Utah probes DCFS case

Agency officials admit 4-year-old action went wrong

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In an unprecedented review, the legislative auditor general is probing the removal of a Midvale woman's children by state welfare officials.

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Typically, legislative auditors conduct "performance" audits of state agencies and corresponding programs, detailing efficiencies and making recommendations on how improvements can be made.

But in the case of Lisa Bierly, whose parental rights were terminated after her two children were taken by the state nearly four years ago, top legislative leaders want to see what happened in that particular instance.

The Bierly case has become a cause celebre of agency action that even DCFS officials concede went awry. Internal records document that officials agree Bierly's daughter, now 5, was wrongly removed and without their recommendation.

Those mistakes, coupled with Bierly's determination to have her children returned to her, prompted House Speaker Marty Stephens, R-Farr West, to request a probe of the case.

"I have probably received over 100 e-mails from people weighing in on this issue claiming the family was treated unfairly," Stephens said.

He believes it is a good idea for auditors to re-examine the actions taken and determine what happened and why. "This is a good example to see if the system is working well or not."

State child welfare administrators say they have no problem with the audit request.

"We are always open to having people come in and look at these things," said state Division of Child and Family Services director Richard Anderson. "If it shows there is a problem with an individual case or there is a systemic issue, we would like to know about it."

The review is something Bierly has wanted for more than a year and something

family rights advocates said should happen more frequently.

"We have been asking the lawmakers to do this for some time," said Bonnie Macri, with Justice, Economic Dignity and Independence for Women (JEDI Women). "And they've finally decided to do this. It not only needs to be done in her case, but in many, many cases."

Bierly said her nightmare with state officials began in the daylight of a fall afternoon, when Bierly's severely diabetic son was taken by the state while at a playground with friends.

The state cited medical neglect, alleging the child needed immediate medical treatment because of his condition. Despite this assertion, a subsequent investigation by the state child protection ombudsman showed no evidence the child received medical treatment in the first 24 hours as required.

A letter from Bierly's doctor to state officials, while confirming there had been some missed appointments, nevertheless said the mother carefully controlled her son's condition and he has never been close to going into shock or being hospitalized.

Within four days after being taken into foster care, the boy was hospitalized the first of several times while under state care.

The state then seized Bierly's daughter, saying the daughter also was "at risk." Bierly said her daughter was placed in nine different homes before she was adopted.

Bierly said the process involving her daughter was in violation of a judge's court order that the child be returned home and without provocation.

"The whole thing has been a total nightmare. It's been two years since I've seen my children," she said.

Since the audit was approved in January, Bierly and her supporters have met several times with auditors and have another meeting scheduled Friday.

The audit is scheduled to be finished in early May. Advocates are hopeful it will point out flaws they have been trying to highlight for years.

"Lisa's children should never have been taken from her," Macri said. "My prediction is that the auditors will understand that."

Bierly believes the probe will be the tell-all that vindicates her.

"I am absolutely elated. I feel that maybe justice is finally going to be done, the truth is finally going to be told. . . . I don't know if the auditors have the power to return my children, but I do know they have to power to recommend it. They can recommend that the laws be changed as a result of this."

Stephens urged caution, however.

"What we are looking at here will not solve the problems of the Bierly case particularly; what it will do is give us a road map to determine if something went wrong, what went wrong, and what action can be taken so families will not have these difficulties."

Conversely, if the audit should find state agencies acted appropriately, Stephens said the findings will alleviate some of the fears the public may have about the system.

"The state wins either way in terms of getting a snapshot into how this process works," he said.

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