Place, P.O. Box 515, Concord, NH 03302
(603) 224-7741

Rex D. Hill
Senior Vice President, Marketing

January 5, 1990

Representative Pam Bean
Grandview Avenue
HC 64, Box 54
Lebanon, NH 03766

Dear Representative Bean:

It has recently come to my attention that proposed budget cuts by Commissioner Mongan and the Division of Children and Youth Services would eliminate home-based services for children in the need of services, (CHINS) and delinquents.

These services have been shown to be a most effective approach to reducing costly out of home placements. By working intensively with families for a limited time, home based programs such as The Friends Program and Family Focus, can achieve significant improvements in these families. In 80% of the cases, out-of-home placements can be prevented.

At a time when placement costs are ballooning for the state, there is an ever increasing need for programs that can have a direct impact on this problem. Home-based programs do just that. These programs have broad support among judges and those who work in children services as an effective means of preventing more serious problems with troubled children and their families.

Governor Gregg and the State Legislature will be deciding this issue early in January and I would like to ask for your support in keeping home-base services available in cases of CHINS and delinquents. Anything you can do to help prevent proposed cuts in these valuable services will be greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Rex D. Hill'.

Rex D. Hill
Senior Vice President

RDH/jlf

Chubb LifeAmerica is the servicemark of

Chubb Life Insurance Company of America • United Life and Accident Insurance Company • Volunteer State Life Insurance Company
The Colonial Life Insurance Company of America • Sovereign Life Insurance Company of California

Public Hearing on HB/SB # (please circle one): 1174-FN

Bill Title: relative to laws regarding children and minors.

Date: January 16, 1990

L.O.B. Room #: _____ Time Public Hearing Called to Order: _____

(please circle if absent)

Committee Members: Reps. Barry, Bean, Bell, (Biondi), Bowers, Brady, Brown, (Cooke),

Domini, Forsythe, Lovejoy, Mackinnon, Mayhew, McCain, Nordgren, (Pratt,

Searles, Wallner, Wihby.

Bill sponsors:

Testimony

* Use asterisk if written testimony and/or amendments are submitted.

Speaker and Comments:

REP. MCCAIN

~~Sponsor~~

Bill has been requested by DCYS.

JUDITH BELL

DCYS

Supports bill. See notes.

KENNETH ROBIE

Office of Cost Containment

No objection, but does have concern in regarding attorney or as guardian ad litem.

Concern is for attorney for indigent defense fund.

Special equipment and 3 positions for FY 1991 to be able to handle - 2-3000 cases more.

Appropriation of about 20,000 needed. Current staffing consists of 5 people.

21 people work on collections. 1,700 cases collected 36%.

NINA C. GARDNER

Judicial Council

Fund out of money at the moment. Bills charged to this fund be strictly cost of courts. Not guardian ad litem. Fund will need to grow if you are going to take juvenile cases. Does not oppose bill, only case of funding. Can handle the cost of neglect and abuse cost - not guardian ad litem cost.

JUDITH BELL

DCYS

If money is attached, would be willing to drop section. No clear discipline for attorneys.

HB 1174, Relative to laws regarding children and minors.

January 16, 1990

Testimony: Division for Children and Youth Services
Judith Bell, 271-4232

This legislation was requested by the Division to address several issues; some major, and some minor. Since I have prepared an analysis of the bill which follows section by section, I will only hit the highlights in my testimony.

1). Recognition of Emancipation Decrees from Other States: This change, found in Section 1 of the bill, permits New Hampshire courts to recognize emancipation of a minor from another state. New Hampshire does not have an emancipation statute of its own, but there are many states which do have these statutes. Without this recognition, a minor from Colorado, for example, might be picked up in N.H. and placed in a group home, although he has been legally emancipated in Colorado and has been living successfully on his own.

As an informational note, DCYS intends to look at the issue of emancipation in depth during this year; we plan to look at statutes from other states, find out from them what problems they have experienced, and determine, on balance, whether this might be of benefit to minors in N.H.

2) Appointment of Court-Appointed Counsel: This change is found in Sections 5, 6 and 9 of the bill. It relates to the provision in RSA 169-C (Child Abuse and Neglect Chapter) which assures that a child who is the subject of an abuse/neglect petition will receive an attorney. This section is RSA 169-C:10.

The attorney appointed pursuant to RSA 169-C:10 is paid through the Indigent Defense Fund, by statute found in RSA 604-A.

In addition, the New Hampshire Supreme Court decided In re Lisa G.; this case established that under certain circumstances, a guardian ad litem could be appointed for a child in addition to the attorney appointed under RSA 169-C:10. At the time of the decision, settlement laws were still in effect, so the towns and counties were to pay this cost; the obligation was transferred to the state and counties when the settlement law changed.

The problem is that attorneys appointed by the courts are not aware of the delicate distinctions regarding payment for their services; they simply fill out the invoice. Some, even though appointed under RSA 169-C:10, designate themselves as GAL; when that invoice comes in, it is routed to DCYS to pay, because it is "GAL".

Briefly, the Division and the counties are paying for services which rightly belong to the Indigent Defense Fund.

Ken Robie, representing the Indigent Defense Fund is here to point out to you that he is aware this is happening, and to tell you, if you don't already know, how constantly broke the Fund is.

We feel it is important, however, for accurate records and a true

understanding of the payments DCYS is obligated to make, to clear this up.

I understand that Ken Robie and Nina Gardner from the Judicial Council may offer an amendment to clarify, in paragraph 5, that appointment of an attorney for the parents would be "pursuant to RSA 604-A". This means that when the court appoints an attorney for the parents, the standard used to determine indigency would be that required for the Indigent Defense Fund. The Division certainly supports this clarification.

Ken has also informed me that there is an additional concern; that of describing the services which these attorneys are expected to perform. The Division would support this effort, and would be happy to work with the sub-committee assigned to this bill.

3. Recognition of Foreign Probation Officers. This change is found in Section 3 of the bill. It permits probation officers from other states to come into New Hampshire and to use the powers and privileges granted to them by their home state with respect to minors present in NH who are subject to their supervision and/control. Rather than pay the return trip for a minor back to his state, this allows the probation officer to come to the state and pick the minor up.

4. Transfer of Collection of Legal Services to the Office of Cost Containment. This change is found in Section 10. Prior to the current Juvenile Services Officers, juvenile services were provided somewhat sporadically by a collection of municipal probation officers, law enforcement and State police. Collection of the cost of legal representation for juveniles was conducted by State police, but not on any regular basis by municipal probation or law enforcement.

JSOs were created and placed within the Division, and now, in addition to handling juvenile delinquents, they were expected to become case managers for CHINS, children in need of services.

Collection efforts for the cost of legal representation has never been a high priority for the Division; trying to satisfy the court's demands, coordinating services for the juveniles, and enrolling providers are the primary responsibilities.

The Office of Cost Containment already performs collections for legal representation costs of adults, and for those instances where juveniles have not been convicted. This change makes them responsible also for collecting the cost of legal representation when the juvenile has been convicted.

The Office of Cost Containment has managed to turn over a lot of funds back to the State Treasury because of the expertise they have developed in this area. It is not an expertise developed in DCYS. The Office of Cost Containment has no objection to this transfer, other than the concern that to obtain the potential dollars from this transfer, they need an initial investment of equipment and personnel.

Ken Robie, representing that office, will provide comments about the request and his program.

These are the highlights. There are other changes, but they are minor and are described in the summary.

I am happy to answer any questions.

Amendment to HB1174

8 Clarification of Definitions. Amend RSA 169-D:2 Definitions by striking paragraph as cited below, and replacing with the following:

1. "Child" for purposes of this chapter, means a person who is less than 16 years of age on the date the petition is filed.

9 Clarification regarding placements; Amend RSA 169-D by creating the following new section:

169-D:9-C "Physically restricted facilities shall receive for commitment and detention only those minors who have been alleged or adjudicated juvenile delinquents or who are awaiting the court's disposition regarding allegations of juvenile delinquency. Physically restricted facilities which are primarily used for psychiatric treatment or evaluation shall not be limited only to those minors who have been alleged or adjudicated juvenile delinquents or who are awaiting the court's disposition regarding allegations of juvenile delinquency. Facilities which are not physically restricted may receive for placement minors who have been alleged or adjudicated delinquent as well as minors who have been adjudicated as children in need of services."

10 Amend RSA 169-B:19(f) by striking that paragraph and replacing it with the following:

169-B:19(f) Release the minor in the care and supervision of a group home, crisis home or shelter care facility with expenses charged according to RSA 169-B:40.

11 Extension of date for shelter care/detention beds. Amend Chapter Law 197:12, to extend the date to December 31, 1991 and to change the number of shelter care/detention beds to a minimum of 45; and 197:16, 1, to extend the date from December 31, 1989 to December 31, 1991.

12 Transition for children who do not meet criteria. The general court, being aware that there are children who will not meet the criteria established through this legislation, hereby directs the Division to review each case and make a recommendation to the court for case closure whenever appropriate. In all remaining cases, the Division will prepare a plan for case closure for each child for presentation to the District Court not later than June 30, 1990.

SUMMARY OF CHANGES CONTAINED IN HB 1174, RELATIVE TO

LAWS REGARDING CHILDREN AND MINORS.

1. Recognition of Emancipation Decrees from Other States.

We are encountering more and more minors who have been legally emancipated in their home states who come to New Hampshire to live. The courts have been having difficulty in some instances, in deciding what action might be appropriate for these individuals. This change would allow recognition of the emancipated status of these minors.

2. Philbrook Center Records Included.

This section allows the Office of Reimbursements (connected with Mental Health) to obtain reimbursements from individuals/families, who have a placement at the in-patient psychiatric unit of Philbrook under the voluntary or involuntary admission program. (135-C: when you are a danger to yourself or others). They currently perform this function for the State Hospital, Glencliff and the Laconia State School. This was requested by the Unit for clarification. The office currently performs this function, but this would give them statutory authority.

3. New Section; Recognition of Foreign Probation Officers.

When minors have left their home state but are still on probation or conditional release, or have runaway, the Division gets contacted by probation officers from other states. Adding this provision allows a probation officer from, say Colorado, to pick up his kid. This reduces costs both financially and in time.

4. Supervision of Minors on Conditional Out-of-State Release.

Adding the reference to the Interstate Compact will permit our minors who are placed out of state but who are on "conditional release" to have their placement supervised in the state where they are placed. This section, and section 3 were adapted from other states.

5. Payment of Court-Appointed Counsel.

Children who have been abused or neglected are entitled to appointment of an attorney under RSA 169-C:10; this attorney is paid through the Indigent Defense Fund, under RSA 604-A. In addition, if the child and the attorney reach a conflict between what the child wants and what the attorney sees as being in the child's best interest, the court may appoint a second attorney (a guardian ad litem); this attorney, according to case law (In re Lisa G.) was to be paid by the legally liable unit. Once the settlement laws changed, this cost was transferred to the counties and the state.

Most attorneys providing these services are not aware of the distinctions between payment sources; sometimes the Division will be paying a cost which the Indigent Defense Fund should pay; this section, and sections 6 and 9 help to straighten this out.

6. (See # 5)

(Summary of HB 1174, continued)

7. Reference Corrected.

When the statute was changed several years ago from 135-B to 135-C, this section was neglected. This simply makes the statutory reference accurate.

8. Clarification of Admission and Rulemaking.

The in-patient psychiatric treatment unit does provide long-term treatment to children in a state run facility to reduce the numbers of children who are sent to private, more expensive treatment facilities.

These changes clarify the Division's ability to do rule-making for treatment (at the in-patient psych unit) and education (through the special education school), and clarify that admission to the special ed school should be through the special education statute, RSA 186-C.

9. Payment of Court-Appointed Counsel. (see # 5)

10. Collection Through Unit of Cost Containmentment.

At the eleventh hour in the previous session, a section was added which would require JSOs to collect lawyer reimbursement from juveniles who have been convicted. This was done in the mistaken belief that they were already performing this function; we have confirmed with the Office of Cost Containmentment that they are the more appropriate part of state government to handle this obligation, since they now collect for adults and for juveniles who have not been convicted.

11. Repeal.

A quick review of these sections will assure you that they have been replaced by the liability sections in RSA 169-B, 169-C and 169-D., and are no longer necessary.



NEW HAMPSHIRE PSYCHIATRIC SOCIETY

Executive Offices: 76 So. State St./PO Box 1382, Concord, NH 03302-1382

Tel. (603) 228-1231

ATTN: Nick

PRESIDENT: Kathryn Donovan-Kachavos, M.D.

PRESIDENT-ELECT: Douglas M. Lanes, M.D.

SECRETARY-TREASURER: Edward L. Rowan, M.D.

EXECUTIVE SECRETARY: Richard H. Clough, CAFE

January 29, 1990

Chairman, Pamela Bean
Committee on Children, Youth and Juvenile Justice
House of Representatives
Legislative Office Building
Concord, New Hampshire

RE: HB 1174

Dear Chairman Bean,

I am writing to you to express my concerns about HB 1174. Since 1972 I have worked as a clinician actively involved with children and their families, as well as a consultant to the Division of Children and Youth Services. I am very familiar with the dilemma of providing services to this unique and difficult-to-reach population defined by the current CHINS statute.

By creating the category of CHINS (Children in need of services), the expressed aim was to offer services to status offenders (e.g., truants and runaways) who were not engaged in criminal behavior. Both the juvenile justice system and the welfare system agreed that the youngsters were not well-served by the juvenile justice system but did require active intervention if they were to avoid becoming truly delinquent.

If a youngster can be kept out of criminal behavior prior to the child's eighteenth birthday, the probability is quite good that such a youngster will not have an adult criminal experience. Children with extensive contact with the juvenile justice system, on the other hand, have a much higher adult arrest frequency. Thus, it can be seen that maintaining status offenders in a structured, therapeutic system is beneficial in terms of adult outcomes.

My own observations of families in the past several years suggest that most families use CHINS as a last resort. Many youngsters who come into the system as CHINS clients in adolescence have a history of difficulties dating back several years. Families ask for CHINS petitions only when they feel they can no longer maintain the child without additional support. Thus, the largest single group of CHINS clients is in the age range of 14-18. Lowering the age to 16 can only be counter-productive, since the child's needs will persist, regardless of the cut-off of services.

Lowering the age also seems to contradict another piece of legislation which addresses the school dropout problem. A youngster under a CHINS program is not likely to be motivated to finish school without the structure of the program to help him. It would also appear that lowering the age would create a group of children older than 16, who while not technically adults, are being managed by the CHINS system as if somehow they no longer required

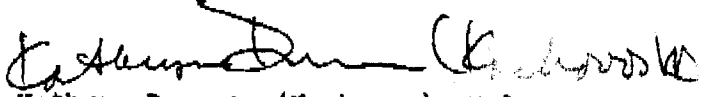
Pamela Bean
January 29, 1990
Page 2

services. The message to these youngsters would certainly convey a sense that the system considered them some type of "almost adults". Chronological age is certainly no guarantee of maturity, particularly in this population.

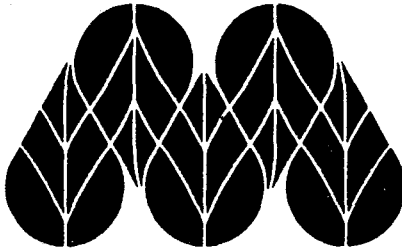
Finally, let me raise an objection which I think may be the most tragic consequence of this legislation. In the past, many families have agreed to be found abusive or neglectful of their children in order to procure services. (Services must be provided to children who are abused and/or neglected.) Such findings were the only legal avenue available to them in order to receive services. In most cases, actual abuse and/or neglect was minimal, but parents agreed to a finding because they needed help for their children. It would be a sad day, indeed, if budgetary constraints again forced that decision on parents seeking help.

Before taking action on this bill, I urge you and your committee members to consider the consequences. Budgetary constraints are factual issues, but investment in our children, regardless of their needs, is an investment that safeguards the future of our democracy.

Sincerely,


Kathryn Donovan (Kachavos), M.D.
President, N.H. Psychiatric Society

KDK/pem



**City of Manchester
Office of Youth Services**

36 Lowell Street
Manchester, New Hampshire 03101
(603) 624-6470

Regis A. Lemaire
Executive Director

January 29, 1990

HOUSE BILL 1174 AND AMENDMENT TO RSA 169 - D

FROM: REGIS LEMAIRE, MANCHESTER YOUTH SERVICES AND THE CITY OF MANCHESTER
HOUSE BILL 1174 RELATIVE TO LAWS REGARDING CHILDREN AND MINORS SPONSORED BY
REPRESENTATIVES BEAN AND MCCAIN.

WE ARE OPPOSED TO THIS BILL AND IT'S AMENDMENT AS IT ATTEMPTS TO SHIFT
RESPONSIBILITY FOR CHINS (CHILDREN IN NEED OF SERVICES) AWAY FROM THE STATE
LEAVING YOUTH IN LIMBO AFTER A PERIOD OF SERVICE BY THE STATE HAS BEEN PROVIDED.

THE AMENDMENT DOES NOT ADDRESS WHAT HAPPENS TO YOUTH 17 YEARS OF AGE. OUR
CURRENT LAWS STATE 18 AS THE AGE OF MAJORITY. THIS IS A BILL WHICH WOULD
CREATE PROBLEMS, AS TO WHO WOULD SERVE CHINS AFTER THE STATE PERIOD OF SERVICE,
WHO WOULD PROVIDE SERVICES TO A JUVENILE STILL IN NEED OF ASSISTANCE ?

THE MAYOR OF THE CITY OF MANCHESTER HAS ASKED ME TO OPPOSE HOUSE BILL 1174
AND IT'S AMENDMENTS. NEW HAMPSHIRE NEEDS TO STUDY OUR PRESENT SYSTEM SO WE
CAN OFFER COST EFFECIENT SERVICES FOR THOSE IN NEED ON A FAIR AND EQUITABLE
BASIS.

Respectfully Submitted,

Regis Lemaire

Regis Lemaire
Director Manchester Youth Services

Public Hearing on HB/SB # (please circle one): 1174-FN

Bill Title: _____

Date: January 31, 1990

L.O.B. Room #: _____ Time Public Hearing Called to Order: _____

(please circle if absent)

Committee Members: Reps. Barry, Bean, Bell, Biondi, Bowers, Brady, Brown, Cooke,
Domini, Forsythe, Lovejoy, Mackinnon, Mayhew, McCain, Nordgren, Pratt,
Searles, Wallner, Wihby.

Bill sponsors: _____

Testimony

* Use asterisk if written testimony and/or amendments are submitted.

Speaker and Comments: _____

REP. McCAIN

SPONSOR

Introduced amendment to 1174.

REP. CHAMBERS

GRAFTON DIST. 12

Concerned about amendments. Related personal story of taking CHINS. Budget change should not throw away children. Opposes age change. State has obligation to these children.

EFFIE MALLEY

DIRECTOR, DCYS

Previous amendment to strengthen bill. Put age limit to 16. Change number of beds. 4.2 million federal funds; 3.2 million in general funds. Eliminate 2.1 million FY 1991. Chose shelter bed would save \$400,050.

BRUCE FRIEDMAN

CONCORD

Opposes amendment. See notes. This bill should be a temporary measure.

REP. DOUG HALL

MERRIMACK DIST. 7

Opposes amendment. Division of Appropriations will not make policy. Put in 2.1 million for FY 1991. Ask what is best policy for these children.

JOE DIAMENT

ODYSSEY HOUSE

States around us are looking for longer care.

ROSE HILL

CONCORD

Opposes amendment. See notes.

DAVID VILLIOTTI

NASHUA CHILDREN'S ASSOC.

Opposes amendment.

TERRY LOCKHEED

NH ALLIANCE

Opposes bill. See notes. Upset no provision to grandfather in children already in.

PEGGY HILL

NH TASK FORCE

Opposes bill.

JACK LIGHTFOOT

CHILD & FAMILY SERVICES

Opposes bill.

PUBLIC HEARING ON AMENDMENT

HB 1174

January 31, 1990

NOT SPEAKING, BUT SUPPORTING AMENDMENT:

Maureen Barrow, Northeast Rehab. Hospital

Deborah Bastoni

Lori Sleeper

Pat Kirby

Ruth Anne Stratton

Joyce Moore

John Thompson, Grace Bible Fellowship Church

Sen. Thomas Magee

John Morris, Dover Children's Home

Don Wrightington, NH Group Home Assn.

NOT SPEAKING, BUT OPPOSING AMENDMENT:

Nancy Schroeder, Child & Family Services Board

Cynthia Herman, Child & Family Services

Christing Van Keuren

Carole Keleher, Portsmouth Police Dept.

Bonnie Phansp

Helen Spaulding

Roger Hatt, Familystrength

Jeanne Zamosky, Familystrength

William Jarvis, NH Assn of Homebound Services

Sara Dustin, Parents for Justice

Susan Lafond, Manchester City Welfare

Donna SanAntonio, Appalachian Mtn. Teen Project

Judy Hamilton

Sydney Smith, DCYS

Janice Feuer, DCYS

Marey Bardusk

Nathan Weeks

BETH Bochenek

Dolores Weeks

Barbara Wiggins, Antrim Girls' Shelter

Theresa sessions

Judy Homan, LCFS Antrim Girls' Shelter

Glenn Quinney, Mental Health Center, Greater Manchester

Susan Adkins

Janette Morrison, Rochester Day Care Center

Ellen Stacy, Child & Family Service

Tamzen Blasetti, Child & Family Service

Alice Spear, Child & Family Service

Jadine Stockley, Girls Club of Greater Nashua

Lynn Joslyn, Northeast Rehab. Hospital

Julie Miles, Head Start

Margaret STaton, Head Start

Nancy Jackson, NE Consortium for Families & Youth

Betty Todd, Open Door Society

Marcia Sink

Joan Dobzaresi, Roman Catholic Diocesan Schools

Alice Davis

ESter Tarty, NH Mediators Assn

Peg Sweemey

Janice Sahler

Catherine Shilson

Donna Ruel

Susan Davis

- 2 -

AMENDMENT TO HB 1174
PUBLIC HEARING
January 31, 1990

NOT SPEAKING, BUT OPPOSING AMENDMENT:

Sr. Margaret Crosby, Diocese of Manchester
Judy Holmes, Headstart
Judy Parkinson
Mary L. Kelly
Ruth Roulx
Michael Ostrowski
Lori Buckley
Thomas O'Connor
Rep. D. Pignatelli
Rep. Martling

NOT SPEAKING, BUT NO OPINION:
Arlene Roberts

Amendment to HB1174

8 Clarifying the Purpose Section. Amend RSA 169-D:1 Applicability of Chapter; Purpose, by striking paragraph V and replacing it with the following:

- I. Remove "rehabilitation". Change "assist him in becoming" to "assist him towards becoming".
- ✓ II. No change.
- III. No change.
- IV. No change.
- V. To further the forgoing purposes and policies by providing each child coming within the provisions of this chapter with treatment, care guidance, counseling, discipline and supervision which he needs and which the court can provide. (Rehabilitation as a service removed)

9 Clarification of Definitions. Amend RSA 169-D:2 Definitions by striking certain paragraphs as cited below, and replacing them with the following:

- ✓ I. "Child" for purposes of this chapter, means a person who is less than 16 years of age on the date the petition is filed.
- ✓ II. "Services" means care, guidance, counseling, discipline, supervision, and treatment or any combination thereof.
- ✓ III. No change.
- IV. "Child in need of services" means a child who is expressly found to be:
 - ✓ (a) Subject to compulsory school attendance, and who is both habitually, willfully, and without good and sufficient cause, truant from school, and also who is under the age of 16,
 - ✓ (b) A child who habitually runs away from home.
 - ✓ (c) A child who has committed an offense which, if committed by an adult, would be a violation under the criminal code of this state; or has committed an offense as contained in RSA 169-D:22; or has violated an ordinance or bylaw of a city or town.

Only if an express finding has been made of any one of the foregoing, a child who is also expressly found to be in need of care, guidance, counseling, discipline, supervision, or treatment.

2
10 Assessment of educational needs to be completed prior to filing petition. Amend RSA 169-D:5 by adding the following new paragraph:

- V. When a school official is filing the petition, they shall include information which shows the legally liable school district has made a determination whether the minor is educationally handicapped as defined in RSA 186-C or has reviewed the services offered or provided under 186-C if the minor has been determined to be educationally handicapped.

11. Clarification regarding placements; Amend RSA 169-D by creating the following new section:

169-D:9-C "Physically, restricted facilities shall only receive for commitment and detention those minors who have been adjudicated juvenile delinquents or who are awaiting the court's disposition regarding allegations of juvenile delinquency. Physically restricted facilities which are primarily used for psychiatric treatment or evaluation shall not be limited only to those minors who have been adjudicated juvenile delinquents or who are awaiting the court's disposition regarding allegations of juvenile delinquency. Facilities which are not physically restricted may receive for placement minors who have been adjudicated delinquent as well as minors who have been adjudicated as children in need of services."

Amend RSA 169-B:19(f) by striking that paragraph and replacing it with the following:

169-B:19(f) Release the minor in the care and supervision of a group home, crisis home or shelter care facility with expenses charged according to RSA 169-B:40.

✓12 Clarification of placements available; extension of date for shelter care beds to be available. Amend RSA 169-D:10, IV as follows:

IV. No child subject to a petition brought under this chapter shall be removed from his home unless:

(a) clear and convincing evidence is presented to the court to show it is against the child's best interest to remain in the home under the circumstances presented in the petition;

(b) a case plan for return of the child to the home has been recommended by the division, consented to by the parents, and ordered by the court;

(c) and there is probable cause to believe that the child should be held for adjudication and disposition of the allegations in the petition.

✓13 Extension of date for shelter care/detention beds. Amend Chapter Law 197:12, to extend the date to December 31, 1991 and to change the number of shelter care/detention beds to a minimum of 45; and 197:16, I, to extend the date from December 31, 1989 to December 31, 1991.

- ✓ 14 Clarification of available placements; limiting conditional release. Amend RSA 169-D:17,1 by striking paragraphs (a)(1) and (2), and replacing with the following:

(a) Permitting the child to remain with a parent, guardian, relative or custodian, subject to such limitations and conditions as the court may prescribe, including:

(1) Ordering the child and parent, guardian, relative or custodian to accept individual or family counseling. (Removes medical treatment)

(2) Placing the child on conditional release for a term of 1 year or less. (Changes from 2 years or less)

- ✓ 15 Limiting court involvement. Amend RSA 169-D:17 by adding the following new section:

III-a The Court shall limit any disposition ordered pursuant to this section to 12 months from the date of filing the petition, or the termination of the court's involvement, whichever comes first, but in no event to exceed the child's 16th birthday, and shall conduct a hearing to review the status of the child and family. The division shall prepare a study regarding the progress of the child and family in complying with the case plan ordered by the court; the court may close the case and terminate court involvement if the court finds the child and family have not been complying with the case plan, or if compliance has brought the child and family to satisfactory resolution. If the division, in its study, recommends continuation of the case plan in order to assure completion of needed services, the court may continue the case plan for an additional period up to 6 months.

- ✓ 16 Determination of Competence. Amend RSA 169-D by adding the following new section:

169-D:18-a Determination of Competence. At any point during the proceedings, the court may, either on its own motion or that of any of the parties, order the child to submit to a mental health evaluation for the purpose of determining whether the child is competent to have committed the offenses or acts alleged on the petition. This evaluation, to be completed within 60 days, by an agency other than Philbrook center, approved by the commissioner of health and human services, or by a psychologist certified in New Hampshire, or a qualified psychiatrist, or by Philbrook center, only upon receiving prior approval for admission for that purpose by the director,

division for children and youth services, shall be submitted to the court in writing, prior to the hearing on the merits is held.

The court shall inform the child of his right to object to the evaluation; if he does object, he shall do so in writing to the court having jurisdiction of the matter, within 5 days of the court's order for the evaluation. The court shall hold a hearing to consider the objection, and may, for good cause, excuse the child from the evaluation.

Whenever such an evaluation has been made for consideration at a previous hearing, it shall be jointly reviewed by the court and the evaluating agency before the case is heard. The evaluator shall keep records of having conducted the evaluation, but no reports or records shall be made available, other than to the court and parties, except upon the written consent of the child or his legal representative, parent or guardian or pursuant to RSA 169-B:35. The expense of such evaluation is to be borne as provided in RSA 169-B:40.

17 Consent Agreements under RSA 169-F only with consent from DCYS. Amend RSA 169-F by adding the following new paragraph:

IV. The Court will not allow any consent agreement to be approved until the Division has been informed and been given 10 days to be heard or to file an objection.

18 Repeal RSA 169-D:22.

19 Transition for children who do not meet criteria. The overall court being aware that there are children who will not meet the criteria established through this legislation, hereby directs the Division to prepare a transition plan for each of these children by June 30, 1990.

My name is MPC/BEF and along with my co-worker BEF/MPC represent children or their parents with problems big enough to ensnare them in the juvenile justice system. This is a terrible amendment, it stinks - it is a fraud - (you say you are C-L-A-R-I-F-Y-I-N-G the Definition and "Clarify" the definition of "child" from "a person under the age of 18" to a "person who is less than 16 years of age on the date the petition is filed"). Clarification my foot. Tell that to a girl who on her 16th birthday runs away because she is propositioned by her father or step-father. This bill endangers that girl's safety. Let us be clear about the fact that this is not "clarification" but a removal of services. If anyone in this room thinks this is a good bill, please see me or us after this hearing. We will tell you why:

- a. parts of it were soundly rejected by the legislature less than a year ago;
- b. it will cost cities and town lots of money;
- c. it will not save the State much money as it will lead to a relabeling of the same kids from CHINS to abused/neglected or delinquent;
- d. it will buy you some lawsuits as it is likely unconstitutionally retrospective in regards to children whose liberty you have limited on a promise of services until age 18;
- e. it will get the nickname among teenagers as the

"You can't run away but you can stay out until 6:00 a.m. bill"

If we are a state that can find 3.2 billion dollars from our ratepayers for Wall Street junk bond holders, but can't find 2.1 million dollars for children running away from dreadful homes, then pass this bill. But if the legislature can't broaden the BPT or add 10% to the telephone tax, then at least pass this bill with these changes.

We propose some Amendments to this bill:

Amendment # 1 -

This amendment limits the too long of life of this bill to this biennium. The only reason you would pass this bill, departing from a half century of services to children formerly called children in need of supervision

is because you have a loaded assault weapon pointed at your head. Hopefully the BPT and Real Estate Transfer tax will return to glory by 7/1/91 and the state of New Hampshire can again provide services to children who desperately need them.

Amendment #2

Foster care for children 16 and older -

This amendment will allow the Court to continue to provide services to children ages 16 to 18 in foster care. We are not so desperate as we that 16 year olds who run from sickening situations like the one I mentioned before must live on the streets. If that child can live in foster care until she can finish high school, you have done her (and the taxpayers) a service. Since the Federal Government pays a large portion of foster care, we're talking about \$2000 per year or less of state money to keep that child off the streets or out of YDC when she steals or prostitutes herself to survive. YDC costs \$40,000 more a year.

Amendment #3 -

Section 15 -

If a child needs 18 months of service, a child needs 18 months. It should not be DCYS' decision. Last year, the legislature and the Governor wisely recognized that it was unconscionable and unconstitutional to give the fox (DCYS) the run of the chicken coop (services). So Amendment #3, would let the Court decide the issue.

Amendment #4 -

The last section of the proposed amendment you have is a difficult to comprehend grandfather clause for some children. If it means that children already getting services for 18 months are done upon passage, it is likely unconstitutional. The CHINS statute put those children under court control - with YDC as a possible sanction for disobeying the court - in return for a promise of needed services until 18; - if the state takes

away that right to services, it violates Article 1, Section 23 of the Constitution, which prohibits retrospective statutes as this would be. Amendment #4 grandfathers in all children currently receiving services and permits them to continue receiving services until they reach age 18. Doug Hall of Appropriations informs us that the money for such a provision is already in the revised budget you just got.

Amendment V -

It makes no sense to say the child whose stepfather wants to have sex with her must stay at home unless the parents consent and DCYS has done a case plan the day she is found on the street. Throw out Section 12 (b).

Also, on p. 1 of this amendment you reference D.22; on page 4 you repeal D.22 - that's as silly as the whole amendment.

If you vote down this entire amendment, you won't have to change that. If you pass this amendment, change it.

AMENDMENT 1

Replace Section 19.

I. Repeal and Reenactment. The general court recognizes this legislation to be a temporary policy change effective only through June 30, 1991. The changes in this chapter made in response to the budget deficit shall be repealed and the former Chapter 169-D shall be reenacted and effective as of July 1, 1991.

AMENDMENT 2

Amend Section 9 Clarification of Definitions (amending RSA 169-D:2 Definitions); expand definition of "Child":

I. "Child" for purposes of this chapter, means a person who is less than 16 years of age on the date the petition is filed or a person between 16 and 18 years of age whose needs can reasonably be met at home or in foster care.

AMENDMENT 3

Amend Section 15 Limiting Court involvement (adding new section to RSA 169-D:17)

III-a. The court shall limit any disposition ordered pursuant to this section to 12 months from the date of filing the petition, or the termination of the court's involvement, whichever comes first, exceeding the child's 16th birthday only in the event that the child's needs can reasonably be met at home or in foster care, and shall conduct a hearing to review the status of the child and family. The division shall prepare a study regarding the progress of the child and family in complying with the case plan ordered by the court. Upon a finding by the court that a continuation of services is needed, the court may continue the case plan for an additional period up to 6 months.

AMENDMENT 4

II. Grandfather Clause. During the applicability of this legislation, the rights, duties and privileges that vested and proceedings that were begun before its effective date shall not be affected. Children currently considered CHINS shall not be denied any appropriate services because of this act.

AMENDMENT 5

Amend Section 12 Clarification of placements . . . (amending RSA 169-D:10 IV)

IV. omit (b) and change (c) to (b)

AMENDMENT 6

If repealing RSA 169-D:22 per Section 18 of the Amendments:

IV. (c) omit "or has committed an offense as contained in RSA 169-D:22"

Time: 1:00 p.m.
Date: March 7, 1990
Room: 103 LOB

The Senate Committee on Public Institutions/Health and Human Services held a hearing on the following:

HB 1174-FN - An act relative to laws regarding children and minors.

Committee Members Present: Senator Elaine Krasker, Senator Susan McLane

Senator Krasker opened the hearing by calling upon the sponsor of the bill.

Rep. William McCain, Dist. 11: HB 1174 started as a bill to take care of a few housekeeping things that the Division came to me to put in as Vice Chairman of Children, Youth and Juvenile Justice Committee. It has turned into a rather controversial bill since that time in the fact that it is now the vehicle that carries certain changes to the CHINS law which we put in in an attempt to tighten it up and to make it a more efficient operation. This came about in the overall budget crunch of trying to save money. We had originally in the amendment that came in and the ways that we looked at it, we had looked at possibly changing the maximum age on CHINS to sixteen. That fell in committee as not reasonable and it stayed at eighteen.

The other recommended changes or ideas that came out of our long work session with DCYS were implemented. What you have is a bill that has controversy because of some of the wording I think. We did this in the last forty-eight hours or at the twenty-third hour, if you will, putting together the amendment, trying to meet what had been passed in the budget, doing things in the way we did at that time which we previously discussed. It was a little haphazard.

What I suggest is that I tell you some of the things that we already have looked at and agree with some changes on it from the House version so that we would not have a problem there and that we work with the Senate. And I would be glad to spend all the time necessary to do that to get some of these changes in there. There will be, I think, testimony from others saying they have things they agree with or disagree with. I will tell you where the House committee position is right now and we're still open to looking at changing words. The concept is not too much, but the words and certain of the boundaries ...?...

We basically have heard comment on mostly the changing of the time frame of services from unlimited to a period of one year plus a six-month extension. I have come up with some substitute language and this morning I found that some people think it is too loose, some people think it is too tight. The idea being that we would not want to cut somebody out after eighteen months. We're trying to find compromise language, and I hope that we can work with the Senate in doing that, that says that there is a way that a child that needs to

stay in the program over eighteen months can upon demonstration of need stay in that program. But basically the average, according to statistics and the information out of DCYS, case is fourteen months. Therefore, we felt and the committee felt, that a one year period with a six-month possible extension certainly should cover most of the cases. Now there are some the judges tell me that that is not going to cover all of them. Just yesterday, and I quote our chairman, Rep. Bean, we can't make legislation that covers every exception. It's impossible to do that. So what we need to do is to work on it. We are in agreement to finding a way to add an additional year under special circumstances. The language we will have to work on with the Senate Committee. There has been complaint about changing it to a one-year conditional discharge from two, and we feel that one year is fine. We don't see that as a problem. We feel we should stay with the one right now. It doesn't, we find, cause any problem.

We put together a sheet that says these are the things we are trying to accomplish in this bill, to tighten up the way CHINS is operated under DCYS. What we have heard from the Division was that situations where they were treating children who really didn't belong in the CHINS program, in some cases, and what we are trying to do is to get that out of there. They should have been under a mental health program, not under a CHINS program. We have added competency in here to say that a child has to be able to understand what is right and wrong in order for you to help supervise them and get them through this period. If they don't understand, it's not going to work. And maybe those children should be in a mental health situation and that is what we are saying. Put them where they belong.

So what this all comes down to is trying to realign everything in the DCYS CHINS area to where it truly does what we intended it to do and to put forth a better and efficient operation. It's not meant to save money. All the money savings was out of there. That went with the eighteen years old. This was simply to try to tighten it up and maybe there would be some better service over all with the same monies. All we would get would be, if you will, an economy of efficiencies.

There is also one other thing. There is, I believe, one testimony that the taking out of the 15 beds that we took out that corresponds with HB 606 two years ago that that should be restored. It can't be. The Senate took out 30 more beds in the budget, so there is only 15 left and there is no money for those. And it has already disappeared in 1501 and 1500, the budget. So this has to be modified also if we are going to do it, because we left 45 beds in and took only the 15 that weren't contracted.

Rep. Mary Jane Wallner, Dist. 21: I am on the Children, Youth and Juvenile Justice Committee in the House. The vote on the bill before you, HB 1174, out of the Committee was eleven for and four against, and I was one of the people who voted against this bill. For me the largest concern was the limitation of time that we will serve children. Rep. McCain stated that there has been some work on compromise and looking at that time limitation so that in certain circumstances and special circumstances children who need additional service will be allowed to have additional service. And I think the minority of our committee will be very much in favor of that and want very much to work on that wording. That for us was one of the biggest concerns that we had, that though we were told the average length of time that a child is at CHINS is about 14 months, that meant that some children were probably CHINS for much more than 14 months, because some were for much less. So, 14 months was only

an average and we felt that the judges really need the discretion to decide how much time children need service. So I would very much like to work on that section.

Rep. Debora B. Pignatelli, Dist. 31: I'm here testifying in opposition to this bill today. And I couldn't agree more with what Rep. McCain said about not rushing through something as important as this. I serve on the committee in the House that does the budget and we were desperately looking for money from wherever we could get to cut. And I think this just looked like a gold mine to us at the time to some of the people on the committee. Some of us had some real concerns about cutting money from the CHINS program.

There is a committee established and meeting on a monthly basis now to study laws relating to children. I'm on that committee. And this is one of the laws that we are going to be studying. I feel like this bill comes prematurely through the House and through the Senate. I think that with the rush that we have all been going through in looking at our bills and having hearings and executive sessions, and time to decide, and time to go out into the field and get information from providers, I just don't think the time has been there to do a super job on this bill. I urge you to do whatever you need to do to put it off so that the committee that was set up to study the laws relating to children will have time to do its work and make recommendations based on a true study of the situation.

Effie Malley: (Director of the Division for Children and Youth Services) We have come before you today to address the amendments to HB 1174. Judy Bell, our legal counsel, will be addressing some of the housekeeping measures that were in the original bill. The first section I would like to address includes sections 6, 7, 8 and 9 where the word "rehabilitation" is removed from the statute. We just felt that it set a false expectation that if rehabilitation is restoring to the condition of good health or the ability to work or situation like that that it was creating a false expectation.

Section 10 is a requirement when a school district is filing a CHINS petition, that they have to assess the child as to whether the child should be coded or not. Currently whenever a judge is considering residential placement he has to join the school district and the determination is made that much later in the process. What we were attempting to do was to move that requirement up so that a child wasn't in a temporary placement or in a holding pattern waiting for 45 days that the assessment may take.

Section 12, setting up criteria for removing children from the home, we looked at the abuse, neglect statute and what standards were required for removing children from the home. There is a higher standard of evidence needed here. And we feel that that is appropriate with the CHINS population, if there is a higher standard, there is less likelihood of the child being removed from the home. If it is a child protective issue, we feel it should be handled through the abuse, neglect statute.

Angele Parker: (Administrator for the Bureau of Children) I think that our goal here is to make sure that juveniles are not placed outside of the home just because of the initial crisis that they are coming to court with. What happens is that without all of the information up front that sometimes that is exactly the wrong action to be taken, and that in fact that creates more of a division between the youth and the family in the long run, and it makes it more difficult then to return that youth back to the home. So that we want to

be sure that we provide more services that are more intensive to rework the family relationship with the youth and to keep that youth being able to remain in the home. If those efforts are not workable, then indeed to place them, hopefully, for brief periods of time outside the home while those issues can be addressed.

Effie Malley: In section 13 we added the word "relative" to the options available to the court for placement. That is consistent with the abuse, neglect statute and we feel it is consistent with the closest to home placement that we could provide to a child. We also have a limitation of one year for conditional release.

The next paragraph is probably the most controversial, section 14, it provides a limit of one year for involvement by the court and DCYS in assisting a family and child to a resolution of the issues which brought them before the court. It allows the court to close a case if services have been offered but not taken advantage of by the child or the family. This section permits extension of involvement if completion of needed services must be assured. The extension that was originally proposed in the amendments was for a 6-month extension which would allow for a maximum of 18 months for dealing with the CHINS cases. What we are looking at here is an attempt to return the CHINS statute to what we feel the original intention was for dealing with specific offender behaviors that are sited in this statute and that the intervention is time limited for that purpose.

Angele Parker: What we are looking for is to make sure that we are insuring that a program has an intensive initial impact, that we concentrate our efforts with CHINS on creating as much impact to make changes relative to the behavior that brought them into court as quickly as possible. We have looked at a random sampling of our cases of CHINS. We are finding that the average length of time is around 14 months and that is without all of the intensive supervision we would like to be providing. We are hoping that what we can do is to create a program where the juvenile service officer is capable of creating ...?.. supervision on the case, is able to give more than adequate information from the time the case is initially brought in so that immediate action can be taken and be taken in a proper manner. But it means that we have to have the ability to do a more intensive in-depth involvement with those CHINS cases right from the start. And I think we have to keep in mind that what is happening instead is that many of the cases are really not offender type cases. They are children who do need services indeed. And it is important that they receive services. But they are being brought before the court as an offender being held responsible for their behavior when indeed they cannot be responsible for their behavior because they have other presenting symptoms such as mental health symptoms or other problems that are not offender type problems, or they are not capable of being competent to respond to the court to be held accountable for their problems.

What we are trying to do is to set up the program in such a way that the juvenile service officer can in fact provide true supervision and then a delivery of services that will help that runaway or the status offender or the child who is not going to school to be able to turn around their behavior as quickly as possible while the crisis is still a motivational force in their lives. And we feel that even without that ability to create that intensive program right now that already most of our CHINS are being serviced within an average of 14 months. And we created a range because we wanted to have a high end of being able to allow children to stay in longer if we were incorrect in

our treatment planning and we needed to modify the case plan.

If a youth is not helped by us, but we think that we could help them again and if they then are still truant or still runaway, then a new petition can be brought forth. And that is what happens when we are not helping a youth is that they do re-offend, and they do get brought back in. The other thing that we found is that some of the cases that we were attempting to help, who are CHINS, are children who do not belong as CHINS, because their presenting symptoms are really quite different than what the statute indicates as the major problems, such as acts of delinquency that a juvenile sex offender cannot be helped through a CHINS statute. We cannot provide appropriate services for a juvenile sex offender if that is the major behavioral problem. And also if a child is profoundly developmentally disabled then in fact we are not capable of helping that youth with their developmental disability as their major presenting problem. What we need to do is to rely on other services. But the developmental disability is not the actual issue that we specifically can address. What we need to address is changing the behavior pattern that caused them to be runaway or caused them to be truant in school, or to commit a minor offense. Those are the issues that we need to be able to address and then to advocate for that youth to receive other services that respond to the other problems in their lives.

Effie Malley: And what it means to me in terms of having a finite and a limited number of juvenile service officers is that a tremendous amount of staff time is spent on these cases, these long term cases, that are not necessarily CHINS offenses. And less supervision is given than warranted for ongoing legitimate CHINS cases, so we would like to see that as a redirection of resources.

The next sections that I would like to address are sections 19 and 20. This addresses the shelter care beds and whether there are going to be 45 or 60 and what the deadline is going to be. The law on the books reads that 60 shelter care beds would be opened by December 31, 1989. That has not happened and I understand that the budget does not include money for any new shelter beds, so that would leave us with 15 shelter care beds.

Section 21 refers to a transition period for children who don't meet the new criteria.

Angele Parker: We recognize that we are not going to be able to transition all of our current cases that would need to be transitioned out, and that what we would need to do is look case by case at what their needs are and what kind of case plan, what kind of services need to happen and then broker those services to make those things happen. What we would like to be able to do is to put in place an alternative case plan for every case that would no longer fit these definitions and by the specified period of time, I think it is June 30, and that the case plan then would mean that if it takes longer for the youth to receive services in the court they would do so. But according to the random sampling that we did a good portion of those cases we anticipate might need to be reopened as a delinquency petition, because we found that a good third of the cases that we studied that were CHINS had presenting delinquency behaviors that were actually listed in the original CHINS petition that were not of a minor nature, but were significant enough that they could be delinquencies, and then could receive services under that. In other cases it would mean needing to advocate with other systems of care for children and get cooperation from other systems in order to more appropriately meet the needs

of some of the youth that are currently in our system.

Senator Susan McLane, D. 15: Can I ask you numbers at this point? How many children are going to be affected by the bill if it is passed?

Angele Parker: It's very hard for us to determine that at this time. We are going through all of the cases and the juvenile service officers and the supervisors are reviewing all the cases at the present time to anticipate how many of the cases would be affected by this.

Effie Malley: What I could say for context is there is 1200 CHINS cases about at any point statewide. The third of the cases that Angele referred to that are delinquency charges, that is already in the statute that they should not be...last year in the CHINS petition those were very explicitly not allowed any longer in the CHINS statute. So that is a present issue for us. That will happen whether or not this bill goes forward. For the additional cases the average length of time, as Angele said, is 14 months. But we are setting up a maximum so I don't think that that many of the kids would be affected.

Angele Parker: We're looking at a number of youth who are in our system because they have not received other services in other systems.

Senator Susan McLane, D. 15: So you can't even give me a ball park figure?

Angele Parker: We don't know at this time. Next week I hope to get a reading at the supervisors meeting. We have been given a month to look at this.

Effie Malley: The way our data is we don't have that quick turn around on getting information for legislative committees and we had been working with Children, Youth and Juvenile Justice and we saw a lot of different questions were coming up regarding the CHINS statute. And that is why we did a random survey of a hundred of the cases and went into those in depth out of the 1200 cases. But that is a survey and it is not an actual number.

Senator Susan McLane, D. 15: So that doesn't leave you with a number?

Effie Malley: Right.

Senator Susan McLane, D. 15: This bill must have some basis and the basis is money and money must drive the numbers.

Angele Parker: These recommendations were not put forth in order to save dollars. We had other recommendations that were funding related.

Effie Malley: But I can tell you that for this year for settlement we're adequately funded at \$22.3 million. Next year for the same program we have \$20.8 million.

Angele Parker: We put forth these recommendations for programmatic concerns because we find that we are getting a few exceptional numbers of cases coming into the system that really are not status offenders that are before the court being held responsible for their behavior on supervision as if they are an offender, CHINS is an offender statute, who are not offenders. And that is the problem that we are faced with. They are creating an enormous problem in our system because juvenile service officers are not workers who are trained in developmental disabilities. They are not trained in chronic mental illness.

And we have a small portion of cases that are usurping an unusual amount of time and effort and energy in the system with a continuum of care that is not relevant to their needs. And this is the problem that we are faced with and that is where these suggestions have come to you. They have come from the supervisors and from our examination of the problems that we are faced with in creating an effective, targeted CHINS program for juveniles. We are trying to make a targeted intensive program where we can put our efforts and energies into working with CHINS. These other cases are usurping the energies of our workers, not only from CHINS, but from delinquents as well. Because they are spending an enormous amount of energy on cases that really don't have the presenting symptoms to be a CHINS case in our system.

Senator Susan McLane, D. 15: I can't imagine why anybody would put this bill in unless it was to save money and you have given me a completely different answer. I did have a couple of questions. And one of them has to do with changing to clear and convincing evidence. And your thought for that says that it would encourage more home based services. If you went to a higher standard for removing a child, then the thought is that you would substitute for that removal more home based services and yet that doesn't really seem to be your motivation. It really seems to be the motivation of keeping the number of CHINS down by making the standard higher.

Effie Malley: The adjudication issue of whether a judge rules that a child is a CHINS or not is separate from whether the child is...the disposition is made for an out of home placement. We could have a CHINS, but the healthiest thing for children is to remain in their own home whenever possible. And that is what we are trying to encourage here.

Senator Susan McLane, D. 15: But I don't see that you are doing that if all you are saying is it has got to be harder evidence to take them away.

Angele Parker: I can tell you what we are trying to do in order to do that. Number one we are trying to be able to have more time for the worker to supervise the case, to get adequate information about the case up front, to do a good case plan, to present it to the court, to be available to supervise the case hands on and create a more intensive program in that one year when you have the attention and the motivation of the family and the youth. When they come in with the crisis, that is when the motivation exists. We want to focus our energy right there that first year. We have expanded the use of home base services in the last two years enormously in the use of CHINS. We put into place outreach and tracking which we did not have before, which is a very intensive one on one relationship between a youth worker that we hire agencies to do and the youth..... So we have put a lot of energies into substance abuse counseling, family counseling, and to try to create a more intensive work with the CHINS youth.

In addition we found in the random sample of 100 cases that the major underlining problem that was identified was a family problem. And I sat in about half of our courts throughout last summer and watched cases coming before all the courts and that is exactly what I saw, was that the underlining presenting problems were family related.

Judy Bell: (DCYS) I'm going to go over the sections that were in 1174 as it first emerged (summary of changes contained in HB 1174 are attached).

Michael Sullivan: (New Hampshire District and Municipal Court Judges Association - testimony attached)

Senator Susan McLane, D. 15: Is my assumption that you probably supported the original bill which had the changes that we have marked and that it is the changes in the amended form of the bill that you oppose?

Michael Sullivan: Absolutely. We think you passed a good bill back in 1979 that has worked for ten years. With a few minor alterations we would like to see it continued.

Ellie Stein-Cowan: (Familystrength - testimony attached)

David Villiotti: (Executive Director, Nashua Children's Association - testimony attached)

Jack Lightfoot: (Child & Family Services of N.H.) We join with the other speakers who have opposed various provisions of this bill. I think the general technical provisions that Attorney Bell spoke about are certainly acceptable to us and ought to go forward. I think of specific concern is the haste with which this bill is being rushed through. You are not under the time pressure that the Children and Youth Committee was when they finally got the amendments of this bill where they really did have 48 hours to deal with this and you have a couple of weeks that you can spend on it if you choose to. However, I was on the task force that worked on this bill in 1978-79 and we're talking about a year that task force looked at the bill. As Judge Sullivan said the CHINS law has been in place with minor changes for the past ten years and is working reasonably well.

Many of the concerns that Angele Parker and Effie Malley talked about I don't see as problems with the law. I see it as problems with their workers and their workers' caseloads and the other systems. She spoke, for example, of developmentally disabled children that are labeled CHINS and are not getting services and her workers are not trained to deal with developmental disabilities. That's true. They are not trained to deal with developmental disabilities, but my guess is, and from talking with people who have been involved in this system, that there is virtually no child who is developmentally disabled and has no other problem that is a CHINS. You do not just say that my child is a developmentally disabled child and I need to get him in to a sheltered workshop and therefore I am going to label him a CHINS and they will pay for it. Until that child is doing something else and you need the court orders to get that child in hand, CHINS stands for children in need of services.....

I would also like to speak briefly about a disobedient children category that the Division for Children and Youth is trying to eliminate from this bill. In other context people have commented about parents who are abdicating their responsibility to children that are dumping their children on to one system or another, primarily the Division for Children and Youth Services. And here is a direct provision in the statute that says to a parent, we the State are behind you. If your child disobeys you and is out all night or running around with a bad crowd, but just hasn't got around to breaking a law yet, we are going to help you get that child into hand. But if we take that provision out, we are saying to parents you are on your own hook.....

I did see some language from Rep. McCain earlier about the 12 month and 6

month extension, and I would certainly agree with him that that needs to be worked on. And I would be happy to work with the Committee on working on language that would actually put that in place in an effective manner.

Bruce Friedman: (testimony attached)

John Grady: (Assistant Principal of Fairgrounds Jr. High School in Nashua - testimony attached)

Frank Catano: (President, The New Hampshire Group Home Association Inc. - testimony attached)

Gene Allison: (testimony attached)

Senator Susan McLane, D. 15: I was distressed that the Division didn't admit that these amendments were put in to save money. What they said was that they wanted to focus and do a better job by some kids rather than being... What was your overall caseload, and do you think that this is the problem in the Division, is the size of the caseload?

Gene Allison: My original caseload was sixty and then when the way of counting caseloads became different, it was counted as a number of families you were dealing with, whether those families had four kids in them or one kid. And when I left I had fifteen families and my numbers were up in the nineties. When I got the three boys in my original caseload, I was able to do more....

Senator Susan McLane, D. 15: What would a national standard be for a caseload for a social worker?

Gene Allison: It's difficult. My feeling is if you have four kids in a family that is not the same as a family that has one kid. There is an awful big difference. It's difficult by numbers to measure the amount of work that a person is doing. And I think the focus should be on that, the amount of work and the amount of success the person is realizing.

Harvey Harkness: (Department of Education) There are two aspects of this particular bill that we have difficulty with, and I will limit my brief remarks to those two. One is section 10, V, Mr. Grady made reference to that previously and also Effie Malley made a brief comment in that regard. This particular section would prohibit a school district from making a petition for a youngster unless that youngster had been determined to be educationally handicapped. And we think that language needs to be rewritten.

The second one we have some difficulty with is on page 8, clarification of RSA 170-G:11, which has to do with admission to the Philbrook Center. The language that has been added references RSA 186-C and could lead one to believe that only educationally handicapped children would be admitted to the Philbrook Center. We think that needs to be cleared up.

Rob Prohl: (Concord School District) I am also opposed to the major changes in the bill for the reasons that Judge Sullivan and others have mentioned. I see these major changes in limiting the period of services and reducing the eligibility criteria and by requiring only special education kids can be referred by a school district as a way to either save money or as a way to delay services for kids. I basically see this as a cost cutting measure.

From my prospective having worked in the field here in New Hampshire for about nine years, in Concord and in the western part of the State, schools have been working very cooperatively with the courts and with DCYS in working together with these kids and trying to meet the needs of them. And I think, because resources are scarce, we really need to work together as a team.

In recent years I have noticed that DCYS has been unable to provide the kind of services, it has been difficult getting a hold of them. I have had friends who have worked in DCYS who have resigned because they are just overworked and they are burned out because of large caseloads. I think this, in some cases, has created a catch-22 situation because we have gone to court on a number of kids. The school districts have spent a lot of money in recent years to upgrade their special education services so that kids can have special programs in the public schools. And in a number of cases the child is sent to a residential placement that may cost four or five times what it would cost to educate them in a foster home or a group home and a public school because a spot is just not available.

I think that it is important that we need to add more resources so the kids can be served in the community, and kind of expand that continuum of services so that there are more group homes in communities so the kids don't have to go and be sent to \$40 or \$50,000 residential placements. In a sense that is really a catch-22 because those resources, those monies, are the viable funds that are needed to increase the community base services. And as the workers get overloaded with more cases, there is less time to actually investigate and find more appropriate services in the community.

Hearing Closed
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SUMMARY OF CHANGES CONTAINED IN HB 1174, RELATIVE TO
LAWS REGARDING CHILDREN AND MINORS.

1. Recognition of Emancipation Decrees from Other States.

We are encountering more and more minors who have been legally emancipated in their home states who come to New Hampshire to live. The courts have been having difficulty in some instances, in deciding what action might be appropriate for these individuals. This change would allow recognition of the emancipated status of these minors.

2. Philbrook Center Records Included.

This section allows the Office of Reimbursements (connected with Mental Health) to obtain reimbursements from individuals/families, who have a placement at the in-patient psychiatric unit of Philbrook under the voluntary or involuntary admission program. (135-C: when you are a danger to yourself or others). They currently perform this function for the State Hospital, Glencliff and the Laconia State School. This was requested by the Unit for clarification, and does not conflict with the provisions of HB 1501. The office currently performs this function, but this would give them statutory authority.

3. New Section; Recognition of Foreign Probation Officers.

When minors have left their home state but are still on probation or conditional release, or have runaway, the Division gets contacted by probation officers from other states. Adding this provision allows a probation officer from, say Colorado, to pick up his kid. This reduces costs both financially and in time.

4. Delinquent Children; Dispositional Hearing; Release of Minor, etc.

This section eliminates the language which prevents placement of CHINS and delinquents together in non-secure facilities such as group homes.

5. Supervision of Minors on Conditional Out-of-State Release.

Adding the reference to the Interstate Compact will permit our minors who are placed out of state but who are on "conditional release" to have their placement supervised in the state where they are placed. This section, and section 3 were adapted from other states.

6. Clarifying the Purpose Statement; CHINS.

This section removes the word "rehabilitation" and establishes that the services to be provided will assist the child towards becoming responsible and productive, rather than anticipating that he will achieve this goal.

7. Clarifying the Purpose Statement; CHINS.

This section eliminates the words "rehabilitative services" and eliminates the words "has a right to receive". It establishes instead that the child will be provided with treatment, care, guidance, etc., which the child needs and which the court can provide.

8. Clarification of Definitions; CHINS.

This section previously contained the age limitation, but that has been removed. The word "rehabilitation" has been removed from the definition of services.

9. Clarification of Definitions; CHINS.

This section brings in RSA 169-D:22, rather than repeating the references to motor vehicle offenses. It also removes the word "rehabilitation" from the services.

10. New Paragraph; Petition Alleging Child to Need Services; Educationally Handicapped Child.

A new section, this will require schools to have completed a review of the educational needs of a child prior to filing a CHINS petition. At this time, when a school files the CHINS, there is a delay while the school completes this assessment, and the child is in placement. With this change, the child's educational needs will have already been determined and placement, if necessary, will be quicker to achieve.

11. New Section; Clarification Regarding CHINS Placements.

There has been some uncertainty about placement of CHINS and delinquents in non-secure facilities. Although the statute says they cannot be mixed, New Hampshire Supreme Court case law has indicated that this language, because the state has not had sufficient funds to make the separation reality, is "directory". These changes will assure that in non-secure facilities and in psychiatric facilities, CHINS and delinquents can be placed together.

12. New Section; Procedures for Removal of CHINS from Home.

This is a new section; it sets up a standard similar to that for abused and neglected children prior to removal from home. The clear and convincing standard has been included because classification of a child as a CHINS sets the child up as an offender.

13. Clarification of Available CHINS Placements; Limiting Conditional Release.

Allows the child to remain with a relative (in addition to the already present parent, guardian, or custodian). In keeping with the limitation of 1 year for case work, the limit for conditional release is also set at 1 year.

14. New Paragraph; Limiting Court Involvement.

This is probably the most controversial section in the bill; it provides a limit of one year for involvement by the court and DCYS in assisting a family and child toward resolution of the issues which brought them before the court. It allows the court to close a case if services have been offered but not taken advantage of by the child or the family. The section permits extension of the involvement if completion of needed services must be assured.

15. New Section; Determination of Competence of CHINS.

This section provides that the court or any of the parties (including the attorney for the child), may have the child submit to a mental health evaluation to determine competence. This can be very important when allegations have been made about the child, but he/she is clearly incapable of the intent to commit the offense. The wording of the section echoes a similar provision in the delinquency statute, but has been improved in clarity of purpose.

16. New Section; Court Ordered Placements.

Consent agreements can contain findings and orders for services; sometimes the court will approve these prior to any involvement or participation by DCYS. This leads to problems with orders for services which may not be certified or which may not be appropriate for the child, and therefore unnecessary expenses.

17. Reference Corrected.

When the statute was changed several years ago from 135-B to 135-C, this section was neglected. This simply makes the statutory reference accurate.

18. Clarification of Admission and Rulemaking.

The in-patient psychiatric treatment unit does provide long-term treatment to children in a state run facility to reduce the numbers of children who are sent to private, more expensive treatment facilities.

These changes clarify the Division's ability to do rule-making for treatment (at the in-patient psych unit) and education (through the special education school), and clarify that admission to the special ed school should be through the special education statute, RSA 186-C.

SEE HB 1501, WITH RESPECT TO THIS SECTION.

19. Date Extended.

This section relates to the shelter care/detention beds and the state's compliance with the federal law on jail compliance. The language assures a minimum of 45 beds, but pushes back the effective date for DCYS to certify that these beds are available.

20. Date Extended.

This section relates to the same shelter care/detention beds as section 19.

21. Transition Period; Children Who Do Not Meet New Criteria.

This section recognizes that there will be some changes for those children in the JSO caseloads, and requires DCYS to develop transition plans for each of these children by June 30, 1990.

22. Repeal.

A quick review of these sections will assure you that they have been replaced by the liability sections in RSA 169-B, 169-C and 169-D., and are no longer necessary.

TESTIMONY RE: HB 1174-FN
SENATE HEALTH AND HUMAN SERVICES COMMITTEE

March 7, 1990
11:30 a.m.

Dear Madam Chairwoman:

My name is Michael Sullivan. I am the Associate Justice of the Concord District Court and am appearing on behalf of the New Hampshire District and Municipal Court Judges Association.

I appear here today in an effort to ask you to ameliorate some of the far too restrictive changes to RSA 169-D that are found in the most current version of the Bill, as it was passed over from the House.

Your District Court Judges determine thousands of these matters and we have attempted, to the best of our ability, to carry out the law that you wisely enacted in the recodification of 1979. Other than fine-tuning and up-dating certain provisions, we are unaware of any study, legislative or otherwise, that indicates that the law is flawed thus warranting the changes contained in House Bill 1174-FN. It seems to us that much of this Bill is intended to water down the protections and services to CHINS. We respectfully suggest that many of these are ill-advised and if adopted, in the long run, will be a step backward in this State's effort to improve the lot of troubled and, in some cases, pre-delinquent young people.

Specifically, sections 7, 8 and 9 of the most current version of the Bill, are designed to erode the policy of the legislature when it originally enacted the most current version of RSA 169-D in 1979. For

example, section 9 of the Bill eliminates a certain category of young people from the definition of CHINS. We would suggest that those young people who repeatedly disregard the reasonable and lawful commands of their parents still be considered CHINS but that any petition that is filed under this section give the assurance to the Court that the family has attempted, through mediation or counselling, to solve their problems without success. This, of course, would direct families to take some steps before seeking the intervention of the Courts. This, in fact, may be a wise policy change and we would endorse it.

Section 13 of the Bill reduces the potential term of Conditional Release from 2 years to 1 year or less. Not all children put on Conditional Release have a term of 2 years. I suggest keeping the 2 years and maintaining the current practice in the District Court that if a young person has done well on Conditional Release, that the Juvenile Services Officer ask that the period be reduced since the person is doing well under supervision. This makes more sense than arbitrarily reducing it to 1 year or less.

Section 12. This section, particularly paragraph II, is awkward and the meaning of the section is unclear. This section deals presumably with the taking of a child from the home but paragraph II deals with the return of the child to the home. Your District Court Judges do not easily or quickly remove children from their living situation with their parents in these cases unless there is good

reason to do so. Many of these cases are brought by the police and after an arraignment, additional information is made available to the Judge. It is occasionally necessary to separate parents and child in order to give them a breather or time to work out their differences with the help of people trained to help families. This section ignores the realities of the current practice and the limitation in paragraph I asks that the Judge ignore any new information that is brought to his attention during the course of the arraignment. We recommend eliminating this section.

Section 14 entitled "Limiting Court Involvement; CHINS", is an unwise and arbitrary limitation of 12 months to render services to young people found to be CHINS. It is not uncommon that these cases might exceed 12 months and that to force the issue and terminate the services could lead to further problems, especially when progress is being made. The current practice among Judges is to terminate the Court's involvement (1) once the matter has been rectified (2) if it appears the services offered are not being utilized or (3) are not successful. Judges make these determinations based upon the facts and history of the case, rather than by examining what month in the disposition it is. Many of these matters do not snugly fit in to such a statutory pigeonhole.

Section 19 also reflects an ill-advised retreat from a commitment the legislature made to the District Court Judges in 1988. As you recall, the Division sought to preclude Judges from holding CHINS at

police stations under emergency circumstances. The Division gave assurances to the District Court Judges that this provision would only take effect when there were 60 beds sited throughout the State of New Hampshire. This initiative is a bad one and a breaking of the commitment made to the legislature and the District Court Judges just 2 years ago in House Bill 606.

While you are examining RSA 169-D, please consider amending RSA 169-D:22 to include the phrase "a law relating to Title XII" to make it consistent with the delinquency statute. Thus, 16 and 17 year olds charged with minor alcohol offenses would appear in adult Court as opposed to juvenile Court.

In summary, I would recommend the sections of the Bill that I have addressed to be deleted entirely from the Bill or, at the very least, altered to reflect the practicalities that we have to deal with and the reality that we face in each of these cases. The District Court Judges will be pleased to work with any sub-committee that you might establish in addressing these issues.

Thank you.



FAMILYSTRENGTH

*preserving families
preventing placement*

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DIRECTORS

Ellie Stein-Cowan, M.P.A.
Executive Director
Jeanne Blasik, A.C.S.W.
Treatment Director

Hon. Elaine Krasker, Chair
Public Institutions/Health and Human Services Committee
N.H. Senate
Concord, N.H. 03301

Madam Chair and Members of the Committee,

My name is Ellie Stein-Cowan. I am the executive director of Familystrength, one of New Hampshire's eight home-based programs. We provide intensive in-home services to families who have children at risk of placement outside their homes due to abuse/neglect, CHINS and delinquency. We work in the home with the entire family in an effort to keep the child with his or her family. Familystrength serves more than a hundred CHINS youths and their families each year across the state, so we have the opportunity to deal with the complex issues involved in identifying and addressing their problems.

Our agency's team of clinical supervisors has reviewed and discussed the various changes to the CHINS law that have been put forth this legislative session, including those in this bill and in the House amendment. We have a number of unanswered questions about this bill and amendment. I would like to share just a few of these questions with you and hope that they point to the need for further review of the role of the current CHINS legislation, prior to changing this statute. I would like to focus on one provision of the proposed change: the elimination of children whose parents cannot control them, incorrigibles.

1. Why eliminate incorrigibles rather than truants or kids who run away?

If the intent of the proposal is to more narrowly define the CHINS category and provide services to the most needy, then the question that follows is -- are truants and runaways more needy of services than kids labeled as incorrigibles? This is a difficult question to answer because there are so many variables. We have worked with incorrigible youths who have had more severe problems than truant kids and their families. We believe it is inappropriate to limit the availability of service based on one symptomatic

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behavior or presenting problem. We need to look at what is underneath -- at the root causes of the problems -- in order to determine the urgency and severity of need.

2. What will happen to these kids if incorrigibility is eliminated from the CHINS definition?

A basic premise in family therapy is that children will act out to attract the help that is needed for their families. This is an unconscious behavior, a survival instinct. What will these kids resort to and what will the cost be both emotionally and financially? Some children may run away, a dangerous behavior in our day; or delinquency or abuse may result. Is this ethical? The problems of these children will not disappear. In what form will they resurface?

3. What is the intent of the bill and/or amendment? What are we trying to accomplish, and will these proposed changes do this?

If there has been some inappropriate use of the CHINS legal status (and in our work, we see few abuses of CHINS findings) is there a way to better screen CHINS by improving the training of those charged with the responsibility of making CHINS determinations? This in our view would be preferable to excluding from the definition this entire category of children and thereby risk eliminating services for truly needs kids and their families.

We hope that the Committee will examine these issues before recommending that this legislation pass. We offer our time, commitment, and a considerable amount of data we have collected over the years on hundreds of CHINS, to help with further study of this complex subject.

Thank you for taking the time to hear public testimony on such an important issue.

NASHUA CHILDREN'S ASSOCIATION

125 AMHERST STREET
NASHUA, N.H. 03060
603-883-3851

TESTIMONY AMENDMENT TO HB 1174 SENATE COMMITTEE ON HEALTH, HUMAN SERVICES AND PUBLIC INSTITUTIONS MARCH 7, 1990

THE AMENDMENT TO HB 1174 WOULD, AMONG OTHER THINGS, LIMIT THE DURATION OF COURT INTERVENTION TO CHILDREN ADJUDICATED UNDER RSA:169D (CHINS STATUTE) TO A MAXIMUM OF 18 MONTHS FROM THE DATE OF FILING THE PETITION. PASSAGE OF THIS AMENDMENT WOULD HAVE THE FOLLOWING RAMIFICATIONS:

1. SERVICES TO CHILDREN WOULD NOT BE OF SUFFICIENT LENGTH TO ADDRESS THE UNDERLYING PROBLEMS THAT PROMPT THE CHILD'S BEHAVIORS. CHILDREN OFTEN RUN AWAY, ARE TRUANT, OR ARE UNMANAGEABLE IN RESPONSE TO A SPECIFIC FAMILY STRESSOR. BEHAVIOR IS OFTEN EASILY CORRECTED IN AN ALTERNATIVE SETTING, BUT THIS CORRECTION IS UNABLE TO BE SUSTAINED WHEN KIDS ARE RETURNED TO A HOME AND FAMILY THAT HASN'T MADE CORRESPONDING CHANGES. THE FACILITATION OF POSITIVE CHANGE IN A FAMILY SYSTEM IS A MUCH SLOWER PROCESS.
2. IN THAT SERVICES ARE LIMITED TO 18 MONTHS FROM THE FILING OF THE PETITION, A SUBSEQUENT PETITION, MEANING, ANOTHER OFFENSE, MUST TAKE PLACE IN ORDER TO EXTEND THE COURT'S JURISDICTION. ESSENTIALLY, THIS MANDATES THAT YOUNGSTERS MUST FIRST REGRESS BEFORE SERVICE CAN BE REINSTITUTED. UNFORTUNATELY, THE REGRESSION MOST LIKELY WOULD NOT OCCUR UNTIL AFTER ONGOING SERVICES HAD BEEN TERMINATED.

PASSAGE OF THIS AMENDMENT WOULD AFFECT CHILDREN IN PLACEMENT AT THE NASHUA CHILDREN'S ASSOCIATION ALONE IN THE FOLLOWING WAYS:

- A. RETURN A 13-YEAR-OLD GIRL TO A PARENT UNDER WHOSE CARE SHE WAS EXTREMELY SEXUALLY ABUSED. WHILE THE PERPETRATOR IS NO LONGER IN THE HOME, A SIMILARLY ABUSIVE PERSONALITY TYPE IS LIVING WITH THE MOTHER.
- B. RETURN A 14-YEAR-OLD GIRL TO A CHEMICALLY DEPENDENT, CLINICALLY DEPRESSED MOTHER WHO IS NOT ENGAGED IN TREATMENT.
- C. RETURN A 14-YEAR-OLD BOY AND 15-YEAR-OLD GIRL TO RESPECTIVE HOUSES WHERE THEIR OFFENSES WERE DIRECTLY LINKED TO A LACK OF PARENTAL SUPERVISION. BOTH CHILDREN ENGAGED IN CONSIDERABLE DELINQUENT ACTIVITY BUT WERE CHARGED UNDER THE CHINS STATUTE. AN IMPROVED ABILITY TO SUPERVISE HAS NOT BEEN EVIDENCED IN EITHER CASE.

IN ALL OF THESE CASES, MOVEMENT TO A LESS INTENSIVE SITUATION (I.E., FOSTER CARE) WOULD NOT BE PERMISSIBLE AS THE COURT'S JURISDICTION HAS RUN ITS COURSE.

THERE IS A GROWING SENTIMENT THAT THE CHINS STATUTE IS TOO INCLUSIVE, THAT MANY CHINS CASES ARE MORE APPROPRIATELY THE JURISDICTION OF SCHOOL DISTRICTS, THE DEPARTMENT OF MENTAL HEALTH, OR ARE MORE APPROPRIATELY ADJUDICATED AS ABUSE/NEGLECT. IT HAS BEEN ARGUED THAT LABELING CHILDREN AS OFFENDERS UNNECESSARILY IS DAMAGING TO THEM. WHILE THESE CONCERNS ARE NOT WITHOUT BASIS, THE REAL DAMAGE TO CHILDREN IS IN NOT PROVIDING THEM WITH NECESSARY SERVICES, WHICH WILL UNFORTUNATELY BE THE PRIMARY RESULT OF THIS STATUTORY REVISION. UNTIL ALTERNATIVE SYSTEMS ARE IN PLACE, I SEE THIS AMENDMENT AS ONE THAT WILL SHORTCHANGE KIDS. I'M NOT CONVINCED THAT THIS AMENDMENT WILL RESULT IN OTHER ENTITIES TAKING RESPONSIBILITY FOR THESE CHILDREN, AND IN THE WAKE OF JOB FREEZES, LAYOFFS, ETC., DCYS SIMPLY WILL NOT HAVE THE RESOURCES TO MORE EFFECTIVELY INVESTIGATE ABUSE/NEGLECT ALLEGATIONS.

WHILE IT'S TROUBLING THAT CHILDREN WHO HAVE BEEN ABUSED AND/OR NEGLECTED WOULD BE BROUGHT FORTH AS OFFENDERS, IT'S ABHORRENT FOR THEM NOT TO RECEIVE SERVICES OR TO BE RETURNED HOME WHEN THE "CLOCK STRIKES 12" IN THE ABSENCE OF ANY DISCERNIBLE CHANGE WITHIN THE HOME, IN THE ABSENCE OF THERE BEING ANY SYSTEM IN PLACE TO PROTECT THE CHILD.

THROUGHOUT THIS LEGISLATIVE SESSION, THERE HAVE BEEN ATTEMPTS TO PORTRAY CHILDREN ADJUDICATED UNDER THE CHINS STATUTE AS SOMEHOW LESS TROUBLED, LESS NEEDY, LESS DESERVING OF SERVICES THAN ABUSED/ NEGLECTED OR DELINQUENT KIDS. THESE ARE ABUSED/NEGLECTED KIDS WITHOUT THE BENEFIT OF A FINDING. THESE ARE DELINQUENT KIDS BROUGHT IN ON LESSER CHARGES. NO CLEAR DISTINCTION CAN BE MADE BETWEEN THESE GROUPS OF CHILDREN.

THE REVISION OF THIS STATUTE IS CERTAINLY BUDGET-DRIVEN. I QUESTION THE SAVINGS IN LIMITING THE DURATION OF COURT INTERVENTION, HOWEVER, AND WOULD ARGUE THAT COSTS COULD ESCALATE AS A RESULT. CONSIDER THE FOLLOWING SCENARIOS:

- A. CHILD IS RETURNED HOME AT END OF 18 MONTHS. HIS BEHAVIOR PREDICTABLY DECOMPENSATES; ANOTHER PETITION IS FILED; RESIDENTIAL TREATMENT IS ONCE AGAIN INDICATED. HIS DECOMPENSATED STATE AND UNAVAILABILITY OF A BED AT HIS PREVIOUS FACILITY RESULTS IN HIS PLACEMENT IN A MORE EXPENSIVE FACILITY FOR A LONGER PERIOD OF TIME.
- B. IN THAT THE "CLOCK STARTS" UPON FILING THE PETITION, SOCIAL WORKERS AND JSO'S MAY BE LESS WILLING TO RECOMMEND LESS INTENSIVE, LESS EXPENSIVE TREATMENT OPTIONS, FOR THERE WILL BE LESS TIME FOR MORE INTENSIVE TREATMENT IF THESE OPTIONS ARE UNSUCCESSFUL. (ONE SHOULD KEEP IN MIND THAT THE LIMITATIONS INCORPORATED IN THE AMENDMENT ARE NOT RESPECTIVE TO A PARTICULAR SERVICE, BUT TO COURT INTERVENTION FROM THE DATE OF FILING THE PETITION. IT IS NOT UNUSUAL FOR MORE INTENSIVE SERVICES TO BE ORDERED SEVERAL MONTHS AFTER THE PETITION IS FILED, THUS LEAVING INSUFFICIENT TIME FOR THESE SERVICES TO BE EFFECTIVE.)

PLEASE NOTE ALSO THAT THIS AMENDMENT HAS PROFOUND EFFECTS ON THOSE CHILDREN CURRENTLY WITHIN THE SYSTEM. THE TRANSITION PERIOD DETAILED IN THIS AMENDMENT DOES NOT, AS I UNDERSTAND IT, AFFORD THESE CHILDREN ANY PROTECTION WHATSOEVER AND THEIR SERVICES COULD BE TERMINATED BY JUNE 30.

IN CLOSURE, I IMPORE THIS COMMITTEE NOT TO LEGISLATE SOMETHING AS UNPREDICTABLE AS TREATMENT PROCESSES WITH CHILDREN AND FAMILIES. A MECHANISM TO MONITOR APPROPRIATENESS OF SERVICE IS CURRENTLY IN PLACE IN THE FORM OF REVIEW HEARINGS BY NEW HAMPSHIRE'S DISTRICT COURT JUDGES. THE FLEXIBILITY AND INDIVIDUALIZATION THE CURRENT SYSTEM PERMITS IS VITAL TO THE WELFARE OF TROUBLED CHILDREN AND MUST BE PRESERVED.

RESPECTFULLY SUBMITTED,


DAVID VILLIOTTI
EXECUTIVE DIRECTOR

DV/PD

My name is Bruce Friedman and I represent children or their parents with problems big enough to ensnare them in the juvenile justice system.

Rather than take one million dollars out of the Rainy Day Fund, this Bill takes troubled children out of group homes and foster families where they have been presumably doing well for a year and sentences those children to Bicentennial Square or the homes they ran away from. If anyone in this room thinks this is a good bill, please see me after this hearing. I will tell you why:

- a. parts of it were soundly rejected by the legislature less than a year ago;
- b. it will cost cities and towns lots of money;
- c. it will not save the State as much money as its authors hope as it will lead to a relabeling of the same kids from CHINS to abused/neglected or delinquent; or a second CHINS petition will be filed after a child is evicted from a placement;
- d. it will buy you some lawsuits as it is likely unconstitutionally retrospective in regards to children whose liberty you have limited on a promise of services until age 18;
- e. it will get the nickname among teenagers as the
"You can't run away but you can tell your parents to shove it and then stay out until 6:00 a.m. bill"

If we are a state that can find 3.2 billion dollars from our ratepayers for Wall Street junk bond holders, but can't find a million dollars for children running away from dreadful homes, then pass this bill. But if you can't take 3.6% of the money in the Rainy Day Fund out, then at least pass this bill with a few changes to mitigate this bill's impact on children:

Some Amendments to this bill are attached:

Our Amendment #1 - A Sunset Provision

Our amendment limits the too long of life of this bill to this biennium. The only reason you would pass this bill, departing from a half century of services to children formerly called children in need of supervision is

because you have a loaded assault weapon pointed at your head. Hopefully the BPT and Real Estate Transfer tax will return to glory by 7/1/91 and the state of New Hampshire can again provide services to children who desperately need them for as long as the children still need them.

Our Amendment #2

Foster care for children after a year in placement --

This amendment will allow the Court to continue to provide services to children in foster care. We are not so desperate are we that 16 year olds who run from sickening situations such as being propositioned by their stepfather must live on the streets. If that child can live in foster care until she can finish high school, you have done her (and the taxpayers) a service. Since the Federal Government pays a large portion of foster care, we're talking about \$2000 per year or less of state money to keep that child off the streets or out of YDC when she steals or prostitutes herself to survive. YDC costs the state \$40,000 more a year than foster care.

Our Amendment #3 - 18 months IF Needed

Section 1 - 14 --

If a child needs 18 months of service, a child needs 18 months. It should not be DCYS' decision. Last year, the legislature and the Governor wisely recognized that it was unconscionable (and probably unconstitutional) to give the fox (DCYS) the run of the chicken coop (services). So our Amendment #3, would let the Court decide the issue.

Our Amendment #4 - Grandfather Clause

Section 21 of the House Bill looks at first glance like children now in placement who lose all services under this Bill, will get something; they do - they get shafted. The law as written means that children already getting services for 18 months are done upon passage and that makes it likely unconstitutional. The CHINS statute put those children under court control - with YDC as a possible sanction for disobeying the court - in return for a

promise of needed services until 18; if the state takes away that right to services, it violates Part 1, Article 23 of the New Hampshire Constitution, which prohibits retrospective statutes, as this would be. Our amendment #4 grandfathers in all children currently receiving services and permits them to continue receiving services until they reach age 18 or no longer need them.

Our Amendment V - Omitting Section 12

It makes no sense to say the child whose stepfather wants to have sex with her must stay at home unless the parents consent to her placement and DCYS has done a case plan the day she is found on the street. Throw out Section 12(6).

I look around this Committee and I see intelligent, decent, caring, well-meaning public servants. Intelligent, decent, caring, well-meaning public servants to not pass ill-advised, ill-conceived bills that add to the troubles of troubled children - forcing them out of good licensed homes and into the Bicentennial Squares of our state. Vote against this bill; if not, put in our amendments.

OUR AMENDMENT 1

Add
~~Replace~~ Section *24* ~~9~~.

I. Repeal and Reenactment. The general court recognizes this legislation to be a temporary policy change effective only through June 30, 1991. The changes in the definition of a CHINS in section 9, RSA 169-D:2 IV (b) and the limitation in services in section 14, RSA 169-D:7 in this chapter made in response to the budget deficit shall be repealed and the former provision of Chapter 169-D shall be reenacted and effective as of July 1, 1991.

OUR AMENDMENT 2

Amend Section 14 (amending RSA 169-D:17) by adding the following sentence.

Notwithstanding the foregoing, the Court may place or continue any such child in a foster home or the child's home with appropriate supportive services until the child is 18, if the child's needs can reasonably be met at home or in foster care.

AMENDMENT 3

Amend Section 14 Limiting Court involvement (adding new section to RSA 169-D:17)

III-a. The court shall limit the duration of any disposition ordered pursuant to this section to one year from the date of adjudicating the petition, or the termination of the court's involvement, whichever comes first, but which in no event shall exceed the child's 18th birthday, and shall conduct a hearing to review the status of the child and family prior to the end of said year. The division shall prepare a study regarding the progress of the child and family in complying with the case plan ordered by the court. Upon a finding by the court that a continuation of services is needed, the court may continue the case plan for an additional period up to 6 months.

OUR AMENDMENT 4

II. Grandfather Clause. During the applicability of this legislation, the rights, duties and privileges that vested and proceedings that were begun before its effective date shall not be affected. Children currently considered CHINS shall not be denied any appropriate services because of this act.

OUR AMENDMENT 5

Amend Section 12 . . . (amending RSA 169-D:10 IV)

IV. omit II and change III to II.

AMENDMENT 6

If repealing RSA 169-D:22 per Section 18 of the Amendments:

IV. (c) omit "or has committed an offense as contained in RSA 169-D:22"

Thank you Madame Chairman. My name is John Grady and I am the assistant principal of Fairgrounds Jr. High School in Nashua. I am here today to testify in opposition to House Bill 1174.

Needless to say this is a very complex piece of legislation and there are no doubt many who are eminently more qualified than I to testify on this bill. Thus I shall restrict my remarks to the problems that passage of this legislation would present in the area of schools bringing CHINS petitions for reasons of **truancy**. It is my understanding that section 10 would amend current law by requiring that a school district cannot bring a petition for CHINS unless they have already made the determination that a child is educationally handicapped. Approximately **12%** of the students in our school are presently coded as educationally handicapped. This would mean that we would be prohibited from seeking the services of the courts for the remaining **88%** of our students. Quite frankly folks this would turn the state's compulsory attendance law into a joke.

Let me be very clear that we only utilize the services of the courts in truancy cases as a last resort. It is indeed difficult for us to comprehend that parents **will not** and in some cases **cannot** get their children to attend school, but believe me it does take place all too often. Times have changed--values have changed. As a child I can never remember my father taking a sick-day and in turn he impressed

the importance of regular school attendance with us. I am sure that it no doubt was the same with many of you. The 1990's are a different situation. I am afraid that the work ethic is no longer as prevalent and these new values are passed on to our young people.

In the schools we attempt to maintain close communication with parents in regard to attendance. Phone calls are made on a daily basis to the parents of absentees and written documentation from parents is required when students are absent. We work closely with our guidance staff, school psychologists, and attendance officer in an attempt to improve attendance. Sometimes these efforts are ineffective and we have to utilize the CHINS petition process. We first have a letter sent from the legal services department of city hall threatening court action and often this does the trick, but in some cases we do have to file the CHINS petition and take the child and parents to juvenile court. In the past the court system has been an effective tool in enabling us to get children to school.

It is also my understanding that section 14 of this legislation limits the time of the court's jurisdiction to one year or less. Frequently students who are brought to court on a CHINS/truancy petition are placed on probation and it is the follow-up and the potential of returning to court which keeps some of these children in school and on the

straight and narrow.

To summarize, the use of CHINS petitions for truancy are used as a last resort and are a tool which we utilize in the public schools. Please don't take away these tools which are allowing us to accomplish our jobs. Consider amending this legislation which is before you today.

Thank you.

THE NEW HAMPSHIRE GROUP HOME ASSOCIATION INC.

Testimony on HB 1174

The N. H. Group Home Association believes and strongly urges legislators to keep the language - "or otherwise repeatedly disregards reasonable and lawful commands of parents and guardians" in the law on CHINS. Without this condition, prevention is minimized. The effect would be to broaden the pool of youth demanding longer term and more costly services. These "incorregable" children, without services, could go on within months to become serious offenders.

A second condition that the Group Home Association believes needs to be maintained is allowing judges to continue services when needed - not only for 18 months. Reviews of cases every 6 months would enable cases to be closed as needed, but would also enable continuence if circumstances deemed it necessary.

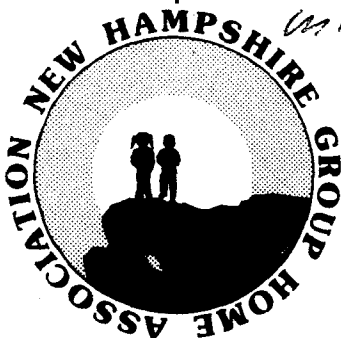
Respectfully,



F. N. Catano, Pres.
N. H. G. H. Assoc.

FNC/mag

- a large number (20%) of Chins are neglected/abused. Social workers & Juvenile Service Officers use Chins as a quick out. Filing & proving abuse charges takes too long. The assumption that families of Chins are intact is erroneous for a significant number.



founded 1971

THE NEW HAMPSHIRE GROUP HOME ASSOCIATION INC.

Contact: Frank Catano
President, NH Group Homes Assoc.
622-8661
or
Dave Villiotti
Vice-President, NH Group Home Assoc.
883-3851
Date: 1/29/90

FOR IMMEDIATE RELEASE

Child Advocates Oppose Cutting Services to Children Pay Now or Pay More Later

"John" is a child in need of services (CHINS). His parents no longer live in N. H. Word has it that they are en-route to somewhere. With the proposed cuts in the DCYS budget, "John" loses his placement...but where does he go?

While it can be debated that not all CHINS belong in the juvenile justice system or even that they should receive services through the Division for Children and Youth Services, it cannot be debated that "John" is without need. A CHINS petition was the vehicle by which "John" was placed. Subsequently abandoned by his family, do we too now abandon him? Under the proposed DCYS budget, the answer is yes. Someone will have to tell "John" that he costs too much and that money is tight this year; we are sorry.

There are a good number of CHINS cases, that, like this one, are really something else: abandonment, neglect, abuse or even delinquency. Many CHINS are placed instead of being brought up on charges by local police officers giving a child another chance before being labeled as a Juvenile Delinquent... because they know the family situation. These are the cases that will come back as the more costly neglect or delinquent cases. Expected savings will not be realized.

The NH Group Home Association argues that until such time as alternative systems are in place to deal with the types of cases currently addressed through CHINS petitions, it is irresponsible to alter the system simply because the state is experiencing difficulty acquiring and allocating revenues. It is irresponsible to attempt to balance a children's services budget by denying services to whole categories of children who are now deemed worthy of investment. In short, it is bad policy; bad for children; bad for New Hampshire.



founded 1971

*File with
CHINS*

Add 1/NH Group Home Association Inc.

The proposed changes will have a profound impact on local municipalities fiscally responsible for providing for its citizens, many state agency budgets, all of the current service providers, and, most certainly, on the children currently receiving services.

If residential services to those children adjudicated as "In Need of Services" (CHINS) are curtailed, 202 New Hampshire children whom district court judges have determined are in need of residential care will be returned to families and communities ill-prepared to provide for them. These are children for whom other less intensive options have not sufficed. An equal number of children who are able to be maintained in their homes through home-based counseling will lose services through this legislation as well. Who will serve these children?

These 202 children are currently in residential programs because other options have failed. This legislation assumes that children who are truant, are runaways, or are unmanageable at home do not need significant intervention. I'm sure that their families, communities, and law enforcement officials would vociferously disagree. We are deceiving ourselves if we believe that these children can be abruptly returned to their homes and communities without severe deterioration, with significant consequences to themselves, their families, and communities throughout the state.

The impact of this loss of services cannot be minimized. The NH Group Home Association on behalf of these children will, if necessary, support a civil suit against the state for denying these services. It is not defensible that the states fiscal needs be balanced on the backs of children.

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Re: H.B. 1174

My name is Gene Allison. I am a resident of New Hampshire. I was a D.C.Y.S. Social Worker at the Rochester, N.H. District Office for two years. During that time I was assigned four cases with children who had been adjudicated Chins. Three of them were teenagers reaching the age of majority while I was still working with them. I believe the work we did with them individually and with their families was beneficial to them and the community. I believe that both the children and their families had the potential for becoming more deeply involved with the law had services not been provided to them. In all four cases the families were cooperative however there were documented incidents that occurred which proved that when left to their own devices they were incapable of dealing with all the problems they faced. In all four cases the children had been victims of abuse and neglect however the non offending parent/relative was left to deal with the child.

The shared theme with these children was their rejection of authority mostly caused by unresolved feelings towards the offending party. When the non offending parent exerted control the child reacted in a rigid pattern of rejection that tested and often

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- broke down the parent's resolve. What worked best was the
- introduction of a professional presence in the family. The
- roles during this time were case manager, representative of
- outside authority, family supporter and primary contact person.
- Frequently a guardian ad litem would have been appointed by the
- court to protect the best interests of a child. That guardian
- ad litem was an ally in securing services through court order.

- As these young adults reached the 16-18 age range they
- began having more unsupervised time away from their parents.
- They either used their parent's car, got their own car or rode
- around with their friends. They started to demand the freedom
- they envisioned that an adult had with out a full appreciation
- of the responsibility associated with the process of earning
- independence. Asserting independence seemed to become a goal
- unto itself. Then a confrontation would occur and a cool off
- period would be needed. An extended cool off period was
- frequently necessary and placement would become the most
- positive course.

- Some of the children were so badly damaged
- psychologically that at sixteen they had become stuck at an
- earlier emotional stage. Between sixteen and eighteen a rush to
- tie up loose ends occurred. Counselors reported to me that many
- issues that seemed untouchable in the past became accessible.
- On going services well beyond the initial 18 month period were
- required.

In short, my experience with Chins has been: 1) that there is a great deal of positive affect on the children and family when it is demonstrated to them that help is there. Without that help I believe the families I worked with would have resorted to violence to control the child eliciting a like response. Then those children would be at risk for taking their family problems out into the community, 2) that families need assistance not only with a child who habitually runs away from home but also with a child who otherwise repeatedly disregards the reasonable and lawful commands of his parents, guardian, or custodian [RSA 169-D:2, IV (b)], 3) that services time limited by eighteen months do not take into account the needs of the child as determining the length of services instead sets an arbitrary date. (The alternate date of returning to count to extend services may not be possible.) I urge you to consider these points in your deliberations.

Gene Allison

Gene Allison

Social Worker Consultant

St. Charles Children's Home

March 07, 1990



FAMILYSTRENGTH

*preserving families
preventing placement*

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Madam Chair and Members of the Committee,

On behalf of the many families in New Hampshire that are experiencing difficulties with their children and specifically those with adolescents, I would like the committee to consider broadening the definition of CHINS, rather than narrowing it.

DIRECTORS

Ellie Stein-Cowan, M.P.A.
Executive Director
Jeanne Blasik, A.C.S.W.
Treatment Director

I believe that many families in New Hampshire are in trouble and are unsure of what to do. The children who are raised in these troubled homes show the signs in various ways. Some may become truant or runaways. Others may simply become difficult to manage, disobeying the parents rules, or perhaps they begin using excessive amounts of drugs and alcohol. In my experience these are all indicators of potentially severe family problems and should carry equal weight when determining whether or not the district court should be involved.

Without help many of these families slowly fall apart and result in divorce and broken homes. In homes such as these the children have little hope of obtaining the strong family values and parenting skills necessary to begin and sustain families of their own.

In my opinion it is in the best interests of the state of New Hampshire that services and support be available to families who turn to the courts for help. From my viewpoint, what is most

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effective is a coordinated community effort that involves the entire family, concerned school officials, family counselors, and the authority of the court. Unfortunately, this comprehensive combination only occurs when under the jurisdiction of the court.

I believe that the term CHINS translates into a family in trouble, not just a child in need of services. If a family requests help from the court for no other reason than their teenage son or daughter is beyond their control, then we should view that as an indication of a family in difficulty and worthy of our best and most comprehensive efforts.

Julian Sharman, Southeastern Regional Director
Familystrength