

MINUTES  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Friday, January 17, 2014

**TIME:** 9:00 A.M.

**PLACE:** Room EW20

**MEMBERS:** Chairman Wood(27), Vice Chairman Perry, Representatives Hancey, Henderson (Chambers), Hixon, Malek, Morse, Romrell, Vander Woude, Rusche, Chew

**ABSENT/  
EXCUSED:** Representative Rusche

**GUESTS:** Jana Kemp, Idaho Resident; Fernando Castro and Bev Barr, DHW; Miren Unsworth, DHW Rules; Erika Wainain, Cameron Gilliland, A. Prokupek, DHW FACS; Ed Hawley, Admin. Rules; Christine Pisani, DD Council

**Chairman Wood(27)** called the meeting to order at 9:00 a.m.

**MOTION:** **Vice Chairman Perry** made a motion to approve the minutes for January 7, January 8, January 9, and January 10, 2014. **Motion carried by voice vote.**

**Chairman Wood(27)** passed the gavel to **Vice Chairman Perry**

**DOCKET NO. 16-0506-1301:** **Fernando Castro**, Program Supervisor, Criminal History Unit, Bureau of Audits and Investigations, Department of Health and Welfare (DHW), presented **Docket No. 16-0506-1301**, which adds new statutory references and identifies a new class of individuals required to submit to the Department's background check. **H 125** authorized the Department to conduct criminal history and background checks for persons seeking appointments as guardians or conservators of incapacitated or developmentally disabled (DD) adults. Persons residing with these vulnerable adults were also identified as being the subjects of a Department background check.

Responding to questions, **Mr. Castro** stated that the \$65 fee breaks down to \$36.50 to the Idaho State Police for fingerprint processing and \$28.50 for unit maintenance administrative costs.

**Christine Pisani**, Idaho Council on DD, testified **in support** of **Docket No. 16-0506-1301**. She described the function of the Council and stated that results from this Rule have already been seen. Guardianship has been prevented when the background check substantiated adult protection violations. For the first time, a petitioning attorney contacted the Guardianship Evaluation Committee to share that his client had a criminal history. A petitioner was found to have financial problems that were disclosed as a direct result of this Rule.

**MOTION:** **Rep. Chew** made a motion to approve **Docket No. 16-0506-1301**. **Motion carried by voice vote.**

**DOCKET NO. 16-0506-1302:** **Fernando Castro** presented **Docket No. 16-0506-1302**, Rule changes for clarification and maintenance. Being added are requirements that providers must complete when acquiring facilities and deadlines for applicants when their cases are pending with the courts. Clarification is made to submission of application materials and fingerprints, when applicant provisional clearance occurs, and any revocation of clearance. An unconditional denial appeal process is incorporated and the list of disqualifying crimes is updated.

**MOTION:** **Rep. Romrell** made a motion to approve **Docket No. 16-0506-1302**. **Rep. Hixon** requested a full report of any 2014 fines assessed. **Motion carried by voice vote.**

**DOCKET NO. 16-0507-1301:** **Benjamin Johnson**, Supervisor, Welfare Fraud Investigation Unit, DHW, presented **Docket No. 16-0507-1301**. He described his unit and the mechanics of investigating fraud within the welfare programs. Efforts have expanded from investigating recipients of welfare to include providers of all public assistance programs other than Medicaid. This has brought to light the need to update provider definitions and terminology to be in alignment with State Statute to enhance the scope of enforcement. The changes provide Rule consistency, remove confusion with Public Assistance Provider fraud cases, and increase accountability for all public assistance programs and their providers.

**MOTION:** **Rep. Hixon** made a motion to approve **Docket No. 16-0507-1301**.  
Responding to questions, **Mr. Johnson** explained that they review transaction anomalies for anyone accepting food stamps.

For the record, no one indicated their desire to testify.

**VOTE ON MOTION:** **Motion carried by voice vote.**

**DOCKET NO. 16-0601-1301:** **Erika Wainaina**, Idaho Foster Care Program Specialist, Family and Community Service Division, DHW, presented **Docket No. 16-0601-1301**, which solidifies an increase in foster care rates that was effective July 1, 2013. The base rate increases are: \$329 per month for zero to five years of age; \$366 per month for six to twelve years of age; and \$487 per month for thirteen or more years of age. This increase allows better care for children entering the foster care system.

**MOTION:** **Rep. Hixon** made a motion to approve **Docket No. 16-0601-1301**. **Motion carried by voice vote.**

**DOCKET NO. 16-0601-1302:** **Rob Luce**, Administrator, Division of Family and Community Services, DHW, presented **Docket No. 16-0601-1302**, a Pending Fee Rule that clarifies child welfare program processes to improve safety well being and outcome for children in Idaho. Confidential registry information will only be released with prior consent to the individual in question. The individual who is the subject of the information must submit a written request. A processing fee of \$20 will cover the cost of checking and reporting the results. Additional updates are made to the Indian Child Welfare Act to reflect current mailing practices and establish registered, instead of certified, mail for tribes in Idaho.

Answering questions, **Mr. Luce** said the name-base check requests could increase to thousands per year as other entities become aware of and request this service. They have no full time personnel to handle such a volume and anticipate a single person could do 2,000 checks annually, with their salary covered by the \$20 fee. Current staff will be used until additional staff becomes necessary. This is a not an amount within the current appropriations request.

**MOTION:** **Rep. Morse** made a motion to approve **Docket No. 16-0601-1302**.

**Jana Kemp**, Idaho Resident, parent, small business owner, testified **in support of Docket No. 16-0601-1302**, stating that this type of check is important for entities with volunteers working with children and vulnerable populations. This could even become a condition of employment or volunteering. There was hope that the Idaho State Police (ISP) data could be merged with the central registry. She was told this could not happen because one kept biometric information and the other was name only. If this could have happened, the cost could have been part of the standard background process. Maintained by the DHW, it includes a five-year, ten-year and lifetime listing. She expressed concern that Idaho could be vulnerable to legal action from other states if this is not approved.

**Mr. Luce** further responded that the central registry exists by both federal and state law. Currently, an individual can be on the registry and not have a conviction, but it is not mandatory. The Department must look at the vulnerability of children and adults, in spite of a court ruling. He described the three disqualifying levels related to the severity of the occurrence. Social workers investigate, analyze, and make recommendations. At that point a letter is sent to the individual, whose name is not yet on the registry, stating their decision, and allowing 28 days to contest their action, for due process. After a fair hearing and appeal process, a review group makes a recommendation, and Mr. Luce makes the final decision. There is an additional right to appeal his decision that goes to the Director and a final right to appeal to a District Court. If someone is a Level 3, even though listed on the registry, an exemption can be requested. Such an exemption has its own appeal process. There are less than 100,000 people on the registry. Since this is a new program, it was decided to bring the Fee Rule this year because they were unsure how quickly it might grow.

**Rep. Vander Woude** commented that he will support the motion because the value and availability of the information outweighs the fee issue.

**VOTE ON  
MOTION:**

**Motion carried by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 10:05 a.m.

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Representative Perry  
Chair

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Irene Moore  
Secretary