

MINUTES OF MEETING - ASSEMBLY JUDICIARY SUBCOMMITTEE - SPECIAL SESSION, February 15, 1968

Present: Swackhamer, Lowman, Chairman, Torvinen, with White and Schouweiler as visitors

Absent: Dungan

Chairman Lowman called the meeting to order at 2:00 P.M.

The subcommittee was appointed to study the procedures and practices of the Nevada State Hospital and make recommendations on AB 7, proposed legislation.

Guests: Dr. Johnson, Mrs. Hoe, Carl Harris, Mr. Grayson, Mr. Daykin, Mr. Espinoza

DR. JOHNSON said he had met with the various heads of the mental retardation group and the heads of the parents concerned with mental retardation and gone over AB 7 with these groups and was prepared to discuss the bill with the committee and make definite recommendations concerning it. He added that his comments would represent the thinking of a number of people. He brought with him a 4-page paper containing these comments and recommendations. He discussed these with the subcommittee.

Item 1: They recommend that there be no minimum age. There is nothing magic about the age of two years. There may be unusual circumstances where a child that is younger should be admitted and keeping it home may be harmful to both him and his family. We suggest that the age be stricken completely. We really don't want them committed under the age of five unless necessary but want to be able to commit at any age if situation calls for it.

MR. SWACKHAMER: Does the State Hospital have facilities at the present time to take care of children under two?

DR. JOHNSON: They are as adaptable for these children as for the older ones.

ITEM 2: There are five levels of children according to their intellectual abilities. As the bill is written now there is no procedure for voluntary admittance, unless it is well hidden. It does not appear to be in the bill.

Page 9, line 29, makes cut-off period not to exceed 90 days, if child is levels 4 or 5 but makes no reference to what shall happen if the child is level 1, 2, or 3.

MR. LOWMAN: Do you have suggested wording to solve this problem?

DR. JOHNSON: This should be outlined very carefully and at this point it is not.

MR. LOWMAN: You are more likely to know normal procedures than we are. I wish when you return home you would suggest something to us.

ITEM 3: Those of us who have studied the bill feel it is a mistake to take the child into the hospital for six weeks just for evaluation. Let it be in the facility where he is thought to be supposed to live. It requires a terrific adjustment for the child to be removed from his home to a temporary setting and then back to his cottage.

MR. LOWMAN: You are saying he should never be sent to the hospital to begin with?

DR. JOHNSON: I believe we have ample facilities to evaluate him before he is placed.

MR. GRAYSON: The cottages will be filled by transfers from hospitals in all cases. The purpose of the wording is to take the children who will benefit most from the cottages out of the hospital and place them in the cottages. We want to determine what the child needs

in the way of treatment and care so they can be directed to the setting that can best serve them.

MR. LOWMAN: Are you saying that you are in favor of this evaluation, or are you saying that you are not?

MR. GRAYSON: I am saying both. Evaluation will take place in the hospital to see if they can best be served in the cottages. Some evaluation is necessary before placing a child in the cottages.

MR. LOWMAN: There is no place in southern Nevada to do this evaluation without sending them to the State Hospital.

DR. JOHNSON: I had not understood it was the design to have the hospital take all the children. I had hoped this would not be set up so that they would all have to go to the hospital first. I think the evaluation could be done more effectively within the child's home community.

MR. SCHOUWEILER: Are there facilities to evaluate them in Clark County?

DR. JOHNSON: Yes, we have the children's clinic.

MR. GRAYSON: There are approximately 150 children at the State Hospital. There are two cottages to be built on the hospital grounds which will take 10-12 children. There will be two more at Las Vegas. So we are talking of, perhaps, 24 children. It is accepted that as soon as the cottages are completed they will be filled and the filling of vacancies must be done in a comparative manner with perhaps 150 other children eligible in the abstract. Someone must make the determination which ones will be accepted.

MR. WHITE: I agree that ultimately we would like to be in a position where this evaluation can be done in the child's home, but right now a compromise will have to be worked out. I don't want to take this bill back to get another one in the time that we have. I would like to see a compromise worked out on this one. Do you think a six weeks evaluation is necessary?

DR. JOHNSON: No, not in all cases.

ITEM 4: The charge as determined at the time of admission should be considered as the total cost whether it comes out the same or not. The bill says there will be no waiver of the amount of money parents may be asked to pay and that determined later by the institution. We are saying there should be such a waiver. If parents pay what the state asks at the time of admission, that should be the full amount.

I talked this point over with Mr. George and he tells me that it is talking about the child's estate and may be all right, but we want to know that the parents property will not be attached. The charge made should be full and complete.

MR. WHITE: You think the charges should be spelled out in more detail?

DR. JOHNSON: Yes. There should be more safeguards.

ITEM 5: We should specify that these involved methods should apply only when the regular methods will not. This is the only place that provides anything for the admission of children of levels 1, 2, and 3. It states that parents may petition the District Judge in their district. I don't think it was intended that this would be the only method.

MR. GRAYSON: I am in agreement with Dr. Johnson on this point. It was an oversight on our part. The original bill made this clear. I think this provision for the voluntary was accidentally left out.

MR. LOWMAN: Can Frank Daykin take care of this?

MR. DAYKIN: Yes.

MR. TORVINEN: Section 38.1 refers to the place where the hospital is and that means the State Hospital. That limits to this one hospital.

MR. WHITE: That has already been changed.

MR. LOWMAN: Would you give us a less cumbersome method for commitment?

MR. SWACKHAMER: Voluntary by parents only and if other than parents should be reviewed by the court?

DR. JOHNSON: Yes. If parents are turned down by the hospital then the matter could be reviewed by the court. Voluntary commitment is normally through the state.

MR. TORVINEN: What do you gentlemen feel with respect to the commitment of retarded children only? It is going to be impossible for you to give us your drafts and for us to act on them and send them to the Senate and for them to act on them in the limited time remaining according to the Speaker of the Assembly. Is there anything in this bill regarding retarded children that you feel is absolutely necessary at this time?

MR. WHITE: We are looking into the feasibility of breaking this bill down into three bills. We are not going to get them all through and hate to lose the main part for lack of getting the others through.

MR. DAYKIN: The prison commitments are one thing, the retarded children another, and assorted things are in the third part.

MR. TORVINEN: These are three different things.

MR. DAYKIN: One bill should be commitment of persons ordinarily. A second bill should concern the retarded children, and a third should take care of the criminally insane, whether before or after trial.

MR. TORVINEN: Are there problems in the present statutes that are really serious problems?

DR. JOHNSON: Speaking for the committee on retarded children, we have seen nothing in the bill that will really enhance the position of retarded children. We would rather wait and have it done right.

MR. WHITE: Maybe we should just delete the part about the retarded children from the bill.

MRS. HOE: In deference to time that might be the best way.

MR. TORVINEN: Does the Superintendent now have present authority to assign these people to the cottages without this bill?

MR. DAYKIN: Isn't that in the cottage bill?

MR. LOWMAN: I could bring back from Las Vegas on Monday these people's written suggestions if it is important to go over them at this time.

MR. WHITE: We will have to split the bill into three parts.

DR. JOHNSON: Anything done now would be stop-gap legislation.

MR. WHITE: We seem to be causing more problems here than we are alleviating. We will have Frank Daykin go ahead and split the bill. Later the Legislature can talk to these people about the retarded children and get all the testimony.

MR. WHITE: We will have another meeting with the subcommittee on this and find out if we can do something on it at this Special Session. It looks like it will not be workable to amend the bill. If so, we will take this part out.

Meeting was adjourned at 2:40 P.M.

CLARK COUNTY ASSOCIATION FOR RETARDED CHILDREN

Assembly Bill No. 7 - Committee on Judiciary

Feb. 5, 1968

Comments and recommendations on those sections relating to mental retardation.

1. Section 27, Line 27 on Page 9 states that a person over two years of age may be accepted at the Nevada State Hospital for examination. Additional sections of the bill refer to the minimum age of two years. Under unusual circumstances, a child may need the benefits of institutional care before the age of two. It does not appear to be in the best interests of the child and his family to set an absolute minimum age.
2. Section 27, details the next steps where a child is determined not retarded or functions at levels four or five. It does not, however, indicate subsequent action where the child is determined to be mentally retarded at levels one, two, or three. Voluntary admission procedures should be outlined in a clear and logical manner.
3. Lines 1, 2, and 3 on page 10, provide for a mentally retarded person being detained at Nevada State Hospital for evaluation for eligibility for cottage facilities. It would appear to be more efficient and valid to evaluate the child in the cottage facilities for which he is being considered.
4. Section 30 on Page 10 states that there will be no waiver of the difference between the amounts paid for the individual and for the full payment cost as determined by the State. Lines one and two on Page 11 provide that the person's estate is liable for the difference between the amount paid and the total cost. A future interpretation of this provision might result in attaching a lien upon the property of the deceased child's parents. This has in fact happened elsewhere. It is recommended that the law state that the charge, as determined at the time of admission, shall be considered full payment whether or not it amounts to the total cost as determined by the State.
5. Section 38 on Page 13 provides a most cumbersome and unnecessary admission procedure to Nevada State Hospital for mentally retarded children. The bill should specify that this method applies only when regular methods of admission have been denied.
6. Section 40, line 1, Page 14 authorizes the Administrator of the Mental Hygiene Division to care for mentally retarded persons six years of age and older at the mental retardation cottage facilities. The age limitation of six appears to be an arbitrary minimum without any justifiable purpose. Children of all ages would be better served by small residential units in the communities where they live. It is most important that, whenever possible, children in their early years should not be separated from their families by 500 unnecessary miles.
7. Paragraph 2 of Section 40 on Page 14 condemns children classified at level one to the Nevada State Hospital. Although present plans for the cottages do not provide care for Level 1 children, it appears most unwise to legislate against providing adequate community facilities for all retarded children.
8. Section 41 on Page 14 calls for a minimum six weeks evaluation period at Nevada State Hospital before any child is assigned to a cottage facility. As com-

mented upon previously, this procedure is unnecessary and may well hinder the child's adjustment to a residential facility.

9. Section 42, on Page 14 requires that the parents or legal guardians of a child shall pay the full per diem rate for care at the facility where the individual is placed. Although the Administrator of the Mental Hygiene Division may make a determination of the ability of the parents to pay at a figure less than the full per diem rate, it is indicated in a previous section that there is no waiver of the difference. This section of the bill should take into consideration the guide lines on cost recommended by the National Association for Retarded Children. Among these recommendations are the following:

1. That the parents should not be required to pay a higher charge than it would cost to rear the normal child in their own home.
2. All charges should cease after the age of twenty-one.

It is further recommended that the parents pay according to their taxable income, a method presently followed in the State of Connecticut where the maximum rate of charge per individual is \$94. per month. The specific charge that parents are asked to pay, however arrived at, should be considered full payment without regard to the per diem cost of the institution.

10. If a per diem cost is determined for any reason, it should include only the expenses for those budget items which relate to the care of the mentally retarded. Expenditures for the mentally retarded and mentally ill are not the same and should not be mixed. For example, Dr. McAllister, Superintendent of Nevada State Hospital, recently reported that the psychiatrists "are not interested in working with the mentally retarded" and "they are not trained to work with them."

11. Section 44 on Page 14 does not respect the rights of the individual retarded person. Where there is personal income whether from Social Security or from any other source, a certain percentage should be set aside for the individual for personal needs including clothing, etc., before the State takes any part of the individual's money.

12. Section 45 on Page 14 requires the County Commissioners to make provisions for the support, education, and care of mentally retarded children in their respective counties. This section should be amended so that the county commissioners are to be concerned with adults as well as with children.

13. Section 46 is confusing in its statements and appears to be in conflict with Sections 38 and 39.

14. Section 48 on Page 15, relative to the payment of services, seems to be an adequate statement but does not take into account that other sections of the bill require full per diem payment in residential facilities.

15. The entire bill appears to be confusing, contradictory, and unmanageable, and in its present form it is worse than none at all. It would be a disservice to both the mentally retarded and the mentally ill as presently constituted. So many amendments would be required to put it into acceptable form that the time limits

prescribed by the special session may not allow for necessary study and re-writing.

It is recommended that two bills should be presented, one for the mentally ill and one for the mentally retarded; and that each bill should be the product of a representative committee from the many disciplines and interests that have a bearing upon each area.