

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, March 13, 2017

**TIME:** 1:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Lee, Senators Hagedorn, Anthon, Agenbroad, Foreman, Burgoyne, and Nye

**ABSENT/ EXCUSED:** Senator Davis

**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 Lodge** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:02 p.m.

**PRESENTATION:** **Regarding foster care providers. Rakesh Mohan**, Director, Office of Performance Evaluations (OPE), thanked the foster parents and the social workers as they are the heart and soul of the child welfare program. This report (attachment 1) discusses how to build a bridge between those two groups, and it was completed with help from the Department of Health and Welfare (Department).

**Mr. Mohan** identified the three main areas this report addresses as solving complex problems using a systems approach, establishing preventive measures, and establishing a legislative oversight committee to provide accountability and access to all stakeholders.

**Lance McCleve**, OPE, explained that he would be sharing the key findings from the Child Welfare System report. He mentioned that there are important issues leading to inconsistency in program delivery, lack of program fidelity, and a lack of accountability. He identified the issues as:

- a shortage of foster parents, causing decisions to be made according to availability rather than what is best for the child;
- excessive work loads compromising performance;
- cultural compromise, whereby workers cannot complete their work consistently with high quality, erodes accountability and produces workers always in a state of crisis.

**Mr. McCleve** pointed out that taking a systems approach requires that the many stakeholders involved in child welfare come together on every case to provide a positive outcome for the child. The Department is the most visible part of the system, but there are many other participants who are involved that can have negative influences on the operation of the child welfare system. He reported that after extensive study, the OPE recommends the formation of a system-wide oversight entity, preferably from the legislature, to ensure ongoing accountability, visibility, and accessibility for all child welfare partners and stakeholders (attachment 1).

**PASSED THE GAVEL:** Chairman Lodge passed the gavel to Vice Chairman Lee.

**Senator Hagedorn** asked if there were any metrics for measurement of the process. **Mr. McCleve** answered that there are different aspects of accountability for which metrics have been established. He pointed out the child and family review process which considers 14 different conditions, resulting in the development of an improvement plan.

**Senator Nye** asked for the financial amount needed to correct the problem. **Mr. McCleve** explained that the most costly concern deals with the workload issues, and providing the staff needed. Other costs can be supported within the existing budget.

**Senator Burgoyne** inquired concerning the social workers having 28-38 percent more cases than they can effectively serve. He surmised that a greater proportion of the problem and of the money may be in that area. **Mr. McCleve** replied that all of the issues are interrelated. The workload problem is an underlying issue perpetuating other issues; resolving that alone will not solve everything. He advised that the workload issue should be one of the first problems to address.

**Senator Burgoyne** stated there is some legislation to improve the stipends for foster parents. He requested Mr. McCleve elaborate on the main issues surrounding foster parents. **Mr. McCleve** indicated that the significance of the shortage of foster parents varies around the State. Recruiting and training foster parents has always been difficult, and the problem is getting worse. He observed that there are some things Idaho can fix such as communication, responding promptly to concerns, and support. **Mr. McCleve** expressed concern that something else is happening societally that is compelling the reduction in the foster parent pool. **Senator Burgoyne** viewed the societal issue as the most important issue. He felt that the growing expenses facing today's young families would impact the number of people in a position to be foster parents.

**PASSED THE  
GAVEL:**

Vice Chairman Lee passed the gavel to Senator Hagedorn.

**HCR 19**

**Regarding a concurrent resolution stating findings of the legislature and authorizing the appointment of a committee to undertake and complete a study of the foster care system in Idaho.** **Senator Lee** explained that **HCR 19** is a request to continue the interim committee for foster care. **Senator Lee** declared that the interim committee has brought the Department, the courts, the foster families, and the parents together in a collaborative way. She noted that the report presented by OPE is just a summary, and she emphasized the need for an oversight committee. Issues the interim committee needs to continue analyzing include what it means to be in the best interest of the child, and what is examined in considering placement.

**MOTION:**

**Senator Anthon** moved to send **HCR 19** to the floor with a **do pass** resolution. **Senator Agenbroad** seconded the motion.

**Senator Nye** asked if this interim committee has a sunset, and why it is being paid for by the Legislature. He also asked about non-legislative members receiving expenses other than their per diem. **Senator Lee** commented that the reference to non-legislative members is standard language and allows for experts to be consulted. The appropriation is also standard for interim committees. She pointed out that this request is just for the next interim, not ongoing.

**Senator Burgoyne** observed that like the criminal justice system, the child welfare system deals with intractable problems. He pointed out that although the State has made progress, crime will never go away, nor will foster children and the need for foster parents. He perceived the oversight function to be a viable possibility.

**Senator Hagedorn** declared that it is critical to involve all stakeholders in bringing about change, and oversight is an important aspect of the challenge.

The motion passed by **voice vote**.

**PASSED THE  
GAVEL:**

Senator Hagedorn passed the gavel back to Vice Chairman Lee.

**H 146**

**Regarding sexual assault evidence. Representative Melissa Winthrow** stated that this bill is about preservation of sexual assault evidence. She introduced Matthew Gamette, Assistant Director, Idaho State Police (ISP) Forensic Services Labs (labs). **Mr. Gamette** presented the audit explaining the location of previously unsubmitted sexual assault kits. These untested kits had been on law enforcement shelves until 2014 when efforts were focused on finding and testing these kits. Submission of the kits from the various agencies was voluntary. **Mr. Gamette** advised that agencies were helpful and reviewed the kits, submitting those they deemed appropriate. Idaho Code § 67-2919 became effective July 1, 2016 and required the Labs to provide a one-time report to the Legislature of all untested sexual assault evidence collection kits existing in Idaho. Law enforcement agencies were actively engaged in completing this task, and all agencies are now complying with the required process in handling the kits. **Mr. Gamette** discussed the process used in examining the kits, and the kit-tracking software that allows the labs to know where various kits are at any given time. He shared data collected from the audit (attachment 2).

**Senator Anthon** asked if there is a centralized data base that has DNA evidence that can be cross checked. **Mr. Gamette** replied that there is a DNA database for the State of Idaho and it feeds into the national DNA database.

**Senator Hagedorn** asked how Mr. Gamette determined the number of kits needed. **Mr. Gamette** indicated the number was determined by the budget.

**Representative Winthrow** explained that the information presented by Mr. Gamette was the result of the passage of Idaho Code § 67-2919 last year. **H 146** takes the use of the kits further by dealing with the preservation of the evidence. If the evidence is not preserved, perpetrators are less likely to be held accountable, victims already traumatized may incur further emotional distress by perceiving the system as having forgotten them, and someone who is falsely charged may be incarcerated. **Representative Winthrow** mentioned that some victims do not come forward for several years or the perpetrator is not known at the time of the crime, so it is important to preserve this evidence. She informed the Committee that Idaho is one of seven states in the country that have no law establishing standards for preserving evidence. She emphasized that this legislation improves victim trust, helps provide consistency for law enforcement, and may help exonerate someone falsely charged. **Representative Winthrow** then identified the changes in the bill.

**Craig Kingsbury**, Chief, Twin Falls Police Department, and Vice President of the Idaho State Police Association (ISPA), outlined his background in law enforcement and in dealing with sexual assault cases. **Chief Kingsbury** indicated the approval of the ISPA for law enforcement being the entity to contact victims rather than the prosecutors, as well as the retention rate for the evidence.

**Senator Hagedorn** asked about the consolidation of storage facilities. **Chief Kingsbury** replied that storage consolidation has not been considered. The law enforcement agency handling the case stores the evidence so the agency and the prosecutor have access to it.

- TESTIMONY:** Testimony in support of the bill was offered by
- Sheriff Kieran Donahue, Canyon County Sheriff's Department and the Idaho Sheriffs Association;
  - Linda Anderson, AAUW of Idaho (attachment 3);
  - Ilse Knecht, Joyful Heart Foundation (attachment 4); and
  - Jennifer Landhuis, Idaho Coalition Against Sexual & Domestic Violence (attachment 5).
- MOTION:** **Senator Anthon** moved to send **H 146** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.
- PRESENTATION:** **Vice Chairman Lee** announced that the Idaho Department of Correction Report will be rescheduled.
- ADJOURNED:** There being no further business at this time, **Vice Chairman Lee** adjourned the meeting at 2:00 p.m.

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Chairman Lodge  
Chair

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Carol Cornwall  
Secretary