

H. D. 16-1966

**MATTERS RELATING TO DIVIDING THE
DEPARTMENT OF WELFARE AND INSTITUTIONS
INTO TWO OR MORE AGENCIES**

**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL
to
THE GOVERNOR
and
THE GENERAL ASSEMBLY OF VIRGINIA**



H. D. 16, 1966

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
RICHMOND
1965

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Richmond, Virginia, December 28, 1965

To:

HONORABLE A. S. HARRISON, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

At its 1962 Regular Session, the General Assembly, by House Joint Resolution No. 20, directed the Virginia Advisory Legislative Council to make a study and report upon all matters relating to removal of the Divisions of Corrections and Parole from the Department of Welfare and Institutions. In its report made to the Governor and 1964 Regular Session of the General Assembly, the Council concluded that at that time it could not recommend such separation as being feasible, in view of the certain increase in costs growing from such a separation, with no certainty of reduction in costs through more efficient operations. However, the Council stated that further consideration, at some future date, should be given to the desirability and feasibility of making the separation.

At its 1964 Regular Session, the General Assembly, by House Joint Resolution No. 92, directed the Virginia Advisory Legislative Council to continue its study concerning the Department of Welfare and Institutions. The text of this resolution is as follows:

HOUSE JOINT RESOLUTION NO. 92

Directing the Virginia Advisory Legislative Council to continue its study concerning the Department of Welfare and Institutions.

Whereas the Virginia Advisory Legislative Council made a study and report upon the Department of Welfare and Institutions in relation to whether or not the same should be divided into two or more agencies and reported thereon, pointing out the need for further consideration; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is hereby directed to make a study and report upon the advisability of dividing the Department of Welfare and Institutions into two or more agencies. The Council shall consider all relevant reports upon the study. All agencies of the State shall assist the Council in its study. The Council shall conclude its study and make its report to the Governor and General Assembly not later than September 1, 1965.

Charles R. Fenwick, member of the Senate of Virginia and member of the Council, was selected as Chairman of a Committee to make the pre-

liminary study and report to the Council. The following persons were named to serve as members of the Committee with Senator Fenwick: Mrs. George M. Constant, Arlington; James E. Covington, Jr., Attorney at Law, Richmond; John W. Garber, Director of the State Division of Personnel, Richmond; Robert R. Gwathmey, III, Attorney at Law and Member of the House of Delegates, Hanover; Allen H. Harrison, Jr., Attorney at Law, Arlington; W. L. Painter, Director of the Department of Welfare and Institutions, Richmond; and C. G. Quesenbery, Judge of the 29th Judicial Circuit, Waynesboro.

John B. Boatwright, Jr. and Wildman S. Kincheloe, Jr. served as Secretary and Recording Secretary, respectively, to the Committee.

The Committee met on several occasions and thoroughly considered the arguments both for and against dividing the Department of Welfare and Institutions. On one of these occasions it conferred with several members of the Board of Welfare and Institutions and all of the directors of the divisions within the Department.

After completing its deliberations, the Committee made its report to the Council. Having reviewed the Committee's report, the Council now presents its findings and recommendations.

At this point it may be well to recite the general composition of the Department of Welfare and Institutions. It includes the Division of General Welfare, the Division of Corrections (under which are the State penal institutions), the Division of Youth Services (under which are the four juvenile training schools and other State operated facilities for juvenile delinquents), and the Virginia Parole Board. Thus it will be seen that under one roof are several major activities. Furthermore, each of these activities is expanding rapidly with every passing year.

This leads to the most compelling argument for dividing the Department. Welfare programs grow apace. Also, federal participation, with attendant rules and regulations, add to the complexity of administering public assistance and child welfare programs.

Crime is on the increase throughout the Nation. The field of Corrections grows in importance and assumes additional burdens.

By the same token, the duties and activities of a parole board increase and become more important.

Nor does the field of Youth Services escape the pressure of the times. We read much about rising juvenile delinquency and offenses committed by juveniles. Thus the administration of justice in the case of youthful offenders becomes increasingly difficult and fraught with more and more problems. Upon the Division of Youth Services rests the duty of disposing of the cases of those youthful offenders committed to the Department by the juvenile courts.

From this brief recital, there becomes evident the staggering burden of administrative detail, as well as policy making, falling upon the Board of Welfare and Institutions. One member of the Board expressed the opinion that the Board is not able to do an effective job because of the many diverse activities of the Department. Another member said he is overwhelmed with the complexity of the various facets of the Department. We have accepted as a fact that even now this is too much to expect of one board. And if it is too much now, the situation will be compounded as time goes on.

However, the above recital of the activities and functions of the various divisions in the Department points up very sharply strong reasons for not dividing the Department. Simply stated, the activities of the various divisions are greatly interrelated. There is the gray area of whether a juvenile offender should be handled by the juvenile courts and the Division of Youth Services or by the criminal court. Probation services are involved in the juvenile court system as well as the criminal court system. Many youthful offenders, though by no means all, are from broken homes, families of limited means and in some instances, poverty stricken families. Thus, the circle is completed to the Division of General Welfare in the matter of public assistance programs. Given this interrelation of activities, it seems advisable to maintain the Department as it presently is constituted.

Another strong reason for not dividing the Department is the matter of so-called "housekeeping activities." Procurement, statistical, dietary, accounting, and personnel matters are all handled in one operation for the various divisions in the Department. These advantages, together with an easier coordinating of services, necessary on account of the above discussed interrelation of activities, would be lost in a division of the Department.

At this point, it would seem that we have presented a dilemma or, so to speak, have given an excellent example of "the irresistible force meeting the immovable object." We have recognized that one board cannot be expected to efficiently handle the vast array of administrative detail and policy making inherent in the many activities of this Department. On the other hand, we have shown why we are convinced that the Department should not be divided. Nevertheless, we do have a solution to offer, which we believe will remedy the situation, and resolve the two seeming opposite conclusions.

§ 63-35 of the Code of Virginia provides that the Governor may appoint Advisory Committees, respectively, on Public Welfare, Corrections, and Youth Services, and that such Committees shall act in a capacity advisory to the Director of Welfare and Institutions on questions and problems relating to institutions of correction, public welfare, and youth services, respectively. When requested by the Director or the Board, the Committees shall investigate questions and consider problems submitted, and report their findings and conclusions; they may also make recommendations on their own initiative. However, such Advisory Committees have not been appointed in recent years. Furthermore, even when these Committees existed, they functioned in a purely advisory capacity, and were not empowered to relieve the Board of Welfare and Institutions of any of its administrative duties. The provisions for appointment of these Advisory Committees should be repealed, and there should be created a Committee on General Welfare, a Committee on Corrections, and a Committee on Youth Services. These Committees should be vested with certain duties and responsibilities, presently the duties and responsibilities of the Board of Welfare and Institutions, and also given certain other functions in aid of the Board.

RECOMMENDATIONS

1. Sections 63-35 and 63-36 of the Code of Virginia, authorizing appointment of Advisory Committees on General Welfare, Corrections, and Youth Services, should be repealed.

2. There should be created a Committee on General Welfare, a Committee on Corrections and a Committee on Youth Services.

3. These Committees should have the following duties and responsibilities in relation to the functions of the Divisions of, respectively, General Welfare, Corrections, and Youth Services:

(a) Visit, inspect and examine the institutions owned or controlled by the Department of Welfare and Institutions.

(b) Hear appeals from decisions of local welfare boards in public assistance cases.

(c) On own motion, review any decision of a local welfare board in public assistance cases, and consider applications for aid upon which decisions have not been made by local boards within a reasonable time.

(d) When requested by the Board or the Director of Welfare and Institutions, investigate problems and questions which they submit, and report their findings; also give consideration to the duties, responsibilities, problems and functions of the Divisions of General Welfare, Corrections, and Youth Services, and make recommendations thereon to the Board and Director.

(e) On own motion, or at the request of the Board, recommend rules and regulations to the Board.

4. The Directors of the Divisions of General Welfare, Corrections, and Youth Services should meet, respectively, with the Committees on General Welfare, Corrections, and Youth Services. The Director of the Department may meet with them.

REASONS FOR RECOMMENDATIONS

The creation of the Committees on General Welfare, Corrections, and Youth Services, and vesting them with the duties and responsibilities set out in recommendation numbered 3, will relieve the Board of Welfare and Institutions of a vast amount of detail and conserve the time of the Board. This arrangement will, we believe, afford the Board ample time for thorough consideration of the overall policies of the Department of Welfare and Institutions. The Committees would not, in any way, infringe upon the Board's function as the governing body of the Department, nor would they be policy making groups.

In our opinion, this arrangement is a much better solution of the problem presented by the multiple burdens of the Board than that afforded by the authorization to appoint the Advisory Committees. In the first place, appointment of the Advisory Committees is discretionary and, as mentioned, they have not been appointed in recent years. Our recommendations require the creation and continuation of the Committees which we envision. Secondly, the function of the Advisory Committees is, as their name implies, advisory only. The Committees which we have recommended to be created would have definite duties and responsibilities, and their advisory functions are of an active, rather than passive, nature.

Requiring the Directors of the Divisions of General Welfare, Corrections, and Youth Services to meet with the respective Committees will relieve the Director of the Department of Welfare and Institutions of a considerable amount of detail, although he can meet with the Committees in his discretion. Having the Division Directors meet with them will enhance the positive nature of the activities of the Committees.

CONCLUSION

We wish to thank the members of the Committee for contributing their time and effort to the conduct of this study.

Attached is a bill to carry out the recommendations in this Report, and we respectfully urge passage thereof by the General Assembly.

Respectfully submitted,

Edward E. Willey, *Chairman*

Tom Frost, *Vice-Chairman*

C. W. Cleaton

John Warren Cooke

John H. Daniel

Charles R. Fenwick

J. D. Hagood

Edward M. Hudgins

Charles K. Hutchens

J. C. Hutcheson

Lewis A. McMurran, Jr.

Charles D. Price

Arthur H. Richardson

William F. Stone

A BILL to amend the Code of Virginia by adding in Chapter 1 of Title 63 thereof an article numbered 3, containing sections numbered 63-36.1 through 63-36.5, to create in the Department of Welfare and Institutions the Committees on, respectively, General Welfare, Corrections, and Youth Services; to provide for the composition and appointment of such Committees, and compensation of the members thereof; to prescribe their functions, duties and responsibilities; and to empower them to hold hearings and issue subpoenas; and to repeal §§ 63-35, as amended, and 63-36 of the Code of Virginia, authorizing the Governor to appoint Advisory Committees on, respectively, Public Welfare, Corrections, and Youth Services.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding in Chapter 1 of Title 63 thereof an article numbered 3, containing sections numbered 63-36.1 through 63-36.5.

Article 3.

§ 63-36.1. (a) In the Department of Welfare and Institutions there shall be the Committee on General Welfare, the Committee on Corrections and the Committee on Youth Services. Each such Committee shall consist of three members appointed by the Governor. The appointments shall be subject to confirmation by the General Assembly if in session and, if not, then at its next succeeding session.

(b) One member of each such Committee shall be appointed for a term of four years; one shall be appointed for a term of three years; and one shall be appointed for a term of two years. Thereafter the members of each Committee shall be appointed for terms of four years each beginning from the expiration of the respective terms of their predecessors, except an appointment to fill a vacancy shall be for the unexpired term. No person shall be eligible to serve for or during more than two successive terms; provided, however, any person appointed to fill a vacancy may be eligible for two additional successive terms after the term of the vacancy for which he was appointed has expired; and provided further than no person shall be ineligible for appointment as a member of one of such Committees on account of prior service as a member of the State Board, nor shall any person be ineligible for appointment as a member of the State Board on account of prior service as a member of one of such Committees. Members of such Committees may be suspended or removed by the Governor at his pleasure.

(c) The members of such Committees shall receive no salaries. They shall be paid their necessary traveling and other expenses incurred in attendance upon meetings, or while otherwise engaged in discharge of their duties, and the sum of twenty dollars a day for each day or portion thereof in which they are engaged in the performance of their duties. But no member shall receive in excess of one thousand five hundred dollars and actual expenses in any one year.

(d) Each Committee shall select a chairman from its own membership, and under rules adopted by itself may elect one of its members as vice-chairman. It shall elect one of its members as secretary.

(e) Each Committee shall meet at least once every month, and on call of the chairman when in his opinion additional meetings are expedient or necessary.

(f) Two members of each Committee shall constitute a quorum for all purposes.

(g) No director, officer or employee of an institution subject to the terms of this title or of Title 53 shall be appointed a member of any such Committee.

§ 63-36.2. The Directors of the Divisions of General Welfare, Corrections, and Youth Services shall meet, respectively, with the Committees on General Welfare, Corrections, and Youth Services. The Director of the Department of Welfare and Institutions may meet with such Committees.

§ 63-36.3. Copies of the minutes of meetings of the Committees on General Welfare, Corrections, and Youth Services shall be made available to the State Board at its next regular meeting following any such meetings.

§ 63-36.4. Notwithstanding any other provisions of this title and the provisions of Title 53, the following duties and responsibilities of the Board of Welfare and Institutions shall hereafter be the duties and responsibilities of, respectively, the Committee on General Welfare insofar as such duties and responsibilities relate to the functions of the Division of General Welfare, the Committee on Corrections insofar as they relate to the functions of the Division of Corrections, and the Committee on Youth Services insofar as they relate to the functions of the Division of Youth Services:

(1) Visit, inspect and examine, not less than once a year, all institutions owned or controlled by the Department of Welfare and Institutions. The Committees shall make reports to the State Board regarding the condition of such institutions, the care of their inmates, the efficiency of their administration and such other matters they may deem proper. Visits to at least two State road camps shall be deemed compliance with the visitation requirements with respect to such camps. Provided, however, that the members of the State Board may visit, inspect and examine such institutions whenever they so desire.

(2) Hear appeals, for which provisions are made in this title, by applicants for or recipients of public assistance aggrieved by any decision of a local board granting, changing, suspending or refusing or by failure of a local board to make a decision within a reasonable time, and make final decisions thereon.

(3) May, upon its own motion, review any decision of a local board in cases relating to public assistance, and may consider any application for such aid upon which a decision is not made by the local board within a reasonable time, and make final decisions thereon.

(4) When requested by the State Board, or by the Director, shall investigate such questions and consider such problems as they, or either of them, may submit and shall report their findings and conclusions. In addition, the Committees shall give such consideration as they may deem appropriate to all the duties, responsibilities, problems and functions of their respective Divisions, and make such recommendations thereon as they see fit to the State Board, or to the Director.

(5) On their own motion, or at the request of the State Board, recommend to the State Board the adoption of such rules and regulations as they consider desirable.

§ 63-36.5. The Committees on General Welfare, Corrections, and Youth Services in the exercise and performance of their functions, duties and responsibilities under the provisions of § 63-36.4 are authorized to hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents, to administer oaths and to take testimony thereunder.

2. §§ 63-35, as amended, and 63-36 of the Code of Virginia are repealed.

