

## **FINAL REPORT**

Foster Care Study Committee  
HCR 59 (2016)

### **Members of the Committee**

Senator Abby Lee, Co-Chair	Representative Christy Perry, Co-Chair
Senator Bart Davis	Representative Mike Moyle
Senator Mary Souza	Representative Lynn Luker
Senator Kelly Anthon	Representative Jason Monks
Senator Cherie Buckner-Webb	Representative Melissa Wintrow

### **Staff**

Ryan Bush, Principal Legislative Research Analyst  
Jared Tatro, Principal Budget and Policy Analyst  
Ana Lara, Committee Secretary

January 31, 2017

## **I. Committee Charge**

The Foster Care Study Committee was authorized in 2016 by House Concurrent Resolution 59. The purpose of the committee was to undertake and complete a study of the foster care system in Idaho and of the Idaho Code provisions governing the conservatorship and guardianship of adults, minors and person with a developmental disability; to make recommendations for changes to state statutes; and to report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Sixty-Fourth Idaho Legislature.

## **II. Meetings**

The committee met 6 times on the following dates at the State Capitol in Boise:

1. August 5, 2016;
2. August 31, 2016;
3. September 12, 2016;
4. September 30, 2016;
5. October 26, 2016; and
6. November 28, 2016.

## **III. Scope of Investigation and Findings**

At its August 5 meeting, the committee received input from foster parents on the state of Idaho's current foster care system. The committee also heard presentations on:

- The Department of Health and Welfare's (DHW) role in foster care
- The Office of Performance Evaluation's scope, evaluation approach and methodology used in its upcoming report on foster care in Idaho
- The role of the courts in guardianship and child protection cases

The August 5 meeting concluded with a discussion of issues to be addressed by the committee at future meetings.

On August 31, the committee heard the following presentations:

- An overview of the Supreme Court's guardian ad litem program
- Perspective on Idaho's foster care system from a prosecutor, a public defender and a guardian ad litem attorney

The committee also received an update from the DHW on the foster care system followed by a Q & A.

On September 12, the committee heard the following presentations:

- Input from Casey Family Programs, Idaho Office, on Idaho's foster care system
- A discussion of foster children in the juvenile corrections system from the Idaho Department of Juvenile Corrections

- Input from a licensed social worker who works with foster children

The Department of Health and Welfare also provided data and answers to questions posed previously by the committee members.

On September 30, the committee heard the following presentations:

- Thoughts on Idaho's foster care system from the Idaho Children's Trust Fund / Prevent Child Abuse Idaho
- Input from former foster parents, foster children, birth parents and kinship care givers
- An overview of Oregon's relief nursery program from the Treasure Valley Children's Relief Nursery in Ontario

Additionally, the committee received more input from the Department of Health and Welfare followed by a Q & A. The meeting concluded with committee discussion on potential topics for future meetings and information from DHW that would be helpful for the committee.

On October 26, the committee discussed a number of topics that included the following:

- How terms such as "neglect" and "best interest" are defined in Code
- Advising parents of their rights when a child is taken into DHW custody
- The possibility of using the Rules of Evidence in a shelter care hearing
- The priority that should be given to fictive kin when placing a child in foster care
- The timeline in identifying fathers of children taken into DHW custody
- The timeframe involved in a Code X proceeding and whether that could be modified

At the final meeting on November 28, the committee heard the following presentations:

- The Idaho Supreme Court presented draft legislation on guardianship and discussed a potential loss of federal funding it uses for child protection
- The Office of Performance Evaluation gave an update on its upcoming report on foster care
- Magistrate Judge Bryan Murray discussed notification in foster care cases

Additionally, the committee discussed draft legislation that included a concurrent resolution to continue the committee's work in 2017 and a draft that would provide a written notice to parents of their rights when a child is taken into DHW and would place fictive kin in the same priority of placement as foster parents with a preexisting relationship with a child.

A list of all persons who presented to the committee may be found in the Appendix of this report.

## **V. Decisions / Recommendations**

The Foster Care Study Committee understands and appreciates the need for legislation in the area of guardianship and thanks the Idaho Supreme Court for proposing draft legislation on this

issue. However, the committee makes no specific recommendations on such legislation and will defer to the germane committees and the Court.

Additionally, the committee recognizes that there is a need for legislation that provides for notification by publication for putative parents so that putative parents are more likely to be made aware that their child is in custody of the Department of Health and Welfare and that court proceedings have begun.

Finally, it is the recommendation of the committee that:

1. The germane committees consider legislation that would provide that at a shelter care hearing held pursuant to Section 16-1615, Idaho Code, a court should inquire about visitation for persons from whose home the child was removed. In inquiring about visitation, the court should keep the best interest of the child in mind.
2. The Legislature reauthorize the committee to conduct further study of foster care in Idaho with the intent of proposing legislation if necessary. The committee believes that the forthcoming report from the Office of Performance Evaluation on foster care in Idaho will contain useful information that is valuable to the committee. The committee further believes that it needs more time to determine if legislation passed in 2016 is working as anticipated or if there are any unintended consequences.
3. The Department of Health and Welfare continue to review its internal practices to insure alignment with statute and IDAPA. Specifically, in reviewing its processes, it was identified that the Department had been relying on interpretation and past practice to evaluate placement priority in considering family placements. Further, the committee recommends the Department begin communicating its alignment with policy to consider family placement first, and then all other non-family placements options, including considering current foster families on an equal consideration with fictive or non-relative placements for permanency determinations.
4. The Department review its process for, and determination of, defining what "consider" means in relation to the federal and state guidelines that family members must be considered in first position priority for placement decisions.
5. The Department complete its development of a continuous improvement and internal review process to ensure that internal training manuals and practices align with IDAPA and statutes.
6. The Department work collaboratively with the courts, guardians ad litem, birth parents, foster families and all stakeholders in determining placement decisions. The Department is also encouraged to train its staff to recognize that judicial review and approval allows for final placement decisions to be denied by the Court in any placement decisions where a party contests the placement decision and for any reason at the judge's discretion.

## **APPENDIX**

Persons who presented to the  
Foster Care Study Committee

**Persons who presented to the committee (date of presentation)**

1. Barbara Kingen, Foster parent (9.30.16)
2. Hon. Barry Wood, Idaho Supreme Court (8.31.16)
3. Brian McCauley, Foster parent (8.5.16, 9.30.16)
4. Hon. Bryan Murray, Magistrate Judge, Bannock County (8.5.16, 11.28.16)
5. Carrie Hull, Foster parent (8.5.16)
6. Gary Moore, Department of Health and Welfare (9.12.16)
7. Jonathan Morgan, Social Worker (9.12.16)
8. Kathie Collins, Treasure Valley Children's Relief Nursery (9.30.16)
9. Kerry Hong, Idaho Supreme Court (11.28.16)
10. Kristianna Moore, Former foster child (9.30.16)
11. Lance McCleve, Office of Performance Evaluation (8.5.16, 11.28.16)
12. Linda Westwood, Foster/adoptive parent (9.30.16)
13. Margaret Zysk, Foster parent (9.30.16)
14. Marian Woods, Casey Family Programs (9.12.16)
15. Matt Shaughnessy, Former foster child (8.5.16)
16. Melissa Heyes, Birth parent (9.30.16)
17. Michael Henderson, Idaho Supreme Court (11.28.16)
18. Michelle Weir, Department of Health and Welfare (8.5.16)
19. Miren Unsworth, Department of Health and Welfare (9.12.16, 9.30.16)
20. Roger Sherman, Idaho Children's Trust Fund (9.30.16)
21. Russ Barron, Department of Health and Welfare (8.31.16)
22. Shane Darrington, Guardian ad litem attorney (8.31.16)
23. Sharon Harrigfeld, Department of Juvenile Corrections (9.12.16)
24. Sheri Scheline, Foster Parent (8.5.16)
25. Tahja Jensen, Deputy Public Defender, Ada County (8.31.16)
26. Teri Whilden, Deputy Prosecutor, Canyon County (8.31.16)
27. Valerie McCauley, Foster parent (8.5.16)