

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 30, 2017

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Harris, Anthon, Foreman, and Jordan

ABSENT/ EXCUSED: Senator Agenbroad

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.

CONVENED: **Chairman Heider** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:16 p.m.

GUBERNATORIAL APPOINTMENT: **Appointment of Sue Walker to the Idaho Commission for the Blind & Visually Impaired.** **Sue Walker** introduced herself to the Committee and stated she is seeking her first appointment. She has been the regional librarian for the Idaho Talking Book Service (Service) for 15 years. The Service loans audio and Braille books and magazines to Idahoans unable to read standard print due to a physical disability. Many of the 3,200 users have a visual disability or are legally blind. **Ms. Walker** commented while working with Service users, she has learned much about the challenges they face in daily life and is impressed with their persistence in overcoming them. She has worked collaboratively with the Commission for the Blind & Visually Impaired (Commission) to identify and serve eligible persons and has learned about the programs the Commission offers to help the visually impaired meet their goals. When she learned of a vacancy on the Commission, she saw it as an opportunity to serve the visually impaired in a broader capacity. Her knowledge of the programs available to this audience, her deep interest in serving them, and her ability to work collaboratively with diverse persons will allow her to serve in the position productively and support the Commission's mission.

Senator Martin asked for what region is Ms. Walker the regional librarian, and what is her affiliation with the Service. **Ms. Walker** answered the Service is a national organization, and there is a regional library set up in each state. She is the regional librarian for the State of Idaho and works under the auspices of the Idaho Commission for Libraries. **Senator Martin** further inquired if there is a particular library Ms. Walker works from or does she work at multiple libraries. **Ms. Walker** replied she works at the physical library housed within the Idaho Commission for Libraries building. The Service serves the entire State of Idaho.

Vice Chairman Souza asked how technology has changed the experience for visually impaired persons and what opportunities Ms. Walker sees coming in the future. **Ms. Walker** responded technology has made a world of difference to help people access written materials that are now available digitally, and even Braille is now available digitally. Technology helps people learn to live independently and find employment, but she is primarily familiar with the Service.

Chairman Heider advised Ms. Walker the Committee would vote on her appointment the following day.

S 1004

Relating to the Board of Nursing. Sandra Evans, Executive Director of the Idaho State Board of Nursing, introduced herself to the Committee to present **S 1004** which would amend Idaho Code § 54-1403. This legislation: 1.) makes non-substantive technical corrections; and 2.) increases compensation paid to appointed members of the Board of Nursing for their public service while serving. **Ms. Evans** explained statutory compensation paid to Board of Nursing members is set forth in Idaho Code § 59-509 (see Attachment 1). Current compensation for Board of Nursing members has remained static since 1998 at level (h) of the compensation schedule which is \$50 per day. To adjust for inflation and for consistency with compensation paid to members of other Idaho professional licensing boards as well as other state boards of nursing, **S 1004** provides for an upward adjustment to \$75 per day as provided in subsection (i) of the compensation schedule. **S 1004** will have a negative fiscal impact on the Board of Nursing's dedicated fund estimated at less than \$5,000 per year. The Board of Nursing's fund balance supports this loss of revenue without the need to raise license fees in the foreseeable future. There is no fiscal impact on the General Fund.

Senator Martin asked how long it has been since the compensation was changed. **Ms. Evans** responded it was last changed in 1998.

MOTION:

Vice Chairman Souza moved to send **S 1004** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

H 0006

Relating to Controlled Substances. Alex Adams, Executive Director of the Idaho State Board of Pharmacy, introduced himself to present **H 0006**, the Board of Pharmacy's annual update to the Controlled Substance Act. The Board of Pharmacy regularly schedules, reschedules, and de-schedules products in accordance with changes in federal law.

Mr. Adams informed the Committee the bill adds two new products that were approved by the Federal Drug Administration (FDA) and scheduled by the Drug Enforcement Administration (DEA): 1.) Eluxadoline, a product used for irritable bowel syndrome, placed in Schedule 4; and 2.) Briviact, used for partial-onset seizures, placed in Schedule 5. While updating the Controlled Substance Act, the Board of Pharmacy identified three products that were scheduled more stringently than federal law. **H 0006** makes the following changes: 1.) Butorphanol was moved to Schedule 4; 2.) Fospropofol was moved to the depressant section in Schedule 4; and 3.) Propylhexedrine was removed from the list of Idaho controlled substances. The bill adds two synthetic products to the Idaho schedule. One, called U47700, is a synthetic opioid that is reported to be more potent than morphine and has been linked to two deaths in the State. Because it was not scheduled either federally or in Idaho, individuals were buying it online and having it shipped to Idaho. The Board of Pharmacy did a temporary rule last year to schedule it as a Schedule 1 substance, and the temporary rule expires at the end of the session. The bill contains an emergency clause to avoid a gap between expiration of the temporary rule and the effective date of the legislation.

Mr. Adams explained the process the Board of Pharmacy uses to schedule, de-schedule, and reschedule products outside a legislative session is to promulgate a temporary rule. The bill codifies this process in statute.

Senator Jordan asked if there is a mechanism in place to address new drugs as they show up in communities. **Mr. Adams** responded the Board of Pharmacy works very closely with the Office of Drug Policy and Forensic Labs. These agencies are always identifying new products, and they apprise each other of new drugs. That is how U47700 came to light in July 2016, and by early August 2016, the Board of Pharmacy adopted a temporary rule to place the drug in Schedule 1. It was a quick and collaborative process. Since U47700 was placed in Schedule 1, Mr. Adams is not aware of anyone shipping it into the State or any additional deaths from the drug. This is one reason the Board of Pharmacy wanted to codify how a drug could be scheduled outside a legislative session.

Senator Martin asked if the list of controlled substances is federally mandated. **Mr. Adams** replied every state maintains its own schedule of controlled substances. Where something falls in the schedule determines who can prescribe the drug, how many refills are allowed, and how the drug is stored. By having a drug on both the State and federal schedules, there is dual State and federal jurisdiction to enforce the law. **Senator Martin** inquired if the Board of Pharmacy agrees with the additions to the list. **Mr. Adams** answered the Board of Pharmacy does agree. In general, the Board's approach is not to be more stringent than federal law and tries to harmonize with federal law.

MOTION:

Senator Harris moved to send **H 0006** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

PRESENTATION:

First Annual Foster Care Report for Fiscal Year 2016. **Miren Unsworth**, Deputy Administrator for the Division of Family and Community Services in the Department of Health and Welfare (Department), introduced herself to the Committee to present its first annual Foster Care Report for FY 2016 (see Attachment 2). The Child and Family Services Program (Program): 1.) receives reports of abuse and neglect; 2.) assesses allegations of abuse and neglect; 3.) provides ongoing case management services to children, either in their homes or in out-of-home placement settings; and 4.) assures children have safety and permanency in their homes. The Program has a centralized intake unit to receive reports of child abuse and neglect. The intake unit is staffed 24 hours a day, 7 days a week by licensed social workers. The reports are entered into a data system and prioritized for response.

Ms. Unsworth informed the Committee once a referral is prioritized, regional staff initiates a comprehensive safety assessment. Upon completion of that assessment, the Department must determine whether maltreatment occurred and whether a child is safe or unsafe. When a child is determined to be unsafe, the case remains open for services. If the child is determined to be safe, the case is closed with no additional intervention. When a safety threat exists, a safety plan must be put in place to manage the child's safety. Efforts are made to maintain the child in the home, or the safety plan may necessitate removal of the child. During FY 2016, the Department received 22,346 referrals for possible abuse, neglect, or abandonment. Of those referrals, 8,884 were assigned for completion of a comprehensive safety assessment, and 1,321 children were placed into foster care.

Ms. Unsworth explained there are several ways a child can be removed from his or her home in Idaho. First, law enforcement can determine a child is in a dangerous situation and declare the child to be in imminent danger. Such circumstances include when the home environment poses a significant health or safety hazard to the child, the child has serious physical injury as a result of maltreatment, or there is no caregiver in the home. This is the most common way children enter foster care in Idaho.

Ms. Unsworth said the Department can also petition the court for an order of removal after determining it is unsafe for a child to remain in the home. An example is when the caregiver is not providing adequate supervision due to mental health or substance use issues or when the safety plan has not or cannot adequately address the child's safety needs in the home.

Ms. Unsworth provided the third method is by Rule 16 expansion. In Idaho juvenile offenses are governed by the Juvenile Corrections Act (JCA) and the Idaho Juvenile Rules (IJR). Rule 16 of the IJR allows the court to expand a JCA proceeding into a Child Protective Act (CPA) proceeding whenever the court has reasonable cause to believe a juvenile living or found to be within the State comes within the jurisdiction of the CPA. Neglect accounts for the majority of cases involving the removal of children from their homes by the court system. The court has responsibility to determine whether the removal of the child is warranted and to make other key decisions throughout the proceeding.

Ms. Unsworth stated the total number of children served in the foster care program during the past five fiscal years has remained steady at an average of 2,477 children per year. Once a child has been removed from the home, the Department works closely with the family to resolve the safety issues and return the child to the home. During FY 2016, 1,194 children exited foster care. Of this number, 862 or 72 percent were reunified with their parents. Other reasons for children leaving foster care include: adoption by a non-relative; adoption by a relative; placement in another jurisdiction such as the custody of the Department of Juvenile Corrections; aging out of foster care after turning 18; guardianship with a non-relative; or guardianship with a relative.

Ms. Unsworth explained the Department's goal is to limit the distress experienced by the child when he or she is removed from the home, and placement in a relative's home is prioritized. When a child is placed in foster care, the Department immediately begins searching for relatives and fictive kin replacement options. "Fictive kin" means someone who doesn't meet the statutory definition of a relative but who has a significant relationship with the child, such as a close family friend. Another priority is to keep siblings together. The Department must obtain information about relatives from the birth parents and the child, immediately contact relatives, and assess those relatives to determine if they are a viable placement option. This can be completed the same day a child is placed in foster care or later in the case. If there are no local relative or fictive kin placement options, a child is typically placed with a non-relative foster parent unless the child has significant mental health or behavioral health issues which may require group home or residential care.

Ms. Unsworth advised the Department tries to match the child with an appropriate foster family with the skill, knowledge, and expertise to meet the child's needs in the same community the child was living in. Due to the ongoing decline in licensed foster homes, this can be challenging. The Department has seen a decline of approximately 130 licensed foster homes over the past four years. The decline is likely related to a number of factors, including an increase in relative and fictive kin families who often close their foster care licenses after permanency for the child is achieved; families closing their licenses after adopting other children; changes in life circumstances; and families' frustrations over interactions with the Department or the overall system.

Ms. Unsworth further informed the Committee the Department's emphasis is on placement stability and limiting the number of moves for children in foster care. During the 2016 legislative session, changes were made to the CPA to improve communication with foster parents. In FY 2017 the Department began sending written notification to foster parents regarding placement changes. The Program is focused on preventing unannounced moves unless there are safety concerns. Changes were also made last year to institute judicial approval in contested placement decisions. Of the 1,398 children who were in foster care on June 30, 2016, approximately 42 percent were placed in non-relative foster homes; 9 percent were placed in treatment foster homes, group homes, and residential treatment centers or hospital and detention settings; 6.6 percent were placed with fictive kin; 4.5 percent were placed in non-relative pre-adoptive settings; and 12 percent were placed in their own homes with court oversight.

Ms. Unsworth mentioned the Department improved its information systems, and next year the Department hopes to have more specific information regarding the reasons for placement changes. Over 88 percent of children have fewer than two placement changes, and 65 percent only experience one placement setting.

Ms. Unsworth advised once a child is placed in foster care, social workers monitor progress in achieving the family service plan and regularly assess the safety, permanency, and wellbeing of the child. If a child is still in foster care at 12 months after the date of removal, the court conducts a permanency hearing, and the Department presents its recommendations to the court. Options include reunification, legal guardianship with a relative or non-relative, adoption by a relative or non-relative, or another permanent planned living arrangement for youth 16 years and older, commonly referred to as long-term foster care. This means the child will likely remain in foster care until aging out upon his or her 18th birthday.

Ms. Unsworth reported the Department has made a number of modifications to existing practice standards, and its focus has been on improving internal and external communication. Next month, the Department will undergo a comprehensive federal child and family services review. Idaho has been through two prior reviews and has successfully completed its program improvement plans during each of the reviews. The Program will begin working with its partners and stakeholders to develop a program improvement plan to address areas for improvement identified in the review.

Ms. Unsworth said the Program's goals for improvement are included in the Department's Strategic Plan and the Program-specific Child and Family Services (CFS) Plan. The Strategic Plan sets a prioritized timeline for meeting measurable objectives and attained goals to better serve the people of Idaho. Within that plan is a specific initiative to transform child welfare systems to improve outcomes for children. The CFS Plan is a five-year plan which is submitted to the Department's federal partner, and it also sets forth vision and goals to strengthen Idaho's overall child welfare system. The work of the interim foster care study committee, pending Office of Performance Evaluation study, and federal review process will inform Program improvement efforts. The Department is excited about its initiative to transform child welfare systems and have a dedicated multidisciplinary committee to help guide that initiative.

Ms. Unsworth explained the Department's goals are to: 1.) develop a robust, sustainable, and effective foster care program; 2.) retain a highly-skilled work force and ensure that work force has the resources and support necessary to meet the needs of the families served; 3.) ensure children are only placed in foster care when they are unsafe and a sufficient safety plan cannot be managed in the home; 4.) return children home as soon as a sufficient safety plan can be maintained in the home; 5.) have a functional and sustainable continuous quality improvement system; 6.) give the Department party status in child protective act cases; 7.) have legal representation in all CPA cases; and 7.) modernize the Department's information system to better support the delivery of services.

Senator Martin inquired why the total number of children served in foster care has remained relatively constant even though the number of referrals has increased. **Ms. Unsworth** answered the Department has refined its safety assessment practices to ensure children are coming into care only when absolutely necessary and a safety plan cannot be managed in the home. The Department is providing more in-home services than in the past to maintain children in their homes. The number of safety assessments has increased, but the number of removals has remained level and has even gone down over the last ten years. The Department is paying close attention to the data because there is a spike this fiscal year due to opioid use, and an upward trend is expected. **Senator Martin** asked for numbers over the last ten years and for 2017 so far. **Ms. Unsworth** replied the Department served about 3,500 children in FY 2006. Through targeted efforts, the numbers have gone down since then. **Ms. Unsworth** stated she did not have the FY 2017 numbers but could provide them to the Committee.

Senator Lee asked what led the Department to bring a proposal to increase foster parent payments, and inquired whether the Department believes it will attract more foster families. **Ms. Unsworth** answered she knows of no foster family providing care to make money. Idaho is far behind other states in reimbursement rates, and the cost of care is increasing. **Ms. Unsworth** said she did not expect to see an increased number of foster families as a result, nor did she think it would affect retention rates very much.

Vice Chairman Souza inquired if the Department has a plan to help foster families feel more appreciated and valued in non-monetary ways. **Ms. Unsworth** responded the most important component is relational. When there is a crisis, sometimes the Department starts treating foster families like they are employees. The Department wants to identify ways to provide concrete support to the foster families, such as additional training and a program of resource "para-mentors" who are foster parents who mentor current foster parents. The Department is also considering a pilot program to create a foster care liaison to provide customer service to foster parents, rather than relying on the social workers.

Senator Lee inquired if the Department has any information on the effect of last year's legislation requiring a judge to ask about psychotropic drugs at each of the hearings, given that Idaho is ahead in having children in foster care on psychotropic drugs. **Ms. Unsworth** stated it is too soon to know the effect, and the Department has no data. The standardized court reports have been modified to ensure that information is included, and the judges are making inquiry about those medications. A team is working with Division of Medicaid and the Drug Utilization Review Board to track and monitor the data and is also conducting some case review of high profile users to see what can be done to address the issue.

Chairman Heider asked if most foster families have their own children, and if so what are their ages. **Ms. Unsworth** replied most foster families are parents and with children still in the home, but some have never parented and some are empty nesters.

Chairman Heider asked what happens to foster children who turn 18 and leave the foster family environment and whether there is anyone to watch out for them. **Ms. Unsworth** responded the Department has some support for those young people. Any 18-year-old going out into the world needs a lot of support, and some foster children have experienced significant trauma so it can be more difficult for them. The Department has an independent living program, and children can receive case management services to the age of 21. There is some financial support available to help with job readiness and limited help with room and board. In addition, there are education and training vouchers available up to \$5,000 a year for post-secondary education up to the age of 23. Some colleges and universities have a guardian scholars program. Boise State University has a unique program with a social worker on campus who meets with these young people every week to be a point of contact on campus and connect them with other young people on campus who aged out of foster care.

ADJOURNED:

There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:05 p.m.

Senator Heider
Chair

Jeanne Jackson-Heim
Secretary