



# Supreme Court of Appeals State of West Virginia

## News

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### **Juvenile Justice Commission public forum exposes that DHHR tried to hide changes from judiciary**

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The DHHR requested that changes to residential programs be kept secret from the West Virginia judiciary, it was revealed through testimony at a forum on Wednesday which was attended by more than 75 people.

Apparently the Department of Health and Human Resources not only intended to keep changes secret, but they also intended for the changes to “blow up” the state’s residential model.

“It was concerning to learn that DHHR’s intent was to blow up an existing system – and not even consider working transparently with the judges that must use that system daily making real-time decisions as to the best interest of children!” said Cindy Largent-Hill, Director of the Juvenile Justice Commission.

“We were surprised, since the court system is responsible for placing the children in residential care, that the entire residential system would be replaced in secrecy, eliminating judicial discretion and jeopardizing the welfare and safety of children,” said Commission Chairman Phillip Stowers, who also is a circuit judge in the Twenty-Ninth Judicial Circuit (Putnam County).

Two speakers said that in a series of meetings, DHHR representatives told providers not to worry about judges and not to worry about money, said Steve Tuck, chief executive officer of Children’s Home Society of West Virginia.

“Now we are here talking to judges about money,” said Mark Spangler, executive director of Davis Stuart in Lewisburg.

Another speaker, Steve Fairley, Executive Director of Academy Programs in Fairmont, said DHHR Cabinet Secretary Karen Bowling told providers that the department intended to “blow up” the current system.

The Juvenile Justice Commission held the public forum to learn about the DHHR’s plans. The Commission was established by the Supreme Court to look at all systemic issues for youth placed in residential care by circuit judges, and its membership includes circuit judges as well as representatives of the West Virginia Department of Education, social workers, religious leaders, attorneys, and a former legislator.

Tuck represented emergency shelter providers while most of the other 20 speakers represented residential care providers.

As a result of testimony, the commission is considering the following recommendations and will file a more complete report at a later date.

- DHHR initiated a “State Plan Amendment” and submitted it to the federal government. The Commission believes the proposed amendment should be withdrawn until financial ramifications are more fully studied and understood. This significant change could cause certain facilities to close and other needed services to be eliminated. This will further constrain and limit treatment options for the court system and put children at risk.
- The DHHR should immediately suspend implementation of the new contracts. While the commission supports moving children into community-based services, such a sweeping change without the proper infrastructure could jeopardize the well-being of children and future rehabilitation efforts.
- The DHHR should disclose the computer matrix process it is planning to use, which will determine where to place children. This will eliminate judicial discretion and put placement decisions in a computer program. Currently, a multi-disciplinary team makes recommendations to a court, and then a judge orders a child to a specific placement for specific services. Judges with the multi-disciplinary teams monitor a child’s progress every 90 days. The new residential provider agreements force a provider to accept a child at a facility that has a vacancy even though that facility may not have the appropriate treatment services for that child.
- Any further changes to the process used to place at-risk children should be made in a transparent way which includes the input of providers, the judiciary, and the Department of Education, all of whom are critical stakeholders in the juvenile system.

The Juvenile Justice Commission supports the DHHR’s efforts to reduce the number of days youths spend in residential placements, and the effort to save money, however “The infrastructure for community-based services is not in place and the DHHR should not make these changes until it can assure the public that sufficient community-based care is available,” Judge Stowers said.

Some providers testified that the contracts offered by the DHHR’s Bureau for Children and Families will make it difficult not only to adequately and appropriately serve youths but even to remain in business.

Courts can order children to foster care, residential treatment centers, or emergency shelters, depending on the case.

West Virginia’s foster care system is at capacity. Courts continue to request community-based interventions and options; however, they are not available or accessible. With no foster care placements available and basically non-existent local services, judges must place children in residential treatment centers or shelters. Judges are responsible for making sure that the children under court orders are getting appropriate and adequate care, no matter where they are.

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