

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 08, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:00 p.m.

MINUTES APPROVAL: **Senator Nuxoll** moved, seconded by **Senator Bock**, that the minutes from January 24, 2012 be approved. The motion carried by **voice vote**.

S 1276

Relating to Advertising and Placing Children for Adoption Without a License. **Rob Luce**, Administrator, Division of Family and Community Services, Department of Health and Welfare (Department) introduced **Cameron Gilliland**, Program Bureau Chief, Division of Family and Community Services, who presented **S 1276**. **Mr. Gilliland** advised that *Idaho Code* does not currently impose any sanction, fine, or criminal penalty in the event an unlicensed person or entity advertises or performs adoption services in Idaho without a license. This legislation outlines the misdemeanor penalty for advertising or performing adoption services in Idaho without a license. Additionally, the bill updates the types of media that may be used in advertising to better reflect current methods of advertising. He advised that states adopt standards for adoption services and Idaho is adopting the standard that protects the birth parents, the child, and the adoptive parents. Those standards currently can be circumvented by adoption agencies in other states advertising and working in Idaho without a license. **Mr. Gilliland** requested that the Committee send S 1276 to the floor with a do pass recommendation.

Senator Darrington asked what the purpose of the word "only" is on page 2, line 42 of the legislation. **Mr. Gilliland** deferred the question to **Mr. Luce**, who advised that he believed that section was a direct cut and paste from another section of Code and perhaps should be fixed in this legislation. **Senator Bock** commented that the word appears to have been left in by mistake in revising the legislation and could perhaps be looked at as a typo. The committee discussed the best way to address this with **Senator Darrington** recommending it be sent to the floor where the Chairman could, if necessary, ask unanimous consent for it to go to the 14th Order for amendment.

MOTION: **Senator Smyser** moved, seconded by **Senator Bock**, that **S 1276**, be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor the bill on the floor.

S 1279

Relating to Liability of Legal Guardians for Their Ward. **Mr. Luce** stated that the primary mission of the Division of Family and Community Services (Division) is to provide protection, permanence, and well-being for children and families in Idaho. The Division is statutorily responsible for child protection, foster care, adoption, and certain individuals with developmental disabilities. He advised that more than ten statutes were discovered last year that seemingly conflict with Idaho Probate Code, which states at Section 15-5-209 and 312, that a guardian is not legally obligated to provide from his own funds for the ward and is not financially liable to third persons by reason of the parental relationship for acts of the ward.

Mr. Luce explained that the purpose of **S 1279** is to resolve these apparent conflicts and clarify that, while a guardian with physical and legal custody of a ward may be held financially liable for his or her failure to supervise a ward, guardians are not financially liable to third persons for acts of the ward by reason of the parental relationship. He advised that without this legislation there may be a "chilling effect" on the Department's ability to recruit guardians for Idaho's most vulnerable population—children and individuals with disabilities. **Mr. Luce** requested that the Committee send **S 1279** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Vice Chairman Broadsword asked if parents have legal financial responsibility for acts committed by their child while they are under the care of their parents. **Mr. Luce** replied that they do; however, from his recollection there is a statutory limit on that liability. He stated there is a significant difference between being a parent and someone who steps up to become a guardian.

Senator Bock stated there are numerous instances where the signature of a legal guardian is required to accomplish something that cannot be done without someone in that official position. He emphasized his concern that financial responsibility not be imposed on the person who is willing to step into that role.

MOTION:

Senator Nuxoll moved, seconded by **Senator Heider**, that **S 1279** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Bock** will sponsor the bill on the floor.

S 1281

Relating to Adoption of Children. **Mr. Luce** introduced **Shirley Alexander**, Child Welfare Bureau Chief, Division of Family and Community Services, Department of Health and Welfare (Department) who presented **S 1281**. **Ms. Alexander** advised that this legislation is a proposal for open adoption of children in the foster care system. This legislation would provide a method for biological parents and siblings to maintain contact and communication with adoptees following termination of parental rights. She stated biological parents may be more willing to terminate parental rights if they have the ability to contact and communicate with an adoptee following termination of parental rights. Similarly, minor children over the age of 12 may be more willing to consent to a prospective adoption if they have the ability to contact and communicate with siblings or biological parents following termination of parental rights. This proposed legislation would only be pertinent to children in the foster care system, not private adoptions, and only to those adoptive parents who would voluntarily choose it. **Ms. Alexander** requested the Committee send **S 1281** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Nuxoll asked for confirmation that the contact agreement is fully voluntary for all involved. **Ms. Alexander** replied that it is.

Senator Schmidt asked if a family who is currently adopting a child gives the child the choice to maintain an open relationship with the biological parents, is that permitted, and are any doing so. **Ms. Alexander** replied that they currently do have some informal contact consents, not just in the foster care system but in private adoption as well. She advised that the law currently in place does not provide for a formal agreement, which is what the Department is asking for through this legislation. They believe that a formalized agreement will encourage all involved to feel more comfortable in choosing to consent to adoption.

Senator Schmidt moved, seconded by **Vice Chairman Broadsword**, that **S 1281** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor the bill on the floor.

Senator Darrington commented that, although he has been the slowest to come on board in support of **S 1281**, electronic media has changed this and many other things forever. He is convinced that this is a very acceptable change; although there is a risk, there are more positives than negatives.

PRESENTATION: **Brent D. Reinke**, Director, Idaho Department of Correction (Department), presented an update on the Idaho Criminal Justice Commission (ICJC), established in July 2005. He stated ICJC's 25 members come from all three branches of government, and include county, city and citizen representatives – all of whom are committed members meeting at least 10 times per year. Their goal is collaboration for a safer Idaho – to reach balanced solutions on critical issues facing Idaho's criminal justice system based on research and evidence-based best practices. He expressed his appreciation to **Senators Darrington** and **Bock** for their active involvement on ICJC.

Director Reinke reviewed six of the seven ICJC Subcommittees: Criminal Justice Research Alliance; Grant Review Council; Sex Offender Management; Misdemeanor Probation; Children of Incarcerated Parents; and Public Defense. He stated the Grants Review Council oversees all the federal funding and 12 of the ICJC members meet a couple of times per year to take care of the grants. He advised that the Research Alliance Subcommittee has done a lot of work with the University of Idaho and Boise State University and now has a significant relationship with the Washington Institute on Public Policy and the Pew Foundation. This will enable them to test out ideas using the data they have available from the Northwest.

Director Reinke provided highlights regarding the work of the Sex Offender Management Board which is looking at the overall efforts of sex offender management and working on sex offender treatment programs and treatment provider certification to ensure consistency statewide. He advised that in the area of Misdemeanor Probation a constitutional amendment is underway to clarify that the Board of Correction shall manage adult felony probation and parole. He stated that ICJC manages approximately 14,000 people statewide on misdemeanor probation with 105 officers who are all county employees. It is his desire to slow these offenders down in hopes of keeping them from becoming felons.

Director Reinke reported significant success in the area of Children of Incarcerated Parents. ICJC is challenging the faith-based community to ask the inmates they visit if they can do something to help their children. He advised the Public Defense Subcommittee is developing standards for training, job descriptions, caseloads, and contracts trying to bring some structure and more balance to this area.

Director Reinke introduced **Jim Tibbs**, Chairman of the ICJC Subcommittee on Gangs, the seventh subcommittee. He advised that the Idaho Supreme Court has upheld the constitutionality of the Criminal Gang Enforcement Act and this subcommittee is working on revising recommendations as a useful tool for communities and schools.

A copy of a slide presentation related to the presentations of **Director Reinke** and **Jim Tibbs** has been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Chairman Lodge commented that she is grateful to hear that the gang legislation has been helpful; she has received appreciation from several law enforcement officers for the assistance members of the Committee have provided.

Senator Smyser expressed her appreciation for the ICJC providing a resource to schools in regard to incarcerated parents. During the past three years that has been a prevalent topic for public schools in Canyon County.

Senator Darrington commented that one must sit in on the ICJC meetings to realize the power at that table. There are many agency heads, judges, legislators, and citizens who participate. It is a worthwhile endeavor and extremely educational.

Senator Bock commented that of all the committees he serves on, he feels ICJC is the most rewarding and important because of the issues involved.

Chairman Lodge thanked **Director Reinke** and **Mr. Tibbs** for their long and hard work, along with **Senator Darrington** and **Senator Bock** for their contribution on the Commission.

Senator Heider asked **Director Reinke** how our state laws interface with federal laws and regulations regarding child trafficking and the prison system. **Director Reinke** replied that he actually sees some major successes. The Treasure Valley Task Force is working with the FBI, the U.S. Attorney's Office, and the U.S. Marshall's Office, and with all of the counties and cities in the Treasure Valley. If they are working on a particular drug house, they communicate with each other and do not have conflicting arrests or other issues that could become a problem. These types of efforts are extremely valuable in keeping the staff and community safe.

Vice Chairman Broadword asked **Director Reinke** to share what he shared in JFAC about the price tag attached to putting prisoners in a Federal jail versus state jail. **Director Reinke** responded that Idaho committed \$25,000 to the Treasure Valley Task Force and these funds enabled us to send 133 drug or gang members to Federal court - certainly a savings for the State and a tremendous help to our communities.

ADJOURN:

Chairman Lodge commented that Canyon County is much safer due to that \$25,000 investment and the work of ICJC. There being no further business to come before the Committee, the meeting was adjourned at 3:57 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary