

MINUTES
Approved by the Committee
Public Defense Reform Interim Committee
Monday, February 08, 2016
4:00 P.M.
WW17, State Capitol
Boise, Idaho

Co-chair Representative Christy Perry called the meeting to order at 4:03 p.m. and requested a silent roll call. Members present were: Co-chair Representative Christy Perry, Co-chair Senator Todd Lakey, Senators Curt McKenzie, Dean Mortimer, Jim Guthrie, and Cherie Buckner-Webb; and Representatives Lynn Luker, Janet Trujillo, Patrick McDonald and John Gannon. Legislative Services Office (LSO) staff members present were: Ryan Bush, Jared Hoskins, and Ana Lara.

Others present: Dan Blocksom, Idaho Association of Counties; Alan Trimming, Ada County Public Defender; Tera Harden, Canyon County Public Defender; Kathy Griesmeyer, ACLU Idaho; Sara Thomas, State Appellate Public Defender's Office; and Adam Jarvis, Division of Financial Management.

Note: Copies of presentations, handouts, and reference materials can be found at: www.legislature.idaho.gov and are also on file at the Legislative Services Office.

Co-chair Perry introduced the topics of discussion for the meeting to include reviewing the final draft and the IDAPA process.

Senator Buckner-Webb voiced her concerns about the timeframe that this process could take. Co-chair Lakey responded that it is important for the county to have an opportunity to resolve any issues before the state steps in. Co-chair Perry added that it is a matter of balancing due process for the citizens as well as due process for the counties.

Representative Gannon inquired about the steps in the process before the commission was to intervene. Co-chair Lakey responded that in the process there would be a notice of intent, a notice of violation, an intent to work the issue out, a notice of final decision, and then the administrative process following that. He clarified that the violation is specified early on, but the "surgical approach" is not acted on until the county has had an opportunity to challenge the validity of the notice.

Representative Luker discussed the language at the end of the page 7, line 48, and suggested striking "or provide indigent defense services" and replace it with "at the expense of the county." He also suggested making the same changes on page 8, line 9, line 15 and adjust the language on line 18 as well.

Representative Trujillo motioned for the draft to be adopted with the changes that were proposed. Representative Gannon seconded the motion. The motion passed unanimously by voice vote. Senator Mortimer asked if the language was purposely broad or if it was an audit function on page 3, line 16, where it states "review the operations of indigent defense providers." Co-chair Lakey responded that the draft had originally said "audit," but it was removed to make it less formal than an audit. Representative Luker suggested striking the words "the operations of" and the committee agreed. Senator McKenzie shared that he would have preferred for the committee to not have gone as far as it has, but the alternative is not a viable one; the need to take action is paramount because it is a constitutional duty. He opined that the committee may have created more government than needed, but he will be supporting the motion. Senator Guthrie stated that he will not be able to support this draft if it appears that this will add 6-8 employees and that he does not believe that it's necessary to start with this many.

Co-chair Perry suggested that they discuss the fiscal note to see if the committee could reach consensus. Senator Mortimer suggested that the committee use a bulk number when it comes to staff and allow the Public Defender Commission to decide the specifics. Representative Luker opined

that \$1 million dollars may be too much to start with for staff. He stated that he does not wish to under staff the commission, but the commission will probably not need all those funds the first year. Co-chair Lakey agreed with Representative Luker and suggested the commission request/justify additional staff at a later date. Representative Trujillo motioned that the committee use the 4.5 full time employees and the \$5.4 million figures as a recommendation for JFAC. Representative Gannon seconded the motion. The motion passed by voice vote with Senator Mortimer absent at the time of voting and Senator Guthrie asked to be recorded as voting nay.

Representative Luker asked the committee what the timeline was for issuing funds based upon the grant. Co-chair Perry responded that it was 60 days. Representative Luker voiced his concern regarding the commission potentially being overwhelmed with a high amount of grant applications all at once that have to be completed within 60 days. Co-chair Perry stated that the counties actually do want to complete their grants sooner so they have the information needed to work on their respective budgets. Representative Luker asked how the commission would know what budget amount they should submit to the state for the grant appropriation if it is not due until May 1st. LSO staff member Mr. Hoskins responded that the commission will be submitting their budget request on September 1st a whole year in advance; the amount that the legislature appropriates this session will be available in fiscal year 17. Senator Guthrie stated his concern that the defense standards will not be identified by the commission by the grant application deadline. Co-chair Perry responded that there will be fewer standards in place at first until they can get the rules promulgated.

Representative Luker motioned for the minutes to be approved via buck slip (email). Representative Trujillo seconded the motion. The motion passed by voice vote. Co-chair Perry stated that there would be a final draft sent to the committee members. Co-chair Lakey thanked the committee for their hard work and Co-chair Perry thanked LSO staff members as well. The meeting was adjourned at 5:14 p.m.