

Minutes of the Joint Legislative Oversight Committee

February 5, 2018

Room EW42, Capitol, Boise, Idaho



Cochair Senator Cliff Bayer called the meeting to order at 4:30 p.m. Attending were Senators Mark Harris and Cherie Buckner-Webb, Representatives Mat Erpelding (cochair), Maxine Bell, Caroline Nilsson Troy, and Elaine Smith. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator, and other OPE staff. Audience members included the following:

Senators Jim Guthrie and Abby Lee
Christina Walker, Executive Director, Third District Guardian ad Litem Program
Jaime Hansen, Executive Director, Family Advocates (4th District Guardian ad Litem Program)
Jared Marchand, Executive Director, CASA Idaho 6th Judicial District
Natasha Lattin, State Director, Idaho CASA
Hon. Jack Varin, Idaho magistrate judge (retired)

Report release: *Representation for Children and Youth in Child Protection Cases*

Senator Buckner-Webb moved to receive the report *Representation for Children and Youth in Child Protection Cases*. Representative Erpelding seconded the motion, and it passed by voice vote.

Cochair Bayer called on Rakesh to introduce the report. Rakesh said that the report was requested by Senator Buckner-Webb after concerns in the 2017 report *Child Welfare System*. Rakesh thanked the Administrative Office of the Courts, the Department of Health and Welfare, the CASA programs from each of the seven judicial districts, and foster children and youth who spoke to the office.

Amanda Bartlett and Bryon Welch, principal evaluators, summarized the findings and recommendations. Amanda thanked the many stakeholder groups who provided input to the evaluation. She said that representation for children and youth was an important safeguard to ensure that the state fulfilled its parental obligation when it takes kids into care. Effective representation improved outcomes for children and youth in care by reducing time spent in care and the number of placement changes and increasing services and the likelihood that children and youth will have a permanent home.

Bryon explained that state statute required representation for all children and youth in child protection cases through the appointment of a guardian ad litem, a public defender, or both. However, Bryon described a gap in representation services for a portion of children and youth in care. The gap occurred when neither a public defender nor a guardian ad litem is appointed or a guardian ad litem is appointed but the program withdraws from the case because of an insufficient number of volunteers or staff. Bryon described skills necessary for effective representation. He explained that guardians ad litem and public defenders have natural aptitudes in different skills and each can provide a form of effective representation. A model most effective in meeting six core child representation skills is one in which a guardian ad litem is appointed to represent best interest and a public defender is appointed to represent legal interest.

Amanda listed three necessary conditions for an effective system of representation: (1) early appointment, (2) training, and (3) stability. She said that Idaho was doing well to appoint representation early in its cases. Training for guardians ad litem was in place, but Idaho lacked child protection training for public defenders. The third condition, consistency and stability, was Idaho's biggest challenge. The state's shortage of volunteer advocates meant a greater likelihood for turnover in representation on a single case. Some programs had either been withdrawing from cases or using staff to represent children and youth. Staff provided effective representation when they were trained and also able to support and supervise volunteer advocates. Amanda said the stability of the guardian ad litem program was negatively impacted by the amount of time staff needed to spend in sustainability efforts, such as fundraising. Additionally, state-level coordination was insufficient to ensure consistent, quality representation across the state.

Senator Buckner Webb thanked the team for their work. She asked if there was any prescribed level of interaction between guardians ad litem and the children and youth they represented. Amanda said that CASA standards required advocates to see the child in person monthly. Statute required guardians ad litem to report to the court at specific hearings. To complete those reports, advocates would have to meet with their assigned children and youth.

Senator Buckner-Webb asked if once a month was enough time to get to know a child. Amanda said volunteer advocates considered several things to determine the appropriate number of contacts, including what the child may be capable of sharing and the age of the child. Amanda explained that advocates collected most information for their reports by talking with others and conducting an independent investigation. Representing children was not as easy as representing adults, and advocates must work extra hard to understand or **enter the child's world**. Bryon added that guardians ad litem **try to contact all people in the child's life to help add context for the child's situation**. Senator Buckner-Webb said in her experience as a social worker, one visit a month was not enough.

Senator Harris asked whether training requirements were too strenuous and prevented people from getting into the guardian ad litem program. Amanda said the team had not investigated whether training was a barrier for volunteers. Volunteer advocates had said the work was difficult and to be effective, training was essential.

Representative Nilsson Troy asked about challenges faced by rural regions. Bryon said that each district had one or more populous counties along with counties that were rural. To some degree, each district must deal with rural challenges. He said distance was a challenge. For example, getting a guardian ad litem to a home visit or to court in a different county is a challenge. Another challenge was finding guardians ad litem in small communities. Everyone knows each other in a small community, which poses a challenge for confidentiality and finding a guardian ad litem who does not know the family. Other rural challenges include the availability of resources, foster homes, and out-of-area placements.

Representative Nilsson Troy asked whether training was required for public defenders. Amanda said public defenders were required to receive continuing education credits as part of the Idaho Bar. She had found evidence that a two-day training for child protection produced positive results. Although 30–40 hours of training may be onerous, there may be ways to efficiently train an attorney. Bryon added that in rural counties, public defenders have a difficult time finding attorneys to represent one or more parents in addition to the child and the guardian ad litem. Also, rural judges may not hear as many child protection cases and may be less familiar with the child protection procedures.

Senator Buckner-Webb asked whether the lack of guardians ad litem negatively affected case timelines. Amanda said case timelines did not slow down, but the lack of guardians ad litem affected the amount of information provided to the judge. Judges ordered representation through either a guardian ad litem or a public defender. If a judge ordered a guardian ad litem and the program did not have enough people to serve, they could withdraw from the case. At that point, the case did not slow down, it just moved forward without the child having representation.

Representative Smith said the report showed district 1 with a large percentage of children and youth served by volunteer advocates as compared with other districts. She asked what district 1 was doing differently. Bryon said demographics were different. In district 1, a higher percentage of people have available time to volunteer. Amanda said that when comparing exhibits on pages 53, 48, and 26, district 1 had two differences: (1) a moderate number of cases that allowed staff to fundraise and focus on recruiting volunteer advocates and (2) fewer youth that allowed for focus on serving children with volunteer advocates.

Cochair Bayer invited a representative from the Office of the Governor to speak to the report. No one was present. He invited a representative from the Supreme Court to speak. No one was present. He invited representatives from the guardian ad litem or court appointed special advocate programs to speak.

Jaime Hansen, Executive Director, Family Advocates, thanked the committee for commissioning the evaluation. She thanked OPE for doing a magnificent job. She said that her program served the Fourth Judicial District of Ada, Boise, Elmore, and Valley counties. Family Advocates followed the National CASA standards as closely as possible and provided a volunteer guardian ad litem as well as a pro bono attorney representing the guardian ad litem in every case in Ada County. This representation requirement caused resources to be extra limited. She addressed training requirements and said guardians must complete 12 hours of continuing education training every year. To further add support to the challenges of rural areas, she said a guardian had recently submitted his mileage paperwork that was more than 1,500 miles in one month on his own dime. Ms. Hansen said many of the attorneys the program recruited to represent guardians were early in their career; she acknowledged that additional training for the attorneys would be beneficial. She highlighted a concern in her response letter: 140 children who did not receive representation at all. These kids were living in desperate situations, and oftentimes, the guardians ad litem and their attorneys were involved in major decisions. She recommended keeping children in the forefront of discussions.

Natasha Lattin, Executive Director, Idaho CASA Association, said CASA was here to serve the best interest of the kids and help communities give children opportunities for a safe and loving home. Idaho CASA started in 2017 with a grant from the National CASA after the seven district programs decided to have a state program. National CASA has recently updated program guidelines and rolled out updated training curriculum; it was expected to roll out multiple training improvements by June 2018. With additional funds that the state gave the seven programs, the programs have hired recruiters and trainers. She said the programs needed more funding and more consistent training of volunteers and the Idaho CASA planned to work with a state leadership counsel to bring additional resources to the state through National CASA.

Christina Walker, Executive Director, Third District Guardian ad Litem Program headquartered in Caldwell, said the program almost exclusively worked with rural communities. She gave the committee a description of what a day in the life of a staff member of the program looks like and what a guardian ad litem volunteer may do. She said that the program has four staff and serves about 661 cases with staff. She said that staff spend a lot of time in court, go on visits after work,

and were underpaid and underappreciated. Volunteers were even more underpaid and underappreciated. Volunteer advocates visited children after work and most were not trained in legal matters, yet they managed to help children.

Cochair Bayer called on Rakesh about how to move forward. Rakesh said the report had been provided to the judicial and health and welfare committees where policy discussion took place. He recommended a follow-up to see what actions have taken place. Cochair Bayer said a follow up could be done with consideration of OPE resources.

Rep Erpelding moved to pursue a follow-up report in one year. Senator Buckner Webb seconded the motion, and it passed by voice vote.

Other committee business

Rakesh said OPE still has two more reports to release this session. The first will hopefully be released the week of February 19 on child protection issues. After that release, the office will also release a report on the Pardons and Parole Commission. Rakesh said he did not know whether OPE would release any follow-up reports during session.

Bayer said he and Cochair Erpelding would be letting colleagues know about the opportunity to submit legislative requests for future OPE projects.

The meeting adjourned at 4:45 p.m.