

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

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House Bill 1499

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House Judiciary Committee  
Subcommittee on Crime and Corrections

Room 60, East Wing  
Main Capitol Building  
Harrisburg, Pennsylvania

Tuesday, August 17, 1999 - 1:10 p.m.

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BEFORE:

Honorable Jerry Birmelin, Majority Chairperson  
Honorable Pat Browne  
Honorable Scot Chadwick  
Honorable Tim Hennessey  
Honorable Albert Masland  
Honorable Harold James, Minority Chairperson  
Honorable Peter Daley  
Honorable Kathy Manderino  
Honorable Joe Petrarca  
Honorable Chris Sainato  
Honorable Don Walko

**ALSO PRESENT:**

David Bloomer  
Majority Research Analyst

Judy Sedesse  
Majority Administrative Assistant

Beryl Kuhr  
Democratic Counsel to Judiciary Committee

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1 CHAIRPERSON BIRMELIN: Good afternoon. I want  
 2 to welcome you to the House Judiciary Subcommittee on Crime  
 3 and Corrections hearing today. We are meeting on House  
 4 Bill 1499 prime sponsored by Representative Chris Sainato.  
 5 And he's with us this morning. We're going to ask him to  
 6 give an opening statement here in just a few minutes.

7 I want to introduce the members of the panel  
 8 who are seated here with me. And I would ask if Mr.  
 9 Chadwick would begin, and then we'll proceed on down  
 10 through the table.

11 REPRESENTATIVE CHADWICK: I'm Representative  
 12 Scot Chadwick. I represent the 110th District, Bradford  
 13 and Susquehanna Counties.

14 REPRESENTATIVE PETRARCA: Representative Joe  
 15 Petrarca, Westmoreland County, 55th District.

16 REPRESENTATIVE MASLAND: Al Masland. I  
 17 represent Cumberland and parts of Northern York.

18 REPRESENTATIVE JAMES: Harold James,  
 19 Democratic Subcommittee Chairman. I represent the 186th  
 20 Legislative District in Philadelphia.

21 MR. BLOOMER: Dave Bloomer. I'm a Research  
 22 Analyst for the House Judiciary Committee.

23 REPRESENTATIVE HENNESSEY: Tim Hennessey,  
 24 Chester County in the southeastern part of Pennsylvania.

25 REPRESENTATIVE WALKO: Don Walko, Allegheny

1 County.

2 MS. KUHR: Beryl Kuhr, Chief Counsel to the  
3 Democratic Subcommittee.

4 CHAIRPERSON BIRMELIN: We're not going to take  
5 any further comments from myself so I'm going to ask  
6 Representative Sainato if he would be seated at the witness  
7 table. And after Representative Sainato has presented his  
8 testimony and his opening statement, I'm going to ask him  
9 if he would join the Judiciary Committee as a member of our  
10 panel.

11 You're an honorary Judiciary Committee member  
12 in this regard, and you have the full privileges according  
13 to one who is a member. Representative Sainato, you may  
14 begin.

15 REPRESENTATIVE SAINATO: Thank you, Chairman  
16 Birmelin. Thank you Chairman Birmelin and members of the  
17 House Judiciary Committee for taking time out of your busy  
18 schedules to be here today. As you are aware,  
19 Pennsylvania's current Drug-Free Zone Law provides harsher  
20 penalties for selling drugs to minors and adults within  
21 1,000 feet of a school or a college.

22 School busses and playgrounds are also  
23 considered drug-free zones under the present law.  
24 Drug-free zones are viewed as more than just a law. They  
25 are seen as a community-wide commitment for protecting

1 young people from the influence of drug activity and a way  
2 to help reduce drug use.

3           With that in mind, I believe there are other  
4 areas in which the Drug-Free Zone Law is applicable and  
5 necessary. That is why I introduced House Bill 1499. This  
6 bill would expand the law to include day-care centers.  
7 Single parent homes and the need for both parents to make  
8 ends meet in today's society make day care a reality for  
9 many people in the Commonwealth of Pennsylvania.

10           Parents deserve a peace of mind in knowing  
11 that when their child is in day care, they can be cared for  
12 in a safe environment. This should extend beyond the  
13 facility itself by ensuring that these centers are located  
14 in safe neighborhoods free from drugs and other criminal  
15 activity.

16           Lawmakers have continually looked for ways to  
17 make these day-care centers safer. At various times, bills  
18 have been pending in the General Assembly that, among other  
19 things, would require unannounced day-care visits;  
20 inspections for child day-care centers, family day-care  
21 homes; and require criminal and child abuse background  
22 checks for those residing in day-care centers.

23           The one thing these bills have in common is  
24 that they all pertain to what goes on inside of the center.  
25 We need to look at what is going on outside of the center

1 as well. Adding day-care centers to the Drug-Free Zone Law  
2 would give children an environment in which they can play  
3 and talk without fear of being threatened by drug dealers  
4 and drug users.

5           Statistics show that most children begin using  
6 drugs at the ages of 12 and 13. But in today's society,  
7 many children are exposed to violence and criminal activity  
8 at even a younger age. We need to ask ourselves if we're  
9 doing all we can to protect the most vulnerable citizens of  
10 Pennsylvania.

11           As with the current Drug-Free School Zone Law,  
12 my bill would carry an extra penalty of two years  
13 imprisonment for a violation of its provisions. House Bill  
14 1499 is good for parents and good for children in day care.  
15 Day care is something that most families in Pennsylvania  
16 have to deal with every day.

17           And when we think about many of the things  
18 which we as legislators do in Harrisburg, I think looking  
19 after children in this state and giving parents a peace of  
20 mind is something that's very important to me and I'm sure  
21 each and every member of this committee.

22           I believe we need to send a message to  
23 criminals that we care for our young people and activity of  
24 drug selling and drug use in a day-care facility or near a  
25 day-care facility will not be tolerated in Pennsylvania. I

1 ask the members of the House Judiciary Committee to support  
2 House Bill 1499.

3 And I would like to thank Chairman Birmelin  
4 and each committee member for the opportunity of giving me  
5 this -- to speak today. If there's any questions, I would  
6 be glad to answer them at this time.

7 CHAIRPERSON BIRMELIN: Thank you,  
8 Representative Sainato. Do any of the members of the panel  
9 have questions for the Representative? Representative  
10 Petrarca.

11 REPRESENTATIVE PETRARCA: Thank you, Chairman.  
12 Chris, quick question. What did you say about the  
13 additional two years?

14 REPRESENTATIVE SAINATO: If they would be  
15 convicted of selling drugs or drug use within 1,000 feet of  
16 a day-care facility, there would be an additional two-year  
17 penalty put on the sentence.

18 REPRESENTATIVE PETRARCA: Is that a mandatory  
19 sentence?

20 REPRESENTATIVE SAINATO: It would be part of  
21 the law, yes, because that's part of the actual Drug-Free  
22 Zone Law. Yes.

23 REPRESENTATIVE PETRARCA: Thank you. Thank  
24 you, Chairman.

25 CHAIRPERSON BIRMELIN: Any other questions



1 from the panel? Representative Sainato, if you would join  
2 me to my right, I'd appreciate that.

3 REPRESENTATIVE SAINATO: Thank you, Chairman  
4 Birmelin.

5 CHAIRPERSON BIRMELIN: We've had two other  
6 members of the Judiciary Committee -- excuse me. -- three  
7 other members of the Judiciary come in. To the far left of  
8 this table is Representative Pete Daley. Remind me, Pete,  
9 what county?

10 REPRESENTATIVE DALEY: Washington and Fayette.

11 CHAIRPERSON BIRMELIN: Washington and Fayette  
12 Counties. Representative Browne from Lehigh County who's  
13 next to him. And to the far right of me both politically  
14 and geographically this afternoon is Representative  
15 Manderino from Philadelphia County.

16 REPRESENTATIVE MANDERINO: I'm to the right of  
17 you?

18 CHAIRPERSON BIRMELIN: Our next testifier is  
19 not here yet and so I'm going to jump ahead of the schedule  
20 a little bit. On your agenda, we have listed for 1:50 Sue  
21 Herron, Assistant District Attorney from the Philadelphia  
22 District Attorney's Office dealing with legislative  
23 affairs.

24 And she's been a testifier before our  
25 committee before. And we welcome you again, Ms. Herron.

1 MS. HERRON: Thank you.

2 CHAIRPERSON BIRMELIN: Thank you for your  
3 ability to come and share with us on this piece of  
4 legislation. And as you have done in the past, we would  
5 ask that you would present your statement and then we would  
6 like you to stay, if you would, for a few moments to answer  
7 any questions that the members of the panel would have.

8 All that having been said, welcome to the  
9 House Judiciary Committee. And you may begin your  
10 testimony.

11 MS. HERRON: Thank you. Good afternoon.  
12 Thank you for inviting us to participate. I want to say  
13 first that I'm here today just speaking on behalf of the  
14 Philadelphia District Attorney's Office and Lynne Abraham  
15 and not on behalf of the Pennsylvania District Attorneys  
16 Association.

17 I understand that the PDAA has not had an  
18 opportunity to review House Bill 1499 and, therefore,  
19 doesn't have a position on it. I do know that the  
20 Association's position generally on mandatory sentences,  
21 they're not in favor of the creation of new mandatories.  
22 And we are not in favor of the creation of new mandatories  
23 either.

24 However, we are in favor of this and view this  
25 as a logical extension of an existing mandatory sentence.

1 We think that any measure that attempts to keep drugs and  
2 the drug culture from children is good and important.  
3 Dealing drugs on the steps of the day-care center is  
4 unacceptable. And if proscribing an additional mandatory  
5 two-year sentence will deter the behavior, we are certainly  
6 in favor of it.

7           Of greater concern than of course changing,  
8 you know, drugs changing hands on the streets, though, is  
9 drug dealing inside the day-care center. Do we want child  
10 day-care workers, the ones caring for our children, to be  
11 high on drugs, to be thinking about getting high later, to  
12 induce another worker to take drugs in the work place, to  
13 sell it to a parent who comes to pick up a child? No, I  
14 don't think any of us want this.

15           The threat to children from drugs, however,  
16 goes far beyond the environs of the day-care center. If we  
17 really want to protect children from drugs and from the  
18 abuse that comes hand in hand with drugs, there are other  
19 things we think that need to be done.

20           The likelihood that a child will be exposed to  
21 drugs and other substances in the home is far greater than  
22 the likelihood that they will be exposed to them on the  
23 streets and in the day-care center. Although, you know, of  
24 course sales do occur there.

25           And it's important to create the drug-free

1 zones, but does it really have an impact if the home is not  
2 a drug-free zone? We would like to see legislation which  
3 mandates that day-care workers be trained in how to  
4 identify at-risk children and become knowledgeable in the  
5 resources available to help addicted people.

6 Children whose parents or primary caretakers  
7 are alcoholics or who are drug-dependent often exhibit  
8 behaviors that should be red flags to day-care workers and  
9 to other people who come in contact with them. They act  
10 out or they act aggressively. Sometimes they're extremely  
11 passive and are really more of an invisible child.

12 They're underfed sometimes, they're dirty,  
13 they don't have clean clothes, their attendance is random,  
14 they're often ill-prepared for the tasks at hand. For  
15 example, if they're asked to bring in a cigar box for a  
16 project or \$2 for a trip somewhere, it never materializes  
17 because the parent, for the most part, who -- the drug  
18 addicted parent just can't get it together to get these  
19 simple items.

20 The parents also have similar traits, random  
21 behavior, inability to fulfill tasks, aggressive, hostile,  
22 belligerent, full of excuses, everything is someone else's  
23 fault, clever liars. And these symptoms might seem obvious  
24 to us, you know, as I list them.

25 But without specific training in how to

1 recognize these things, sometimes they'll go unnoticed.  
2 And I'll give you a personal anecdote that will -- I think  
3 illustrates the need for this kind of training. When my  
4 son was three, we had somebody in our house taking care of  
5 him, a young lady who we just adored.

6           She was such a terrific baby-sitter. She had  
7 more energy than you could imagine, and we all liked her.  
8 And at one point, we discovered that there was some money  
9 missing from my husband's wallet. And we confronted her  
10 about this, and she gave us this big tale about how her  
11 sister was drug addicted and in trouble with her supplier  
12 and she did steal the money but she would never do it  
13 again.

14           And of course, we bought this. I mean, the  
15 Assistant DA and my husband was then a criminal court  
16 judge, and the judge and the DA bought this story. Of  
17 course, as it turned out, she was the drug addict. But we  
18 didn't notice it because we didn't know enough about the  
19 symptoms of it.

20           And of course, after we did fire her, we  
21 finally fired her, somebody said, Well, of course you  
22 should have noticed she was a drug addict. She had this;  
23 she had that. It went right by us. And, you know, we're  
24 supposed to be the professionals in this area.

25           As important as the training in the

1 identification and referral of the at-risk children is  
2 adequate funding for substance abuse treatment programs,  
3 programs for the parents of the children we're trying to  
4 protect. The money allocated for drug treatment is  
5 generally less than adequate.

6           There's several examples of this. One is that  
7 the -- I understand that PCCD and the Sentencing Commission  
8 determined several years ago that \$26 million would be  
9 adequate funding for restorative intermediate punishment  
10 drug funding.

11           For fiscal year 1999, the DA's Association  
12 sought a \$6 million increase from the '98 level of 10  
13 million to 16 million trying to build it up to that 26.  
14 Legislature approved 11, only an increase of 1 million or  
15 10 percent and still \$15 million short of what is needed  
16 for full funding.

17           Another treatment funding resource, Behavioral  
18 Health Special Initiative pays for both criminal justice  
19 and noncriminal justice substance abuse treatment. Their  
20 budget was cut from 54.6 million in 1997-'98 to 41 million  
21 for '99-2000, a 25 percent decrease.

22           Health insurers also routinely deny benefits  
23 for drug rehabilitation, particularly for the inpatient  
24 care which, for many addicts, is the only effective  
25 alternative. And even where there is money to pay for it,

1 mothers who want treatment and need treatment, need  
2 residential treatment have few places to go.

3           There are only 10 facilities statewide down  
4 from 12. Two were closed for lack of funding. And they  
5 only have a total of 100 residential beds for drug addicted  
6 women with children, places where the children can go and  
7 live with the parents while the mother is receiving drug  
8 rehabilitation and places where the mothers can get help  
9 without having to give their children up to the foster care  
10 system. In our view, we need more residential treatment  
11 facilities like this, not fewer.

12           You know, there's much to be said about  
13 substance abuse and drug treatment, and I realize that this  
14 hearing is not the place to discuss it. You know, for now,  
15 we would like to say that we are in favor of House Bill  
16 1499. We would like to see the Legislature act favorably  
17 on it.

18           And we would also, however, welcome the  
19 opportunity to sit down at some point in the future and  
20 further discuss the drug treatment ideas that I mentioned  
21 here. Thank you.

22           CHAIRPERSON BIRMELIN: And I suspect you'll  
23 get that invitation.

24           MS. HERRON: I bet we will.

25           CHAIRPERSON BIRMELIN: We do thank you for

1 coming today. I'm going to ask the members of the panel if  
2 they have any questions for you. And I'll begin with the  
3 prime sponsor of that legislation, Representative Sainato.

4 REPRESENTATIVE SAINATO: Just briefly. You  
5 represent the DA in Philadelphia. Have you had problems  
6 near day-care facilities?

7 MS. HERRON: I'm sure we have. I don't know  
8 of a specific problem. But there are day-care facilities  
9 all over the city, and there is drug dealing in so many  
10 parts of the city that I'm sure that there has been -- have  
11 been incidents of it. I can't speak to a specific one,  
12 though.

13 REPRESENTATIVE SAINATO: But you believe this  
14 legislation would help your case against the potential drug  
15 dealers and drug users?

16 MS. HERRON: Yeah. Any time we can remove a  
17 drug dealer from the street, it's one less person who's  
18 selling drugs.

19 REPRESENTATIVE SAINATO: Okay. Thank you.

20 CHAIRPERSON BIRMELIN: I would also -- I was a  
21 little negligent in my introductions before. And I want to  
22 apologize for not introducing him appropriately. But the  
23 counterpart of the Democratic party on this committee as  
24 Subcommittee Chairman is Representative Harold James who  
25 sits to my left.



1           And I apologize for not giving you due  
2 obeisance. But at this point in time, if you have any  
3 questions, I'd give you that opportunity.

4           REPRESENTATIVE JAMES: Thank you, Mr.  
5 Chairman. You're always so kind.

6           MS. HERRON: Thank you.

7           REPRESENTATIVE JAMES: And thank you for  
8 testifying. It's just good to hear you say that -- on the  
9 first page, you say the Association does not support the  
10 creation of new mandatory sentences. What do you -- in  
11 other words, like we have some legislators that in their  
12 haste to -- to jump on crime, you know, might put a bill  
13 out that have mandatory sentencing.

14           If one was to call you, how would you suggest  
15 they would create the bill so it doesn't become a  
16 mandatory? Do you have any suggestions?

17           MS. HERRON: Well, I guess I'd have to look at  
18 the specific bill. I mean, I can't just say off the top of  
19 my head. I know that probably one of the first things I'd  
20 do is run to Garry and say, Garry, what are we going to do  
21 with this, and certainly ask for help.

22           Without seeing a particular bill, I don't know  
23 how I would respond.

24           REPRESENTATIVE JAMES: Well, do you agree that  
25 maybe one of the answers or solution is to give judges more

1 discretion?

2 MS. HERRON: Well, now see, for me that's a  
3 loaded question because I want to --

4 REPRESENTATIVE JAMES: You still --

5 MS. HERRON: My husband would like to say yes,  
6 we need more discretion. You know, it depends. It's  
7 all -- I'm not that -- you know, the issue of, you know,  
8 the broader issue of how the PDAA views these things is not  
9 something that I have been involved in discussions of.

10 I mean, I have my own thoughts about it; but I  
11 don't know what the DA's thoughts are about it necessarily.  
12 But I know that basically in the discussions that we have  
13 had with people, the position has been we're not going to  
14 support new mandatories. But again, this is a logical  
15 extension of the existing one.

16 REPRESENTATIVE JAMES: Okay. Thank you.  
17 Thank you, Mr. Chairman.

18 CHAIRPERSON BIRMELIN: Representative  
19 Manderino.

20 REPRESENTATIVE MANDERINO: Thank you. And  
21 thank you, Ms. Herron, for being here and for your  
22 testimony. And I also just want to reiterate what  
23 Representative James said, that I very much appreciate the  
24 testimony and the emphasis that the Philadelphia District  
25 Attorney's Office has put on the drug treatment component

1 and how critical the dollars are there.

2           And in my opinion, if I can just go a step  
3 beyond that, how I think that we will increase in that line  
4 item to sufficiently cover the need will save us more  
5 dollar for dollar in incarceration and other costs and it's  
6 a cost-effective way to go.

7           If I can, though, just I guess challenge the  
8 thinking with regard to whether to extend this. And my  
9 first reaction was very much probably like everybody's.  
10 Gee, this makes sense to include day-care centers in the  
11 drug-free school zone.

12           But again, especially being mindful that in  
13 doing that, we're in essence adding to what is a mandatory  
14 sentence, which I also have a problem with -- with that  
15 because, again, that's incarceration instead of treatment.  
16 It seems to me that the policy decision behind drug-free  
17 school zones is that -- our school-age population and the  
18 reason we want enhanced penalties around schools is that we  
19 don't want drug dealers being there trying to deal drugs to  
20 our kids going to and from school or in the school yard.

21           And so if we catch them there trying to do  
22 that with the kids, we're going to enhance the penalty.  
23 But I don't see -- unless I'm missing the mark here. -- I  
24 don't see that same correlation with the day-care center.  
25 I mean, I do see that if someone is caught selling drugs

1 within so many hundred feet of a day-care center, we can  
2 charge them with an enhanced penalty crime.

3 But I don't see them being in that vicinity in  
4 order to sell drugs to the under five years of age  
5 population. And so again, I think the logic of that I'm  
6 having problems with -- with that. And if you want to  
7 comment, you can.

8 But I would be very interested in not whether  
9 or not we as a society have problems with people selling  
10 drugs anywhere on our streets including what might be  
11 within a 300 or 500 foot zone of a day-care center, but  
12 whether or not we have evidence that people are trying to  
13 sell the drugs to the kids in day care which are under five  
14 years of age that would then make us say that's such a  
15 heinous thing that it ought to get the enhanced penalty.  
16 That's where I'm stuck.

17 MS. HERRON: I understand what you're saying.  
18 And I think that you're right about one of the policy  
19 decisions behind the Drug-Free School Zone Act. But I  
20 think another policy that is in effect there is not only  
21 to -- is to protect children in general from everything  
22 that goes on in the drug culture.

23 We certainly want to -- we don't want them  
24 buying drugs in the school yard. But we want to protect  
25 all children from this. And my sense is that when

1 we -- when the drug-free school zone was passed, that this  
2 was just something that wasn't thought of, how it  
3 would -- other places where children congregate.

4 I think you're right. It probably isn't  
5 likely that somebody's going to be pushing something on  
6 another 5-year-old. But in day-care centers, they have  
7 after-school programs. They have lots of other things  
8 where there are older children that would be -- would be  
9 served by the same policy that serves the drug-free school  
10 zone.

11 REPRESENTATIVE MANDERINO: Thank you. Thank  
12 you, Mr. Chairman.

13 CHAIRPERSON BIRMELIN: I want to thank you,  
14 Ms. Herron, for your testimony and for being a good witness  
15 again before this committee. Thank you very much.

16 MS. HERRON: My pleasure. Thank you very  
17 much.

18 CHAIRPERSON BIRMELIN: Is Kate Holod here?  
19 She just walked in. Good. Kate, you are front and center,  
20 if you would, please.

21 MS. HOLOD: I apologize. I had the time  
22 wrong.

23 CHAIRPERSON BIRMELIN: Well, we started with  
24 someone who was scheduled after you. So if you want to  
25 distribute your testimony and then be seated, we'll be

1 giving you an opportunity to give your testimony.

2 (Discussion off the record.)

3 CHAIRPERSON BIRMELIN: Kate Holod is the  
4 Director of the Bureau of Child Day-Care Services, the  
5 Department of Public Welfare. Am I pronouncing your name  
6 correct?

7 MS. HOLOD: That's correct.

8 CHAIRPERSON BIRMELIN: And Ms. Holod, we  
9 welcome you to the House Judiciary Subcommittee on Crime  
10 and Corrections and ask that you would be able to answer  
11 any questions after you've given your testimony if the  
12 members of the panel have them for you. So at this time,  
13 you may begin with your testimony.

14 MS. HOLOD: Okay. Good afternoon, Chairman  
15 Gannon and the members of the Judiciary Committee. I would  
16 like to thank you for the opportunity to provide testimony  
17 here today. My name is Kate Holod, and I am the Bureau  
18 Director for the Department of Public Welfare's Office of  
19 Children, Youth and Families Bureau of Child Day-Care  
20 Services.

21 I am here to provide the Department's views on  
22 House Bill 1499. House Bill 1499 would expand drug-free  
23 zones to include an area within 1,000 feet of a child-care  
24 center. The bill also requires a child-care center to post  
25 a notice that the premises is a drug-free zone.

1           The Department has the responsibility of  
2 assuring that Pennsylvania's families are provided safe,  
3 affordable and quality child care. To ensure the health  
4 and safety of children, child-care centers must comply with  
5 the Department's regulations in order to receive a  
6 Certificate of Compliance from the Department.

7           A Certificate of Compliance permits child-care  
8 centers to operate in Pennsylvania. The regulations  
9 establish minimum requirements that child-care centers must  
10 meet regarding staff ratios, group size, staff  
11 qualifications, and other health and safety protections.

12           There are currently over 3,600 child-care  
13 centers throughout the state that have a Certificate of  
14 Compliance from the Department. In general, these centers  
15 care for children from infancy to age 13. In some cases,  
16 the centers may care for children older than 13, especially  
17 if the child has a disability.

18           The Department has four regional child-care  
19 offices that have the responsibility for enforcing the  
20 child day-care regulations. Regional staff visit centers  
21 on an annual basis, conduct complaint investigations, make  
22 unannounced visits, and take action when facilities do not  
23 comply with the regulations.

24           The recent violent and tragic events at  
25 schools and places of employment and now in child-care

1 centers, especially this week, call for measures such as  
2 this House Bill to protect health and safety of children --  
3 health and safety of citizens.

4 By establishing that child-care centers are  
5 drug-free zones, children will be protected from the  
6 potential harm caused by exposure to drug dealers. The  
7 Department supports the intent of this legislation. We do,  
8 however, have concerns of how the bill defines a child-care  
9 center.

10 A child day-care center is defined as any  
11 premises operated for profit in which child care is  
12 provided simultaneously for seven or more children who are  
13 not relatives of the operator except such centers operated  
14 under the social service auspices.

15 The definition would exclude child-care  
16 centers that are nonprofit. We would recommend that the  
17 bill be amended to include nonprofit as well as for-profit  
18 centers. We estimate that of the 3,600 child-care centers  
19 regulated by the Department, over 2,000 -- approximately 58  
20 percent. -- are operated on a nonprofit basis.

21 We would be willing to work with the committee  
22 on drafting amendatory language to address this concern.  
23 We look forward to working with you on this legislation  
24 which will further protect the safety of children attending  
25 child-care centers.



1 CHAIRPERSON BIRMELIN: I want to thank you for  
2 your testimony, Ms. Holod. And I'll begin the questioning  
3 with the prime sponsor of the bill, Representative Sainato.

4 REPRESENTATIVE SAINATO: I would also like to  
5 thank you for testifying on the bill. I think your  
6 comments are well-taken. And the part about expanding for  
7 the nonprofits is definitely going to be taken into  
8 consideration.

9 I think that the purpose of the bill is to  
10 protect all kids whether you're in a profit or nonprofit  
11 day-care facility. And that's something that I'd be happy  
12 to work with the committee on. So thank you for pointing  
13 that out.

14 CHAIRPERSON BIRMELIN: I'd like to give an  
15 opportunity to members of the panel to ask questions. Any  
16 of the members have questions they'd like to ask?  
17 Representative Browne.

18 REPRESENTATIVE BROWNE: Just very briefly.  
19 Would the inclusion of not-for-profit in that definition in  
20 this -- this area of the law based on your knowledge of any  
21 provisions on anything else except for the drug-free school  
22 zone, would it just be specific enough just to apply to  
23 this?

24 MS. HOLOD: You mean just to apply to day-care  
25 centers?

1 REPRESENTATIVE BROWNE: There's been some  
2 issues regarding for-profit and not-for-profit in other  
3 areas --

4 MS. HOLOD: Right.

5 REPRESENTATIVE BROWNE: -- in terms of how  
6 that definition applies. If you just changed the  
7 definition here, is it just applied to the drug-free school  
8 zone provision or does it have any other --

9 MS. HOLOD: No. It would just be for this  
10 particular legislation, drug-free school zones. Yes. It  
11 would not spill into any other areas, no.

12 REPRESENTATIVE BROWNE: Thank you very much.  
13 Thank you, Mr. Chairman.

14 CHAIRPERSON BIRMELIN: Any other members have  
15 questions for the testifier? Apparently, there are no  
16 others who would like to ask you questions. We want to  
17 thank you again, Ms. Holod, for coming here. And sorry  
18 there was a mix-up on the time frame.

19 MS. HOLOD: That was my mistake. I apologize.

20 CHAIRPERSON BIRMELIN: But we're glad you had  
21 the opportunity to come and to share your testimony. And  
22 just for your benefit and as well as for the members and  
23 those who are watching, we do share the testimony with the  
24 members who were not able to make it today.

25 So a copy of your testimony will be provided

1 as well as all the other panelists' to the members of the  
2 Judiciary Committee. Thank you again for coming.

3 MS. HOLOD: Okay. Thank you.

4 CHAIRPERSON BIRMELIN: I'd invite Larry  
5 Frankel, Executive Director of the American Civil Liberties  
6 Union of Pennsylvania, to come and to give his testimony.  
7 Members should have a copy of that in the packet that they  
8 received this afternoon when they came in.

9 Mr. Frankel, again, welcome to the House  
10 Judiciary Subcommittee on Crime and Corrections hearing.  
11 Mr. Frankel has been a frequent testifier at our hearings.  
12 We always appreciate hearing from him; although, we don't  
13 always appreciate what he says. But we do appreciate his  
14 input and the honesty with which he presents.

15 Mr. Frankel, with that great introduction,  
16 I'll allow you to give your testimony.

17 MR. FRANKEL: Thank you very much, Chairman  
18 Birmelin. And thank you to the members of the House  
19 Judiciary Committee here today. I want to thank you for  
20 inviting us to present testimony on House Bill 1499. As  
21 you already know, this legislation would amend the existing  
22 statute regarding drug-free schools to add child day-care  
23 centers.

24 A person convicted of delivering or possessing  
25 with intent to deliver a controlled substance within 1,000

1 feet of a child day-care center will be subjected to a  
2 mandatory minimum sentence of two years. This legislation  
3 creates yet another situation when a mandatory sentence  
4 would be imposed.

5           As you know, the ACLU objects to mandatory  
6 sentences because they eliminate judicial discretion and  
7 preclude a consideration of the individual circumstances in  
8 a case. We recognize and commend the General Assembly for  
9 having resisted most of the recent attempts to create  
10 additional mandatory sentences.

11           I also would like to commend the Pennsylvania  
12 District Attorneys Association for their general opposition  
13 now to mandatory sentences. And I think that it may be a  
14 matter of semantics whether you consider this the expansion  
15 of an existing mandatory sentence or creation of a new  
16 sentence.

17           We have never supported mandatory sentences.  
18 And I think for that reason, we do not support the  
19 legislation. Even though we cannot think of a rational  
20 reason for treating child day-care centers differently from  
21 schools or universities, we nevertheless hope that you will  
22 not enact this legislation.

23           We think that this kind of legislation does  
24 not really address the ongoing problems of drug use, which  
25 is just as much a public health problem as it is a criminal

1 problem. And the remainder of my testimony may sound like  
2 an appendix to what the District Attorney's Office from  
3 Philadelphia testified today, but I think it is  
4 significant.

5           And I will underscore this, that at least in  
6 this area of dealing with the low level drug offenders, not  
7 the kingpins, not the ones who engage in violence, but  
8 nonviolent drug users, that I think our position is getting  
9 to be -- or I should say the District Attorney's position  
10 is getting awfully close to ours.

11           And rather than discussing this legislation  
12 any further, I'd like to talk to you about what we've  
13 learned about a recent experience in the state of Arizona  
14 where that state has undertaken a serious attempt to use  
15 treatment programs rather than incarceration to fight  
16 drugs.

17           In November of 1996, by a 2 to 1 margin, the  
18 voters in Arizona passed a Drug Medicalization, Prevention  
19 and Control Act, Proposition 200. That proposition was  
20 supported by former Senators Barry Goldwater and Dennis  
21 DeConcini and an array of doctors, judges, clergy and  
22 citizens.

23           Most people know about that referendum because  
24 it had a medical marijuana component. And I'm not here to  
25 discuss medical marijuana today. I'm here to discuss other

1 provisions of that bill -- of that referendum which  
2 approved much less controversial and even successful.

3           Those provisions include, among other things,  
4 the paroling of prisoners convicted of drug possession and  
5 requiring them to participate in drug treatment or  
6 education programs. Violent offenders are not paroled  
7 under that Arizona act.

8           Another provision is that no jail time for  
9 those convicted for drug possession their first time.  
10 These defendants receive probation and mandatory drug  
11 treatment. And establishment of the Drug Treatment and  
12 Education Fund through a luxury tax on alcohol and tobacco  
13 products to fund the treatment programs that are needed to  
14 take care of the prisoners who are being put on parole or  
15 probation. And also, it funds the program to involve  
16 parents more in drug prevention activity.

17           Implementation of these provisions was delayed  
18 due to the reluctance of the Arizona Legislature and  
19 Governor to embrace these changes. Nevertheless, these  
20 provisions are now in effect, and they appear to be  
21 producing positive results.

22           A report released by the Arizona Supreme Court  
23 in April of this year concluded that the mandatory  
24 treatment law has broken many drug users' habits and saved  
25 the taxpayers millions of dollars.

1           The study found that 77 percent of the  
2 offenders sent to treatment programs remained drug-free at  
3 the end of the year and that Arizona saved 2.5 million by  
4 sending the users into treatment programs rather than  
5 prison. In fact, the rate at which offenders are testing  
6 free of drugs in Arizona is significantly higher than for  
7 offenders on probation in most other states.

8           Attached to my testimony here today, you will  
9 find a copy of testimony presented by Barbara A. Broderick,  
10 the State Director of Adult Probation, Administrative  
11 Office of the Courts, Arizona Supreme Court, the testimony  
12 she gave to the Subcommittee on Criminal Justice, Drug  
13 Policy and Human Resources, Committee of Government Reform  
14 of the Arizona House of Representatives in July of this  
15 year.

16           Ms. Broderick testified about the results of  
17 the new emphasis on treatment. She noted that the  
18 provisions of the new act have given the adult probation  
19 officers an ability to get many more individuals into  
20 treatment than they had been able to do so -- do in the  
21 past.

22           She also noted that there had been a reduction  
23 in the waiting time for defendants to enter treatment  
24 programs. Arizona's significant achievement is best  
25 understood by looking at the title of Ms. Broderick's

1 testimony: "The Arizona experience: Probation with  
2 treatment protects the community."

3           And I would just like to emphasize that point.  
4 I'm going to turn to page 4 of the testimony there. And  
5 with the committee's indulgence, I want to read a few  
6 sentences. At that point, she was reviewing an audit that  
7 had been conducted, an audit mandated by the Legislature to  
8 evaluate the program or the new programs under the act.

9           And that audit found that substance abusers  
10 who consistently attended or successfully completed  
11 treatment were much more likely to succeed on probation as  
12 compared to the control group. About 85 percent of the  
13 individuals who completed drug testing successfully  
14 completed their terms of probation, and 80 percent of those  
15 that consistently attended alcohol abuse programs finished  
16 their probation satisfactorily.

17           By contrast, only 22 percent of those not  
18 completing treatment finished their probation term. For  
19 those probationers who were not identified as needing  
20 services, only 57 percent successfully completed their  
21 probation term.

22           The audit also noted that a 90 percent  
23 completion rate for probationers who were consistently  
24 employed during probation versus 41 percent for those  
25 unemployed and an 85 percent success rate for those



1 completing their community services versus 40 percent for  
2 those who did not.

3           These factors led to significantly fewer  
4 re-arrests and positive drug tests while on probation. In  
5 addition, the audit found that the statewide probationer  
6 sample was paying full victim restitution. I bring  
7 those -- that report to your attention.

8           I know this hearing is about a specific piece  
9 of legislation that deals with day-care centers. But I  
10 think we use every opportunity we can to bring hopefully  
11 new information to your attention that points out that, you  
12 know, treatment programs may indeed be working much better  
13 than incarceration of nonviolent offenders.

14           The ACLU hopes that you'll try to learn more  
15 about what is being tried in Arizona and consider whether  
16 that approach presents a more realistic means for changing  
17 nonviolent defendants with substance abuse problems. In  
18 our opinion, the Commonwealth of Pennsylvania has  
19 over-relied on incarceration to fight drugs rather than  
20 looking to treat the cause of the problem.

21           By looking at creative approaches such as  
22 Arizona's and targeting treatment and rehabilitation,  
23 Pennsylvania just might do a better job at protecting its  
24 communities. Thank you very much.

25           CHAIRPERSON BIRMELIN: Thank you, Mr. Frankel.

1 I have a couple of questions for you before I ask the rest  
2 of the committee to do that. In the Arizona situation, the  
3 legislation that created this program didn't spell out  
4 specifically what kind of drug treatment programs they felt  
5 the offenders needed to be in because it's my understanding  
6 there is some different philosophies of different drug  
7 treatment programs.

8           Some are faith-based, some are not. Some deal  
9 with rather strict in-house controls. Some are a little  
10 more lax than others. Did the legislation and the program  
11 that it created address the issue of what type of drug  
12 treatment programs these offenders were to be enrolled in?

13           MR. FRANKEL: My belief is that it did not  
14 specify that this was a voter initiative. It didn't go  
15 into that kind of detail. However, the courts in  
16 implementing the program -- because the court's responsible  
17 because of where the probation department is located in  
18 Arizona. -- had that responsibility.

19           That's my belief from my recollection of  
20 reading the materials. I will review that. And if  
21 there's -- my recollection is incorrect due to my  
22 increasing maturity in years, I will provide you with the  
23 correct answer.

24           CHAIRPERSON BIRMELIN: Your memory is to be  
25 forgiven. We all suffer from that, those of us that are 40

1 or over. On page 2 of your testimony, you had -- in the  
2 bottom paragraph, you had said that implementation of these  
3 provisions was delayed due to the reluctance of the Arizona  
4 Legislature and the Governor to embrace these changes.

5 If what happened in Arizona would be similar  
6 to Pennsylvania, what would happen, even though we don't  
7 have referendum on these types of subjects, is generally  
8 that the Legislature has to put the language to or the  
9 teeth to the program itself.

10 I had assumed from your testimony that that is  
11 what happened in Arizona and that's why you mentioned their  
12 reluctance to get it going. Therefore, I'm making the  
13 assumption that the Arizona Legislature is -- to some  
14 extent made the direction as to what kind of treatment  
15 programs there may or may not be mandated for offenders.

16 That was the reason behind my question to you.  
17 And you're telling me that you think the courts did it and  
18 not the Legislature. Was the Legislature's role only to  
19 provide funding?

20 MR. FRANKEL: No. The Legislature had -- in  
21 Arizona, if a referendum doesn't get a certain percentage  
22 of the number of voters who register, not the number of  
23 voters voting in the election, the Legislature can attempt  
24 to overrule the referendum.

25 Because of the medical marijuana issue, this

1 got tied up in the Legislature for a while before they --  
2 they I think ultimately separated the two. The Legislature  
3 accepted the parts of the referendum dealing with paroling  
4 of prisoners and probation and drug treatment programs.

5           There was some controversy over raising taxes  
6 on alcohol and cigarettes. But that was -- a little piece  
7 of the delay was getting that funding formula in place.  
8 More of the delay was really getting people to separate the  
9 medical marijuana issue from the other two issues.

10           The whole matter got re-voted on again in  
11 Arizona. Because of the way the referendum worked and the  
12 Legislature trying to, in essence, overrule it, it passed  
13 again. So that's the reason for the delay rather than  
14 trying to figure out what kind of programs.

15           CHAIRPERSON BIRMELIN: So when actually did  
16 the program begin?

17           MR. FRANKEL: In 1998 would be my impression  
18 from reading the audit that was performed on the 1998  
19 performance.

20           CHAIRPERSON BIRMELIN: For the entire year of  
21 1998?

22           MR. FRANKEL: I will check on that, but I  
23 think it's pretty much the entire year of 1998.

24           CHAIRPERSON BIRMELIN: And it may be in this  
25 attachment. I'm not sure because obviously I didn't have

1 an opportunity to read it. And the reason I'm asking you  
2 some of these questions is because in the 15 years that  
3 I've been a legislator, I know that what we're doing  
4 doesn't work in regards to drug offenders, especially low  
5 level offenders.

6           And so I am curious about what other states  
7 are doing and why they're successful and how they went  
8 about it, not only how did they do it legislatively. Of  
9 course, they did it through referendum. We wouldn't have  
10 that process. But the Legislature here could do it. And I  
11 would be curious as to knowing.

12           And I will read this article that you attached  
13 to your testimony. I'd be curious to know how they did it  
14 and the results of it. And that's -- one of the reasons  
15 why I asked you when did the program actually start is  
16 because it sounds to me like they only had a year's  
17 experience.

18           And that's really not enough to condemn or to  
19 approve of the program that is substantially different than  
20 perhaps what they were doing from prior to that. So that's  
21 really another question that's just --

22           MR. FRANKEL: Well, I do have a response. One  
23 is, I do have a copy of the Supreme Court's report. And I  
24 will leave it so that copies can be made so that all of you  
25 can have it. It's, in all honesty, rather dry bureaucratic

1 writing; but it does contain some of that information.

2           And second, I conceive that they've only had a  
3 year's experience. But a year's experience has  
4 demonstrated something that maybe should be considered.

5 And also, I'm not even suggesting that Pennsylvania adopt  
6 wholesale what any other state has adopted but merely  
7 wanted to bring to this panel's attention what others have  
8 been noticing, that at least the first indications are that  
9 the treatment program does seem to be effective, at least  
10 in the short run.

11           CHAIRPERSON BIRMELIN: Well, we want to thank  
12 you for your testimony. And I will ask the members of the  
13 committee to ask you any questions should they have any.  
14 I'll first ask Representative Sainato if he has any?

15           REPRESENTATIVE SAINATO: I just have a brief  
16 question. Earlier, you had said you were concerned about  
17 the mandatory minimum being expanded and you think that  
18 they need treatment. But with your experience, are you  
19 saying, you know -- this bill is dealing with those who are  
20 selling the drugs.

21           Are most of those people, are they users with  
22 your experience? Are you saying those who are selling are  
23 the users?

24           MR. FRANKEL: In many instances, I think the  
25 ones you find working on the street and selling the drugs

1 are the users. There are people involved clearly -- my  
2 experience in drug operations, the ones who aren't the  
3 users usually aren't out on the streets.

4 The ones who are really making the money,  
5 they're not out on the streets. They're recruiting users  
6 to do the work. They get money so they can go buy more  
7 drugs. You know, the question becomes -- and I understand  
8 that the bill deals with people who sell, not people who  
9 possess for their own use.

10 The question becomes, If Pennsylvania wants to  
11 put more emphasis on treatment, do they first want to just  
12 focus on people who are using and not selling; or do they  
13 want to also try and get some of the sellers who are  
14 selling to feed their own drug habit?

15 And that's a policy question beyond that. But  
16 the kind of street dealers that I believe Ms. Herron was  
17 talking about in Philadelphia, some of whom I had the  
18 opportunity to represent when I used to practice law, most  
19 of them were users.

20 Most of them were out selling drugs so that  
21 they could go buy drugs to support their habit.

22 REPRESENTATIVE SAINATO: Okay. I just wanted  
23 to just make a brief comment that when, you know -- the  
24 premise of the bill is -- is to target the people who are  
25 selling. And, you know, I think they have to understand

1 that if they're close to a day-care facility, as with a  
2 school or university, that there are going to be other  
3 consequences of selling the drugs. That's really all I  
4 have to say.

5 CHAIRPERSON BIRMELIN: Representative  
6 Hennessey.

7 REPRESENTATIVE HENNESSEY: Thank you, Mr.  
8 Chairman. Good afternoon, Larry. Larry, I'm a little  
9 confused because it seems to me that in Pennsylvania today,  
10 judges routinely require defendants, as part of their  
11 probation or parole, to undergo drug treatment and to, in a  
12 sense, maintain satisfactory results.

13 I forget exactly the language. What is  
14 different about the Arizona experience in Pennsylvania's  
15 already established practice? Are we talking about  
16 residential inpatient drug treatment programs where  
17 defendants are sent rather than being sent to a jail?

18 MR. FRANKEL: I think that there are two  
19 significant differences. One would be that you got some  
20 people being paroled who -- I don't know whether  
21 Pennsylvania's paroling people. But the supervision -- the  
22 supervision is, based on what I read about Arizona, is much  
23 more strict and much more in keeping with, I think, what we  
24 really expect from supervision of people on parole or  
25 probation. I think Pennsylvania --



1                   REPRESENTATIVE HENNESSEY: So more intensive  
2 monitoring?

3                   MR. FRANKEL: More intensive monitoring, more  
4 intensively making sure that they're participating in the  
5 program. Again, from my experience as a private attorney  
6 in the past, you know, you've got numbers of probationers,  
7 there's parolees. A probation officer can keep track of  
8 what they're doing.

9                   Part of the solution beyond the drug treatment  
10 program may be increasing the number of parole and  
11 probation officers so that you can have that kind of  
12 stricter supervision. I think the other significant  
13 difference in Arizona was the commitment of a decent chunk  
14 of money to increasing the number and quality of treatment  
15 slots available.

16                   I think you've already heard from Ms. Herron  
17 on behalf of the Philadelphia District Attorney about the  
18 significant problems in Pennsylvania with there being  
19 enough good slots available. So even though a judge may be  
20 putting somebody on probation requiring them to be in drug  
21 treatment, the lack of real treatment facilities may  
22 diminish the consequences of that probationary term.

23                   REPRESENTATIVE HENNESSEY: Okay. If I can  
24 just move on to something that's a little more technical in  
25 the bill. Directing your attention to the requirement of

1 some sort of posting of the existence of a day-care center.  
2 The bill talks about a thousand -- this increased  
3 punishment would be applicable if an offense occurred  
4 within 1,000 feet of the schools, universities and also  
5 now, if we pass this, a day-care center.

6           And I would think that perhaps there might be  
7 some concerns that that's going to take some defendants by  
8 surprise, you know. Certainly, I think most of us can  
9 recognize when we pass a school or a college or university,  
10 it's pretty apparent that you're passing that kind of a  
11 campus.

12           But 1,000 feet's a 5th of a mile. And it  
13 would seem to me that the day care, you know, in a sense,  
14 especially if we're going to do this as the crow flies, a  
15 day-care center could be in existence and people would not  
16 have any indication. I mean, you can be on one street and  
17 three blocks away or four blocks away there might be a  
18 day-care center that you're totally unaware of.

19           Do you have any concern, does the ACLU have  
20 concerns about the broadness of that kind of an approach?  
21 Would you have any better feeling about it if we would  
22 limit this, if there was a transaction, say, in the play  
23 area of a day-care center?

24           It would seem to me that would be pretty  
25 obvious, that people should have been aware of that and

1 they probably deserve what they get.

2 MR. FRANKEL: The notice provision I think is  
3 what may need to be slightly adjusted here; although, I  
4 didn't compare it to the existing notice provision. But  
5 there is a notice requirement. There's a notice  
6 requirement that the facility is a day-care facility, it's  
7 a drug-free zone.

8 And it says conspicuous. Now, how conspicuous  
9 is conspicuous? Maybe that needs to be in more detail.  
10 And do there also need to be signs within the 1,000 foot  
11 area? My recollection when you drive around and there's a  
12 drug-free school zone, the sign isn't just up at the  
13 school. It's more broadly posted.

14 So that the question really is one of notice.  
15 And I think if some of the notice aspects of the bill were  
16 clarified so that it wouldn't just be a sign necessarily at  
17 the day-care center but at various spots within that 1,000  
18 feet area, then there would be sufficient notice for  
19 somebody, similar to what there is for schools.

20 REPRESENTATIVE HENNESSEY: You might want to  
21 take a look at how those provisions compare with the  
22 existing provisions to see whether or not you might have  
23 some comments that you might want to send to the committee.  
24 Thank you. Thank you, Mr. Chairman.

25 CHAIRPERSON BIRMELIN: Representative Daley.

1                   REPRESENTATIVE DALEY: Thank you, Mr.  
2 Chairman. Larry, once again, I think the ACLU is mixing  
3 apples and applesauce, you know. I think Representative  
4 Sainato did point out -- and you identified the  
5 fact. -- that this bill deals with delivery or possession  
6 with intent to deliver.

7                   And you -- the Arizona experience dealt with  
8 drug users' habits. And I would tend to disagree with you.  
9 I think the people that are selling this stuff are a lot  
10 different than the people that are using the stuff. And  
11 the people -- according to my understanding about the  
12 Arizona experience, the drug users were those that were not  
13 the heinous, offensive, repugnant individuals that were  
14 selling to kids that were in school yards or kids that are  
15 in day-care centers.

16                   My understanding, day-care centers now have  
17 kids up to 5th and 6th grade. So there are drug  
18 transactions with kids of that age, and I think that's the  
19 point that we're trying to make here. And again, on the  
20 Arizona experience, let's do a little bit of mathematical  
21 extrapolation from what they're saying.

22                   \$2.5 million was saved in Arizona. In  
23 Pennsylvania, that would be about 110 prisoners that would  
24 not be in jail. It would cost us about \$22,500 a year --  
25 correct me if I'm wrong. -- to incarcerate someone in a

1 penal institution in the Commonwealth of Pennsylvania.

2           And out of that 110 people in Arizona, about  
3 85 of them were drug-free by the end of the year. Now, I  
4 think we have to look into the semantics here. Drug-free  
5 by the end of the year. But how long were they drug-free  
6 after that the question is?

7           And the 25 people that were now set free on  
8 probation out on the street, they're still out there using  
9 drugs. And I think that's another issue that we need to  
10 look at. I don't think that one year is long enough to  
11 look at the Arizona experience, even though I'm sure it's  
12 something that we all believe that minimum mandatories may  
13 have outlived their usefulness in terms of the courts in  
14 many instances.

15           But I believe Representative Sainato's trying  
16 to point out that those most heinous crimes with that  
17 obnoxious offensive behavior by someone that's selling to  
18 children in a day-care center or in the school yard needs  
19 to be addressed. Your comments.

20           MR. FRANKEL: First of all, the bill does not  
21 limit itself to people selling to children. I would point  
22 that out just for starters. It applies to selling to  
23 anybody. And I'm not here to say that you shouldn't punish  
24 those people.

25           But it seems that if we learned anything over

1 20 to 25 years of mandatory sentences, that they don't  
2 necessarily work either. And if we don't do something to  
3 cut the demand -- and the demand is the demand of the  
4 users. -- we're not going to cut the problem.

5           At some point, you know, we have to start  
6 thinking -- and even you have the drug czar for the country  
7 who even articulates that we've got to spend more on  
8 treatment if we're ever going to solve the problem. And  
9 I'm not trying to obscure the fact that the bill in  
10 question here deals with people who sell.

11           But I'm trying to raise the issue that we see  
12 over and over and over again legislation to deal with the  
13 sellers while we're hearing from more and more people,  
14 including law enforcement types, that we need to put more  
15 money into trying to reduce the demand.

16           And I think any time that we can educate more  
17 people about the benefits that may be offered from  
18 treatment, it's worth it. Finally, I would point out it  
19 was the voters of Pennsylvania who were ahead of the  
20 Legislature there. They're the ones -- Arizona. They're  
21 the ones who voted for these provisions.

22           They weren't just voting for medicalization of  
23 marijuana. They were also voting to say, Let's start  
24 treating the drug problem as a problem that we deal with in  
25 terms of treatment and not just incarceration. And I don't

1 know what the voters of Pennsylvania would say.

2           And we don't have initiative and referendum  
3 here so we can't determine that. But I do think -- and I  
4 think there's been some receptivity over the last years,  
5 having come to enough hearings and heard members of the  
6 committee, to start looking at some of these alternatives  
7 to see whether on an experimental basis we might try -- try  
8 some of the other programs.

9           There already are some drug courts active in  
10 the state of Pennsylvania. That wasn't happening a few  
11 years ago. And I think the openness to looking at what is  
12 going on in other places besides just incarcerating people  
13 may provide not only cost savings for the taxpayer but,  
14 more important, real protection for the community.

15           If you can get more users off of drugs, that  
16 may protect the community better rather than having  
17 somebody in prison for two years and then back out on the  
18 street using drugs and selling drugs again.

19           REPRESENTATIVE DALEY: I cannot argue with  
20 what you're saying. I think the only warning I have, the  
21 caveat is I think that the public in Arizona is different  
22 as the public in Pennsylvania as the weather. And I think  
23 Arizona and California have different trends, sometimes  
24 lead the nation, are very provocative and innovative.

25           And I think that issue that was presented by

1 the voters, it was concerning the municipal use of  
2 marijuana. This was tied into the -- wrapped around that  
3 particular issue, if I'm correct in my assumption of the  
4 historical --

5 MR. FRANKEL: I would say that probably with  
6 most of the voters. But I think most of the other people  
7 who were supporting the initiative were doing it because of  
8 some of these kinds of provisions that they saw, that they  
9 thought it's time to give this a try.

10 REPRESENTATIVE DALEY: Thank you, Mr.  
11 Chairman.

12 CHAIRPERSON BIRMELIN: Representative James.

13 REPRESENTATIVE JAMES: Thank you. Thank you,  
14 Mr. Chairman. And thank you for testifying. Also, a few  
15 years ago, we would never have heard the District Attorneys  
16 not -- saying they're not encouraging mandatory sentencing.  
17 So we are coming around.

18 But anyway, from what I understand you saying,  
19 Larry, is that -- is that you think that this legislation  
20 don't really address the problem and the problem is -- is  
21 the drug use and you think that we need to focus more on  
22 that. Am I correct?

23 MR. FRANKEL: That would be a fairly accurate  
24 characterization, yes.

25 REPRESENTATIVE JAMES: All right. Thank you.



1 CHAIRPERSON BIRMELIN: Representative  
2 Manderino.

3 REPRESENTATIVE MANDERINO: Thank you, Mr.  
4 Chairman. One of the issues that is summarized in the  
5 Arizona experience that you gave us that I wanted to ask  
6 you about -- because you did say that you had a chance to  
7 read the actual audit. And this is an issue that I'm very  
8 interested in because I think we overlook how important  
9 this is to our citizens.

10 And that is that the audit found that the  
11 statewide probationer sample, I guess, who was going  
12 through this drug program instead of incarceration was  
13 paying full victim restitution and nearly two-thirds paid  
14 full fines and fees.

15 Do they give us any cost on that? Because in  
16 my experience in my community is, you know, when a -- a  
17 drug user or a drug dealer does -- or a drug user does  
18 property damage or steals a car or -- or does something, my  
19 constituents want to know who's going to pay to have their  
20 house fixed and who's going to get their car repaired.

21 And those are very important issues to them  
22 that -- that I don't think often get addressed. Do you  
23 have some figures for us on that?

24 MR. FRANKEL: I don't have anything more  
25 specific than what was contained in that testimony. And

1 I'm sorry if I misled you. What I have read is the Supreme  
2 Court's report, which doesn't have those figures. We're  
3 trying to get a copy of the audit. We haven't obtained it  
4 yet. If we do get a copy, I will supply it.

5           There were two different agencies that did  
6 reports. The Supreme Court report which was issued in  
7 March was already available via the Web. The other was not  
8 yet, but we are still trying to obtain that.

9           REPRESENTATIVE MANDERINO: Thank you. I think  
10 that would be very interesting. I also would just like to,  
11 if I may, Mr. Chairman, make an observation that's not  
12 necessarily a question. But I think that the cost benefit  
13 analysis that Representative Daley was looking at is an  
14 important issue to look at.

15           I just see the numbers I guess the opposite  
16 way that he does, and I wanted to just put that on the  
17 table. My feeling is I'm used to drawing 500 foot circles  
18 around establishments in my district because we're always  
19 going through LCB zoning and zoning challenges, and that's  
20 a comparable standard.

21           So I know what 500 feet in my community means  
22 in terms of how many city blocks it is, and it's usually  
23 several city blocks. So I know if I draw a 1,000 yard --  
24 1,000 foot circle around every school, university, day-care  
25 center in my community, I probably have covered every

1 square inch of my residential community with that.

2           And if that's the case, not saying that this  
3 additional mandatory would be sought and awarded in every  
4 case, but if it was only awarded in 100 new cases across  
5 the state in a given year, that's 100 more people getting a  
6 two-year mandatory minimum sentence than were getting it  
7 before.

8           So that's 100 people a year times the 22 --  
9 \$22,500 we're spending so that's 2.25 million times two  
10 years so that's \$4 1/2 million for that 100 people that we  
11 will spend. And that \$4 1/2 million, had we spent it not  
12 on the continued incarceration, but had we -- if we  
13 recognize that this bill has that price tag associated with  
14 it and we took that 4 1/2 million, my guess is that we can  
15 serve anywhere -- I don't know what the figures are  
16 now. -- but with intensive care, my guess is we can serve  
17 anywhere, not 100 people with two years mandatory minimums,  
18 but probably somewhere in the neighborhood of 500 to 1,000  
19 people with mandatory probation and drug treatment.

20           And so those are the real numbers I think that  
21 we need to consider. And people may come out differently.  
22 But I think that we have to be honest with ourselves that  
23 this bill has a cost and that this cost is a trade-off when  
24 we're making budget decisions between some of the other  
25 things that I think people -- also, I don't think anybody's

1 disagreeing on this panel, no matter how they feel about  
2 mandatory minimums, about whether or not it wouldn't be a  
3 good idea to have more intensive probation and whether it  
4 wouldn't be a good idea to have more dollar figures or more  
5 drug treatment programs.

6           But I think when we attach the dollar figures  
7 to each of the alternatives, that's where the hard  
8 decisions come. Thank you, Mr. Chairman.

9           CHAIRPERSON BIRMELIN: I want to say that I'm  
10 quite impressed by the math skills of the members of this  
11 committee and by their ability to use them in support of  
12 their argument. It's very impressive today.  
13 Representative Walko.

14           REPRESENTATIVE WALKO: Thank you, Mr.  
15 Chairman. I did get lost somewhere in the numbers, I  
16 believe, Mr. Chairman. And I wanted --

17           CHAIRPERSON BIRMELIN: I'm sure that  
18 Representative Daley and Manderino will be able to explain  
19 to you at a later time on those.

20           REPRESENTATIVE WALKO: I just wondered if  
21 there is any evidence, Larry, about the number of  
22 individuals being convicted per se to the Drug-Free School  
23 Zone Law? Did I miss that somewhere? Was that number  
24 brought up?

25           MR. FRANKEL: I don't recall hearing it today,

1 and I have no idea what that number would be.

2           REPRESENTATIVE WALKO: Because I do -- I do  
3 agree with Representative Manderino. If it was simply a  
4 matter of a trade-off, dollars for this versus dollars for  
5 that program, I probably would not be for expanding  
6 this -- the drug-free school zones.

7           But I don't really see it as if we enact  
8 Representative Sainato's legislation, that we are doing so  
9 in lieu of expanding drug court programs and other  
10 programs. And I was wondering what you felt about the  
11 experience we've been having in Pittsburgh's drug court and  
12 Philadelphia's drug courts?

13           MR. FRANKEL: Well, I'm going to answer --  
14 respond to your first comment about it may not concern you  
15 about it being a trade-off. But I think for many of your  
16 colleagues, it is a trade-off unfortunately, that they're  
17 only willing to spend one or the other and not both.

18           And we've seen all too frequently what they  
19 are willing to spend money for, which is the cost of  
20 incarceration rather than the cost of treatment. On the  
21 drug courts, the experience -- the information I have is  
22 that while they're still relatively new and not everybody  
23 who goes through them, you know, gets off of drugs and gets  
24 on with their life, that there are significant numbers of  
25 individuals who have successfully completed whatever the

1 terms of their punishment are through the drug court  
2 program.

3           And it is certainly, you know, they vary in  
4 their quality around the country. And ones that probably  
5 provide some more of a coercive element probably are more  
6 successful. But they have demonstrated at least to a  
7 certain degree that -- they've been in existence for only a  
8 short period of time. -- that they do provide an  
9 alternative to incarceration that will provide greater  
10 protection for the public.

11           REPRESENTATIVE WALKO: All right. And just --  
12 and I understand your reason for bringing up this Arizona  
13 experience and just the whole concept of treatment. And,  
14 you know, there is an intermediate punishment task force  
15 that is ongoing as a task force of this Judiciary  
16 Committee.

17           Representatives Maitland, Daley and myself  
18 serve on it. And one of the things we are going to explore  
19 is further use of drug courts and also the whole treatment  
20 issue in general. And it's my understanding that \$7 are  
21 saved for every \$1 we invest in it. That's according to  
22 the District Attorneys Association.

23           So what I'd like to know, though, are the  
24 costs that might be associated with expanding the drug-free  
25 school zone concept to day-care centers because one thing's

1 clear, I mean, parents and others are very concerned about  
2 their children.

3           And in the short-term, before we actually do  
4 the kinds of things that really need to be done in the  
5 long-term treatment, et cetera, that you've discussed, many  
6 people are reaching out to us saying we want it to be safer  
7 for these kids. And that would be a large part of the  
8 motivation, I believe, for pushing this kind of  
9 legislation. Mr. Chairman, I have no further questions.

10           CHAIRPERSON BIRMELIN: I want to thank you,  
11 Mr. Frankel, for your testimony.

12           MR. FRANKEL: Thank you again.

13           CHAIRPERSON BIRMELIN: I want to thank you for  
14 your testimony and for coming in and sharing it with us,  
15 the information you have. And that report that you had  
16 indicated, if you could please leave that with us. Thank  
17 you very much.

18           The next person to testify is Gary Lightman.  
19 He's an attorney, and he represents the Pennsylvania State  
20 Fraternal Order of Police. Mr. Lightman's testimony as  
21 well has been handed out to members of the committee. Mr.  
22 Lightman, welcome to the Judiciary Subcommittee on Crime  
23 and Corrections.

24           MR. LIGHTMAN: Thank you very much for the  
25 opportunity to appear here. And prior to my comments

1 regarding this bill, I would only say this, that the  
2 Fraternal Order of Police has certainly no agenda with the  
3 ACLU. However, I just found it incredible to hear someone  
4 oppose mandatory sentences and yet support mandatory  
5 probation.

6 I mean, if there ever is something in this  
7 world that I'll never understand or that at least maxim  
8 hypocrisy is that. How can someone possibly stand before  
9 you and say it's about time we end mandatory sentences but  
10 I want mandatory probation?

11 What about someone that would walk in and say,  
12 Yeah, I was taking drugs or selling drugs in front of kids.  
13 But you never caught me before. This is the first time.  
14 You have to give me probation. I can't imagine there would  
15 be anybody here that would want to say that that should be  
16 a correct thing to do to somebody, and yet here we have the  
17 ACLU supporting mandatory probation. That's ridiculous.

18 But putting that aside, I would like to say  
19 this, as the attorney for the Pennsylvania State Lodge for  
20 almost the past 30 years, I consider it a pleasure to  
21 appear before you on this legislation. As you I'm sure are  
22 aware, the Fraternal Order of Police represents more than  
23 30,000 professional law enforcement officers in the  
24 Commonwealth of Pennsylvania; and we support House Bill  
25 1499.



1           From our standpoint, the standpoint of police  
2 officers, we'd like to see signs posted within 1,000 feet  
3 of the borders of the Commonwealth of Pennsylvania saying,  
4 We are a drug-free zone. Don't even come in here. But  
5 unfortunately, we are not able to achieve that goal yet.  
6 Although, that is the goal we are seeking to achieve.

7           There is obviously a practical limit to  
8 sentences and other deterrents that can be imposed. I  
9 mean, I would like to know that there could be a sentence  
10 that would stop someone from dealing, using drugs in front  
11 of/near children. But obviously through time, we've seen  
12 that certain people are not going to be deterred by  
13 sentencing.

14           Education of our children and their protection  
15 during formative years must be our primary focus if we are  
16 to attain the long-term goal of eliminating drug use in our  
17 society. For as long as there are users, there will be  
18 dealers to pray upon them.

19           The establishment of drug-free school zones  
20 with corresponding sentence enhancements has been helpful.  
21 Extending such zones to day-care centers and similar  
22 facilities where children gather should prove to be equally  
23 beneficial.

24           Now, I did note that within this bill, there  
25 is a definition of a day-care center. And there is a

1 previous witness who had said that they would like to see  
2 it expanded to cover nonprofit. I believe that in the  
3 bill, the definition excluded churches and nonprofit  
4 facilities.

5           And I think the reason they did was simply  
6 because, as one of you had pointed out, they were trying to  
7 mirror the licensing requirement of day-care centers. And  
8 I would like to see not only nonprofit, but all types of  
9 day-care centers and -- protected within -- within the  
10 definition of a drug-free zone.

11           And the Fraternal Order of Police would be  
12 happy to assist in the amendatory language to pick up  
13 nonprofit facilities as well as religious day-care centers  
14 as well. Last, I once again would like, on behalf of the  
15 police officers, to specifically express our support for  
16 the grant provision of the bill.

17           The grant money to assist law enforcement  
18 would be greatly appreciated and I'm sure very well spent.  
19 And with that, I'd be happy to answer any questions that  
20 any members of the panel may have.

21           CHAIRPERSON BIRMELIN: I know that you've been  
22 here for, if not all, most of the hearing. And I know that  
23 that one point that you brought up about the definition of  
24 the day-care center was already presented by the Department  
25 of Public Welfare.

1 MR. LIGHTMAN: Yes, sir. I was just adding  
2 one more to it, though. They were looking at just  
3 nonprofit. Another exclusion in the bill -- and it wasn't  
4 -- I think the reason that exclusion is there is simply  
5 because they're trying to mirror other legislation that  
6 defines a licensed day-care center.

7 But for example, in a church, in a religious  
8 organization, while parents are attending services, if they  
9 provide day-care facilities, as many do, I would like very  
10 much to see that also be within the perimeters or I guess  
11 here parameters of the bill.

12 CHAIRPERSON BIRMELIN: I'm sure that  
13 Representative Sainato has duly noted that and will take  
14 that into consideration. The only concern I would have in  
15 regard to what you have just said is that we need to make  
16 sure that this does not place a burden on the day care that  
17 is being provided by that religious institution.

18 MR. LIGHTMAN: I can't see how it --

19 CHAIRPERSON BIRMELIN: And I don't either see  
20 that that's a problem, but I know that that's a sensitive  
21 issue. And I think one of the previous members of the -- a  
22 previous question that one of the members brought up, the  
23 fact that there is currently a debate raging over DPW's  
24 attempts to control religious day cares.

25 And not just on Sunday morning when they're

1 providing day care for religious service, but Monday  
2 through Friday day care. So we just need to be careful in  
3 these areas.

4 MR. LIGHTMAN: Oh, I understand. I just think  
5 it would be a mark of pride to put that sign up that this  
6 is a drug-free zone. And on behalf of the police officers,  
7 I don't think there's anything that gets a police officer's  
8 blood pumping more than harm to children.

9 And seeing, I mean, for me myself, that vision  
10 of those little children leaving that JCC in LA all holding  
11 hands together is a vision I'll keep forever. And anything  
12 that protects children is something that you will see the  
13 Fraternal Order of Police strongly, strongly behind.

14 CHAIRPERSON BIRMELIN: Well, Mr. Lightman, I'm  
15 going to ask the members of the committee if they have any  
16 questions for you. And if you would answer them for them,  
17 I appreciate that. Representative Daley.

18 REPRESENTATIVE DALEY: Just to say to Gary,  
19 thank you for helping us to refocus our vision as to the  
20 real issue here and the need to continue the vigilance  
21 regarding those offenses in the Commonwealth of  
22 Pennsylvania.

23 MR. LIGHTMAN: Thank you very much.

24 CHAIRPERSON BIRMELIN: Any other members?  
25 Representative Hennessey.

1                   REPRESENTATIVE HENNESSEY: Thank you, Mr.  
2 Chairman. Mr. Lightman, let me see if I can understand and  
3 maybe get the ACLU a little bit off the hook here.

4                   MR. LIGHTMAN: This is going to be a long  
5 conversation I think we may have here.

6                   REPRESENTATIVE HENNESSEY: I think what I  
7 heard Mr. Frankel say was that the ACLU generally opposes  
8 mandatory sentences in general because it takes away from  
9 the judicial discretion and individualization of the  
10 sentences.

11                  MR. LIGHTMAN: And wouldn't mandatory  
12 probation do the same thing?

13                  REPRESENTATIVE HENNESSEY: I'm sorry?

14                  MR. LIGHTMAN: Wouldn't mandatory probation do  
15 the same thing?

16                  REPRESENTATIVE HENNESSEY: Yeah. And I  
17 suppose -- that language isn't in the bill before us. So I  
18 want to know whether or not the imposition of a  
19 probationary sentence would be the only alternative that  
20 might be available to a judge but --

21                  MR. LIGHTMAN: That was my understanding, was  
22 the difference in Arizona was that it's mandatory probation  
23 for first-time offenders nonviolent. That's the difference  
24 is you've got to treat them, not imprison them. You must  
25 give them probation.

1           And as far as I'm concerned, it's hypocrisy  
2 for someone to stand before you and oppose mandatory  
3 sentencing because that may be too harsh and take away  
4 judicial discretion and yet impose mandatory probation,  
5 which in my opinion limits judicial discretion just as much  
6 as the imposition of a sentence.

7           But I will say this, I am here to support  
8 1499. And maybe I've gotten afar. But to sit here and  
9 listen to it got me just a little concerned.

10           REPRESENTATIVE HENNESSEY: Well, just to get  
11 back, I think that the ACLU generally opposes mandatory  
12 sentences because of the increased period of incarceration  
13 that's generally called for.

14           MR. LIGHTMAN: Which to me then, if they were  
15 being appropriate, they should say they oppose mandatory  
16 probation as well. And maybe something along the lines  
17 of -- of more discretion both ways. For example, if  
18 someone comes in --

19           REPRESENTATIVE HENNESSEY: I don't disagree  
20 with you. But let's not get too far afield because that  
21 language isn't in the bill.

22           MR. LIGHTMAN: I understand.

23           REPRESENTATIVE HENNESSEY: Mandatory  
24 probation --

25           MR. LIGHTMAN: Sentence enhancements to me, I

1 supported them years and years ago with the cop killer  
2 bullets when we talked about someone committing a crime  
3 with a Teflon-coated bullet. I mean, as far as I'm  
4 concerned, I don't think you'll ever see data survey  
5 statistics that will prove wholeheartedly that sentences  
6 produce specific results.

7           And it goes all the way back to, Does the  
8 death penalty preclude people from committing murder? We  
9 can't prove necessarily anything. But if one person won't  
10 murder somebody or if one person won't sell drugs in a  
11 school zone or if one person won't shoot at a police  
12 officer, then to me -- and they were convinced not to do it  
13 because of a sentence enhancement, then I think it's a good  
14 thing.

15           REPRESENTATIVE HENNESSEY: Okay. Thank you,  
16 Mr. Chairman. Thank you, Mr. Lightman.

17           MR. LIGHTMAN: Thank you very much.

18           CHAIRPERSON BIRMELIN: Any other members have  
19 questions? I guess not. Thank you, Mr. Lightman.

20           MR. LIGHTMAN: Thank you very much.

21           CHAIRPERSON BIRMELIN: Our last testifier  
22 today is Terry Casey. She's the Executive Director of the  
23 Pennsylvania Child Care Association. Members should have a  
24 copy of her testimony on your table before you.

25           We want to thank you, Ms. Casey, for coming

1 today and for giving testimony. And when you're ready to  
2 do so, you may begin.

3 MS. CASEY: Thank you very much. Good  
4 afternoon. My name, as you heard, is Terry Casey. And I  
5 am the Executive Director of the Pennsylvania Child Care  
6 Association known as PACCA. PACCA's a statewide nonprofit  
7 association representing organizations and individuals with  
8 a professional and business interest in the child-care  
9 field.

10 Our membership is very diverse and includes  
11 the regional child-care resource developers, child-care  
12 information service agencies, some head start facilities as  
13 well as the vast majority of our membership, licensed  
14 child-care providers.

15 These providers care for the Commonwealth's  
16 children in licensed family care, group and center care  
17 settings in both the for-profit and nonprofit  
18 organizations. Our members provide care to over 200,000  
19 children in the Commonwealth from infants through school  
20 age.

21 The association is the leading advocate for  
22 safe, affordable quality child care for all who need it and  
23 desire it in Pennsylvania. PACCA focuses its energies on  
24 the development of sound public policy aimed at improving  
25 the provision of and access to child-care services in the



1 Commonwealth.

2           Every morning, over 200,000 young children  
3 awake, get up, wipe the sleepers from their eyes and get  
4 ready to go to some form of out-of-home care for the day.  
5 Every morning, parents are dashing around the house getting  
6 themselves and their children ready for the day.

7           Everyone wants that child care experience to  
8 be safe, healthy and of good quality. Children need to  
9 feel secure, and parents need to go to work knowing their  
10 kids are safe. But every day we're told of unsafe things  
11 happening.

12           Last week, as you heard earlier, California is  
13 just one example of how violence can hit our babies and  
14 preschoolers. This year, PACCA's had members report that  
15 gunfire and drive-by shootings occur around their day-care  
16 centers.

17           It seems that violence is everywhere, in all  
18 neighborhoods. And often, we see domestic problems, hate  
19 crimes and drugs as the catalyst to these violent acts.  
20 Child care is a human service business with strong  
21 licensing regulations that speak to the minimum floor of  
22 acceptable safety, health and child development standards.

23           Child-care programs must meet health  
24 regulations on immunizations, food preparation, safe  
25 buildings and more to continue to be licensed. But we

1 recognize that it's difficult to control what happens  
2 outside the doors.

3           Those happenings affect our families. Those  
4 happenings affect our children. Those happenings affect  
5 our staff. Drug use is one of those happenings. PACCA is  
6 pleased to see the Judiciary Committee looking at the drug  
7 issue and offering H.B. 1499 to begin to address the  
8 problem, and I thank you for giving me the opportunity to  
9 testify today on that issue.

10           PACCA supports the concept proposed in the  
11 bill and recommends that legislators consider not only  
12 designated for-profit facilities, but nonprofit child-care  
13 programs as well. This suggestion is based on the fact  
14 that the majority of child care is provided in nonprofit  
15 programs and many of these are often in what research has  
16 indicated to be in environments where there's drug use and  
17 drug sales.

18           I have polled a few of our members before  
19 coming here today in both the for-profit and nonprofit and  
20 religious settings, and they have all indicated that they  
21 would support this concept. I think designating drug-free  
22 zone begins to address the short-range security issue for  
23 children, families and staff.

24           It would also help to bring on the long-range  
25 message that drug use is dangerous and not acceptable in

1 the community. Parents have indicated that they work  
2 better knowing their children are in a safe, reliable care  
3 environment.

4 Research has shown that children thrive and  
5 develop in programs that are of high quality. The brain  
6 research has demonstrated that the first three years of a  
7 child's life are critical to school readiness. Other  
8 research has shown that values are instilled by age eight.

9 With over 65 percent of parents working  
10 outside the home, it becomes critical that we ensure safe  
11 and high quality care for our youngest citizens. Before we  
12 in the Commonwealth can hope to improve the quality of care  
13 for our youngest citizens, we need to assure their safety.  
14 H.B. 1499 is one step in that direction and could be  
15 strengthened by including for-profit and nonprofit  
16 child-care programs in the drug-free zones.

17 I thank you for this opportunity. And I  
18 promise you that PACCA remains committed to working with  
19 the administration and legislators to bring safe, high  
20 quality care to all children and families who need it in  
21 Pennsylvania. Thank you.

22 CHAIRPERSON BIRMELIN: Thank you, Ms. Casey.  
23 You were not here earlier. But a couple of other earlier  
24 testifiers had indicated that they would also like to see  
25 changes in the definition of the day-care center that you

1 just mentioned and including Mr. Lightman and a member of  
2 the -- of the Department of Public Welfare has also  
3 indicated that they felt it should be expanded further so  
4 you're not alone in that testimony.

5 I'm going to ask the members of the committee  
6 at this time if they have any questions for you?

7 Representative Browne.

8 REPRESENTATIVE BROWNE: Thank you, Mr.  
9 Chairman. Just very briefly. Thank you for your  
10 testimony. You had briefly mentioned that your association  
11 represents head start facilities?

12 MS. CASEY: Some of our licensed head start  
13 facilities do offer wraparound child-care programs, and  
14 they are part of our membership. Yes.

15 REPRESENTATIVE BROWNE: And correct me if I'm  
16 wrong. If the bill's expanded to include not-for-profits,  
17 that definition still would include head start facilities  
18 that are not providing child care I guess?

19 MS. CASEY: I believe you're correct.

20 REPRESENTATIVE BROWNE: Okay. I think in  
21 terms of the -- I guess in terms of the intent of the bill,  
22 it would make sense to consider that in terms of the  
23 provisions of the bill. And I would believe it's  
24 something, if the prime sponsor is -- thinks it's of  
25 interest to him, to consider amending this bill to include

1 head start facilities that are not considered child-care  
2 facilities. Thank you for your testimony.

3 MS. CASEY: Thank you.

4 CHAIRPERSON BIRMELIN: Again, Mr. Sainato is  
5 right on top of those suggestions, and he's making mental  
6 notes of them I'm sure. Thank you, Representative Browne,  
7 for your input. None of the other members have any  
8 questions for you. I stand corrected. Representative  
9 Sainato would like to at least make a comment at this time.

10 REPRESENTATIVE SAINATO: Thank you, Chairman  
11 Birmelin. I just want to make a comment. Thank you for  
12 your testimony today. And Representative Browne, I  
13 appreciate your comments, too. I'd like to work with any  
14 members of the Judiciary Committee with testimony which we  
15 did receive today, possibly to include some of the thoughts  
16 that this hearing brought out.

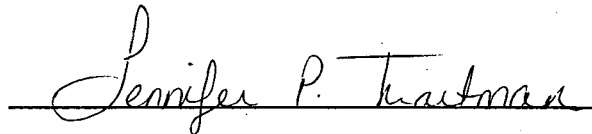
17 I think that's the purpose of this hearing.  
18 And I would just like to publicly thank Chairman Birmelin  
19 and Gannon for this opportunity of having this hearing on  
20 my bill today. That's really all I have to say.

21 CHAIRPERSON BIRMELIN: We thank you, Ms.  
22 Casey, for your testimony and your willingness to come  
23 before the committee. You are the last testifier today so  
24 as of now, this meeting is adjourned.

25 MS. CASEY: Thank you.

1 (Whereupon, at 2:36 p.m., the hearing  
2 adjourned.)  
3  
4

5 I hereby certify that the proceedings and  
6 evidence are contained fully and accurately in the notes  
7 taken by me during the hearing of the within cause and that  
8 this is a true and correct transcript of the same.  
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15 JENNIFER P. TROUTMAN

16 Registered Professional Reporter  
17  
18  
19

20 My Commission Expires:  
21 April 30, 2001  
22  
23

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