Pamela A. Marsh – Friday, March 27, 2015

Since you are kind enough to give me a second shot at my testimony, I am including a few notes regarding the testimony you have heard this week:

1. Judge Grearson for the Judiciary
    a. I would love to see Family Treatment Courts. However, there are very few left in the state (Franklin County may be the only one). These should be uniformly accessible throughout the state. Many, if not most, of the families involved in CHINS cases have limited resources and unreliable transportation. Requiring them to access services on a regular basis that are not easily accessible by public transportation or by specialized transportation (vouchers to family members, expanded use of county agencies who provide Medicaid rides, paid for by the State) inevitably results in failure.
    b. I agree that we should recognize the work of our overburdened and underappreciated GALs by recognizing them in the legislative findings.
    c. Modification agreements are likely to cause the kind of trouble that Judge Grearson identified.
    d. The Family Court has a pre-existing sliding-scale fee family mediation project. If mediation is required before going to court, the parties should have access to that program. I hesitate to say the judge can re-allocate the fees if it finds that one party is unreasonable, especially given that the balance of power in these cases will lie with the adopting family. Leave that issue up to the equitable powers of the judge.
    e. I agree that the mandate of the working group should be extended to November 2016. Some of the issues have been long-standing intractable issues that have been addressed by the Permanency Planning Implementation Committee and the Justice for Children Task Force, and have no easy solutions.
    f. I have already identified appeals from temporary care orders as causing unnecessary delay in a system where permanency is paramount. I would add that I hope the legislature might overrule In re: D.D., 194 Vt. 508 (2013), which holds that merits determinations are final and appealable. It makes far more sense to hold the appeal of merits until after disposition, and appeal the merits and disposition orders together, if it remains a live issue. In re D.D. causes extra appeals and more delay in reaching permanency for children.

2. AAG John Treadwell, on behalf of the Vermont Attorney General
    a. The safety, in terms of the best interests of the child, must be placed ahead of keeping families together when a child's safety is threatened by abuse, neglect (including addiction), and abandonment. While I generally support the effort to keep children within their biological families or with fictive kin, I agree that the Department should consider very carefully the ability of elderly relatives to deal with the energy of young children and the antics of teenagers. In addition, the Department must look at the number of children the relative is caring for, and whether that is realistic to ensure safety. Caretaking kin have to be willing to work with the Department and to admit that the parent's addiction or other allegation poses a risk to the child, so that child

protection can be assured. Generally, sibling groups should remain together, unless there are pre-existing reasons why it is better to separate them. This is not an easy task, and DCF is required to sort this out in only 72 hours, including weekends, at present. DCF needs more time to sort this out, and more cooperation from agencies such as VCIC in doing record checks of proposed relatives.

b. I generally agree with AAG Treadwell's remarks regarding Opiate Addiction and Child Protection, except that I believe the statutory definitions of harm, neglect, abuse and abandonment already are and should be construed to include parental substance abuse. Action needs to be taken to encourage parents to enter treatment voluntarily, and if they refuse, the children may need to become subject to a CHINS petition.
c. I am aware that a number of states have chosen to make all child dependency proceedings open to the public. I do not support this. The stigma that attaches to families and to children in DCF custody can be counterproductive. However, I support opening the proceedings to persons working with the family (teachers, outreach workers, counselors, support persons, and family members and close friends) who can help provide the "village" in which to raise the child. (Note that some states have jury trials for merits hearings in dependency cases. We don't have to adopt something just because other states do it.)
d. I agree with AAG Treadwell that we need to improve the legal response. This is one of the charges of the proposed study committee. We need to determine a way to attract more prosecutors, AAG's, and juvenile law attorneys (representing the child, as well as parents) to this area of the law. We should consider adopting the ABA Standards for practice in this area. We should encourage more attorneys to become Child Welfare Law Specialists, and recognize this area of the law as one as important and paid well enough to enable attorneys to raise a family while practicing juvenile law.
e. I disagree with making child cruelty a strict liability offense. The many organizations that have testified against Section 3 of S.9, including, but not limited to DCF, schools, Strengthening Families and Parent-Child Centers, the ACLU and the Office of the Defender General all concur that the proposed change in this area of the law is likely to cause more harm than good, cause over-reporting, and not have any positive impact on child protection.