

GOVERNOR'S COMMISSION ON SENIOR SERVICES

Thursday • October 23, 2008 • 8:15 A.M. – 9:45 A.M.

Comfort Suites (Oregon Conf Room) • 630 Hawthorne Street SE Salem, Oregon 97301

LEGISLATIVE AND ADVOCACY COMMITTEE

MEMBERS PRESENT:

Jeffry Brandon

John Brenne

Patty Brost

Chuck Frazier

John Helm

Robert Lawrence

Barbara Nelson

Timothy McQueary

Marilyn Patton

Dolores Raymond

MEMBER EXCUSED:

Millie Salt

GUESTS:

Peggie Beck

Rep. Jean Cowan

Lucy Morgan

Elaine Barrett

Chris Flammang

Kathleen Schonau

Cathy Cooper

Rep. Sara Gelser

Remona Simpson

STAFF PRESENT:

Dawn Rustrum, Coordinator

Kelsi Eisele, Administrative Staff

Karen Mainzer, Intergovernmental Relations Liaison

Max Brown, Coordinator

AGENDA ITEMS:

Call to Order

- Review and Approval of Agenda

- Announcements

Public Comment

Planning for the 2009 Legislative Session

Adjourn

CALL TO ORDER

Robert Lawrence called the meeting to order at 8:15 A.M.

Review and Approval of Agenda

Members reviewed and approved the agenda.

Motion: Patty Brost moved to approve the agenda. Marilyn Patton seconded the motion.

Vote: 8-0-0-3

Yeas: Brandon, Brost, Frazier, Helm, Lawrence, McQueary, Patton, Raymond

Nays: 0

Abstentions: 0

Excused: Brenne, Nelson, Salt

Motion carried.

Announcements

None.

PUBLIC COMMENT

None.

PLANNING FOR THE 2009 LEGISLATIVE SESSION

Bob Lawrence distributed and discussed the Comprehensive Plan. Representative Jean Cowen briefly touched on SB 1061.

Cathy Cooper, Deputy Assistant Director for Seniors and People with Disabilities (SPD), discussed:

- State Plan I Option
- OPI – 16.6 million
- 10% and 20% reduction list exercises
- 10% reduction would be a 126 million general fund reduction for SPD
- Hospital Discharge Planning Pilot Project
- General Assistance Program
- POP 153 - Adult Protective Services Reporting and Tracking System
- POP 183 - Adult Foster Home Training (APD, DD and AMH)

Representative Gelser presented the draft Protecting Vulnerable Victims Act of 2009.

Background Information:

In late 2007, the Oregonian ran a series of articles detailing abuses committed against our most vulnerable adults, including seniors and people with disabilities. Caregivers who commit abuses often go on to work in other facilities with other vulnerable clients. When their abuses rise to the level of crimes, they are rarely investigated by law enforcement and even fewer cases are prosecuted.

To address this issue, Representative Gelser formed a workgroup that included law enforcement, DHS, district attorneys, advocates, and many others. Through several meetings, it became clear that there are many obstacles built into the system that make investigating and prosecuting cases with victims who are elderly or who have disabilities very challenging.

Representative Gelser presented the following:

- Inconsistency in investigations and abuse statutes
- Few substantiated allegations of abuse are prosecuted in court
- Lack of information to help employers hire a safe workforce
- Inadequate availability of consumer information
- 660 substantiated cases referred to law enforcement for further action
- Law enforcement acted on 71 of these cases (15%)
- District attorneys prosecuted 21 of these cases
- Improve criminal and DHS investigations
- Increase penalties
- Ombudsman for DD/Mental Health
- Searchable online consumer database
- Public reporting on rates of abuse of vulnerable adults/system infrastructure
- Quality Care Fund
- This is the DHS statute – not the criminal statute
- Consistent across vulnerable adult populations
- Applies to all vulnerable adults, not just those in publicly paid care
- Right of civil action extended to all vulnerable victims
- Update abuse statute will include:
 - Physical abuse
 - Neglect that either causes harm or would likely lead to harm; includes medical neglect
 - Sexual abuse
 - Financial or material exploitation/abuse
 - Isolation/mental cruelty
 - Theft of medications
- Investigations centralized at state level

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- Hiring of forensic investigator trained to interview vulnerable adults in criminal cases
- Statutory timelines for communication between DHS, Law Enforcement and prosecutors (sunsets 2014)
- Annual reporting through 2014 to increase transparency and build understanding of issue
- Each team shall include, at a minimum:
 - County Developmental Disabilities program
 - Area Agency on Aging
 - Protective services/Office of Inv. and Training
 - County Mental Health program
 - County District Attorney's Office
 - Representatives of each local law enforcement agency
 - At least one local advocacy organization for vulnerable adults
 - A representative of the medical community
 - Any other organizations the MDT determines is necessary to meet the needs of their community
- Creation of "elderly/disabled" designation in criminal record
- Narrow exception to Corpus Delecti Rule
- Applies only to sex crimes when:
 - Victim is vulnerable
 - Judge (in a bench hearing) has determined victim is not able to testify in court
 - Judge (in pretrial bench hearing) determines confession meets "trustworthiness" standard
- When judge rules in pretrial bench hearing that a confession is trustworthy
- Fingerprinting wrap-back:
 - Saves duplication for Criminal Records Unit
 - Saves employees time and money
 - Reduces back log for services to begin
 - Creates a "good guy" registry
 - Employees may opt out and choose not to have prints on file
- Employers required to query prospective employees about previous substantiated allegations of abuse against vulnerable victims
- Criminal Record Unit required to notify ANY potential employer when there is a record of substantiated abuse/neglect or criminal record
- Protection for former employers to disclose substantiated abuse when called as reference
- Protection to begin termination when an individual causes real harm to death to client
- Protection to begin termination if employee has sexual contact with client
- Statutory bar to employment when prospective employee has been convicted of certain felony crimes, or crimes where the victim is designated as elderly/disabled
- Convictions barring employment
- Employee protections
- Explicit statutory language honoring employment practices negotiated

- Implementation: Effective date for abuse statute and felony conviction changes September 1, 2009. Effective date for Bill January 1, 2010.

Other discussion items included:

- Public Guardianship Bill
- Family Caregiver Recognition
- General Assistance Restoration
- Background checks on caregivers
- Priorities and Issues
- Ways GCSS can help during the session

MEETING ADJOURNED: 9:45 A.M.