

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 23, 2018

TIME: 3:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: None

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 Health and Welfare Committee (Committee) to order at 3:05 p.m.

MINUTES APPROVAL: **Senator Agenbroad** moved to approve the Minutes of January 10, 2018. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Idaho Department of Juvenile Corrections (IDJC).** **Sharon Harrigfeld** introduced herself as the Director of the Idaho Department of Juvenile Corrections. She introduced the presenter, Kevin Bernatz. **Mr. Bernatz** stated that he is the superintendent of the IDJC facility in Lewiston.

Mr. Bernatz explained that IDJC works with juveniles for whom preventive measures and community interventions have failed. He noted that 97.5 percent of Idaho's youth never come into contact with IDJC. Only five percent of juveniles on probation are committed to IDJC.

IDJC tries to keep juveniles in contact with their regular social network. IDJC also seeks to minimize the time that juveniles spend in corrections facilities by maximizing the effectiveness and focus of treatment plans. IDJC focuses on reducing recidivism rates.

Mr. Bernatz explained that various assessments allow officials to determine whether a juvenile ought to be committed to IDJC. He referenced Rule 19, a system in which everyone directly involved in a juvenile's life meets and discusses the juvenile's care. These individuals include family, prosecutors, probation officers, and others. Rule 19 helps officials determine a juvenile's level of need and proper placement.

Mr. Bernatz stated that community pass-through funding is intended to fill gaps in service, especially in small communities. He explained that the Community Incentive Program served 176 juveniles in 2017. The Mental Health Program served 245 juveniles in 2017. In addition, Millennium Projects across the state are dedicated to restorative practices in schools. 90 percent of juveniles who completed Millennium Project programs were never committed to IDJC.

Mr. Bernatz noted that IDJC funds a Substance Abuse Disorder Program which provides services for youth with substance use disorders that do not require commitment to the IDJC. The Substance Abuse Disorder Program served 1,180 juveniles in 2017. IDJC spends around \$2,998 per juvenile that receives services from the Substance Abuse Disorder Program. **Mr. Bernatz** noted that this amount

is much lower than the \$102,000 spent for each juvenile in IDJC custody.

Mr. Bernatz explained that all program curriculum, activities, and interventions focus upon accountability, competency development, and community protection. He acknowledged that some youth do not fit into the cognitive therapy support model. These "complex juveniles" often have significant mental health needs, significant trauma issues, and/or substance abuse disorders.

Vice Chairman Souza inquired what percentage of juveniles committed to IDJC come from the foster care system. **Mr. Bernatz** responded that he was unsure of the percentage. He stated he would investigate the matter.

Mr. Bernatz described the treatments and services available for complex youth at IDJC. IDJC teaches staff how to properly interact with complex youth. **Mr. Bernatz** noted that many complex youth struggle in school. IDJC teachers are required to undergo the same training as other IDJC staff so that they know how to interact with complex youth. In fiscal year (FY) 2017, 28 juveniles released from IDJC's care had high school diplomas; 55 had General Education Diplomas (GEDs). Others released had earned college credits or technical certificates.

Mr. Bernatz stated that 90 percent of juveniles receive a taxable wage after their release. Juveniles in IDJC also increase their math and reading scores and complete community service hours. **Mr. Bernatz** asserted that family engagement is very important in the juvenile rehabilitation process. IDJC offers family support services. For example, IDJC provides gas cards and paid hotel stays for parents who cannot afford to visit their child. **Mr. Bernatz** also noted that IDJC youth have a 28 percent recidivism rate and 15 percent recommitment rate.

Mr. Bernatz explained that Performance-based Standards (PbS), a national system which compiles data and assesses program success, evaluates IDJC facilities regularly. IDJC facilities consistently earn high PbS scores. In 2017, the IDJC facility in Nampa received the Barbara Allen-Hagen Award from PbS. **Mr. Bernatz** then showed a video about the Nampa facility's success.

Senator Lee asked if there is any relationship between juvenile probation upon release and recommitment rates. **Mr. Bernatz** explained that after release, juveniles may be placed on probation by the county. He stated that he did not know if there was a relationship between county probation and recommitment rates.

Senator Lee asked if juveniles that return to IDJC after juvenile probation are counted towards the recidivism and/or recommitment rates. **Ms. Harrigfeld** stated that juveniles who return after probation are counted in the rates.

PRESENTATION: Idaho Criminal Justice Commission Legislative Update. **Ms. Harrigfeld** introduced herself as the Chair of the Idaho Criminal Justice Commission (ICJC). She stated that the ICJC has 26 members from the community and various levels of government; the members meet around ten times each year.

Sandy Jones introduced herself as the Executive Director of the Idaho Commission of Pardons and Parole and a member of the ICJC. She explained that the role of the ICJC is to advise the Governor on criminal justice issues. **Ms. Jones** noted that the ICJC has members from each branch of government. She asserted that the ICJC's broad range of members allows for greater communication between criminal justice agencies.

Henry Atencio introduced himself as the Director of the Idaho Department of Corrections and a member of the ICJC. He stated that he values his role in the ICJC, because it allows him to network with law enforcement professionals and

leaders in Idaho's criminal justice system.

Mr. Atencio reported that the ICJC reviews and updates its strategic plan on a regular basis. The goals of the ICJC are to: 1.) combat crime and protect citizens; 2.) provide policy makers with accurate information; and 3.) promote efficiency and effectiveness in the criminal justice system. To fulfill these goals, the ICJC has created a "Criminal Justice Dashboard," which includes information on victims, offenders, and community indicators. The ICJC also reinstated its "Educational Climate Survey," which provides information on gang involvement. To promote efficiency and effectiveness, the ICJC created strategies for sharing data between criminal justice agencies in Idaho.

Christina Iverson introduced herself as the Statewide Criminal Justice Services Manager and ICJC member serving on the Pretrial Justice Planning Subcommittee. The Pretrial Justice Planning Subcommittee examines and recommends changes to pretrial justice practices in Idaho. Pretrial programs provide information about defendants to judges prior to arraignment and monitor defendants' compliance with court orders. The subcommittee made the following recommendations for pretrial justice in Idaho: 1.) conduct risk assessments, 2.) ensure representation at arraignment, 3.) utilize a central case management system; 4.) monitor and supervise pretrial practices; 5.) expand Citations in Lieu of Arrest (CILA) training; and 6.) implement preventive detention practices.

Ms. Harrigfeld explained that the ICJC's Mental Health and Substance Use Subcommittee hold regular summits, where stakeholders meet to discuss current mental health and substance use issues. At the September 2017 summit, the subcommittee focused heavily on the opioid crisis.

Chairman Heider asked Ms. Harrigfeld if the ICJC's regular meetings are open to the public. **Ms. Harrigfeld** responded in the affirmative.

Dr. Lisa Bostaph introduced herself as an ICJC public member. She described the previously-mentioned Criminal Justice Dashboard, which is an interactive website that displays Idaho's criminal justice data.

Dr. Bostaph stated that her research team developed 27 recommendations for the ICJC based off the 2016 Statewide Needs Assessment of Crime Victims in Idaho. ICJC requested that the research team create a proposal addressing how to improve Idaho's collection of victimization data. **Dr. Bostaph** asserted that victimization data in Idaho are often not available or are siloed across various agencies. The research team suggested that the state create regular reports about victimization in Idaho. The team also suggested that the state track sexual assault kits and create an online victim survey for Idahoans. **Dr. Bostaph** noted that the cost of the initial victimization report would be \$128,240. Subsequent reports would cost around \$66,796.

Chairman Heider asked Dr. Bostaph how she calculated the cost of the report and if it had been approved by the Joint Finance-Appropriations Committee (JFAC). **Dr. Bostaph** explained that JFAC has not approved the cost of victimization reports because the idea is still in the proposal stage at ICJC.

Senator Jordan asked if there are data about the services that Idaho's police departments offer to victims. She asserted that there might be gaps in services provided to victims. **Dr. Bostaph** stated that her team conducted a needs assessment that identified gaps in victim services. However, she explained that the ICJC does not have data about services offered at the law enforcement level.

Obtaining this data would require a survey of all police departments in Idaho.

Eric Fredericksen introduced himself as the Idaho State Appellate Public Defender and a member of the ICJC Human Trafficking Subcommittee. Members of this subcommittee come from all agencies that may deal with the issue of human trafficking.

Mr. Fredericksen referenced Shared Hope International, an organization dedicated to eradicating human trafficking. Shared Hope International scores each state on its human trafficking laws. Idaho received a 71.5 out of 101.5. **Mr. Fredericksen** explained why Idaho scored so poorly. For example, in order to be found guilty of human trafficking in Idaho, an individual must have also committed another offense. Additionally, in Idaho, it is not a crime to benefit from or aid human trafficking. The Human Trafficking Subcommittee will be making recommendations to ICJC in the future regarding how to reduce human trafficking in Idaho.

Mr. Fredericksen stated that the ICJC conducts criminal law reviews; this year, the ICJC has proposed three amendments to Idaho statutes. The ICJC suggested an amendment to Idaho Code § 18-6608, which addresses forcible penetration by use of a foreign object. The ICJC proposed that language in Idaho Code § 18-6608 regarding sexual intent be stricken and replaced with language regarding willful action. The second proposed change is an amendment to Idaho's sexual battery statute. The ICJC proposed lengthening the punishment for sexual battery. The ICJC's third recommendation is to differentiate between aggravated battery and aggravated sexual battery. Under the proposed amendment, an individual who committed aggravated sexual battery would receive harsher punishment and be required to register as a sex offender.

RS 25728

Relating to Immunization Waivers. **Senator Foreman** stated that **RS 25728** relates to student immunization opt-outs. This RS clarifies Idaho Code §§ 39-4802 and 39-1118, which allow parents to exempt their child from state immunization requirements by submitting a signed statement to school or daycare officials. The proposed change to both codes adds language explaining that parents are not required to use a form supplied by the Idaho Department of Health and Welfare (DHW), a daycare facility, or any other entity.

Senator Foreman asserted that **RS 25728** does modify the meaning or intent of existing Idaho Code. He emphasized that the proposed changes are meant to eliminate confusion on the part of school administrators with respect to immunization exemptions. **Senator Foreman** explained that some school administrators have attempted to force parents to utilize the immunization exemption form furnished by DHW (see Attachment 1). **Senator Foreman** noted that DHW updated their immunization exemption form, but he reiterated that current Idaho Code does not require parents to use this form.

DISCUSSION:

Senator Lee expressed concern that the proposed changes could cause further confusion for parents and school districts. She stated that the proposed changes may lead individual school districts to develop their own immunization exemption form, making the exemption process inconsistent across Idaho. **Senator Lee** asked Senator Foreman to address the issue of consistency. **Senator Foreman** stated that the proposed changes do not address the lack of consistency across the state. He noted that the changes are only meant to clarify ambiguity and eliminate confusion for school districts and parents.

Vice Chairman Souza noted that the proposed changes add clarity. She also noted that the Committee previously worked with DHW to create an appropriate immunization exemption form. She explained that the updated form now states that

parents may leave the form blank and simply attach a separate signed statement to the form. **Vice Chairman Souza** emphasized the importance of disseminating immunization information to school districts. **Vice Chairman Souza** then asked Senator Foreman if he felt the proposed changes and the updated DHW form could work together well. **Senator Foreman** commended DHW's efforts to change the form, but noted that the proposed changes address issues with Idaho Code, not issues with the DHW form.

Vice Chairman Souza reiterated that she thought the DHW form and the proposed changes worked well together. She explained that if a parent does not want to use the DHW form, he or she must still submit a signed statement to the school. School officials can then attach the statement to the DHW form if they would like. **Vice Chairman Souza** asserted that DHW is responsible for supplying school districts with instructions regarding the immunization exemption process.

Senator Jordan noted that the DHW form states that students who are not vaccinated may be sent home if there is an outbreak of an illness. She expressed concern that without filling out the DHW form, schools and parents of unvaccinated children may not know this. **Senator Jordan** worried that this legislation was preemptive in nature and would make it difficult to deal with future problems as they arise. **Senator Jordan** requested that Senator Foreman address this concern. **Senator Foreman** stated that the DHW form may work for some individuals and that the form may change in the future. He emphasized that the objective of the proposed changes was only to clarify the current laws.

Senator Lee stated that Idaho Code often establishes broad policies, and IDAPA establishes how to implement those policies. **Senator Lee** asked Senator Foreman how he felt about the proposed changes being made in Idaho Code when they could be expressed in IDAPA. **Senator Foreman** explained that there is currently a discrepancy between IDAPA and Idaho Code §§ 39-4802 and 39-1118. Idaho Code does not require parents to use the DHW form, while IDAPA does. **Senator Foreman** explained that IDAPA will need to be changed to align with Idaho Code.

Chairman Heider stated that DHW worked hard to develop a simple immunization exemption form. He emphasized that schools need to know whether children have been immunized in case there is an outbreak of an illness and unvaccinated children need to be sent home from school. **Chairman Heider** asserted that the DHW form was innocuous and allowed parents to submit an optional statement instead of filling out the form itself. He commended DHW for its work on the form. **Chairman Heider** then clarified that the Legislature cannot control how schools implement the form. He stated that he doubted the necessity of making the proposed changes to Idaho Code. **Senator Foreman** clarified that parents can choose not to submit their child's immunization records to school officials. **Senator Foreman** explained that if there is an outbreak of any kind, schools can send those children home. Parents do not have to submit vaccination records, nor do they have to utilize the DHW form in order to exempt their child from vaccination requirements.

Vice Chairman Souza noted that the DHW form does not require parents to disclose their child's immunization status. Parents may decline to answer questions regarding which vaccinations their child has received, but their child will be sent home in the case of an outbreak.

MOTION: There being no more questions, **Vice Chairman Souza** moved to send **RS 25728** to print. **Senator Potts** seconded the motion.

Chairman Heider invited discussion on the motion.

Senator Martin described his experience as a mediator in a conflict between the Humane Society and several veterinarians. The two parties reached an agreement and both have upheld that agreement for the last six years. **Senator Martin** drafted legislation to solve the problem in case either party violated the agreement, but he did not attempt to pass the legislation. **Senator Martin** then shared the story of a constituent whose son was not allowed to register for school because she would not sign DHW's immunization exemption form. **Senator Martin** contacted all parties involved and mediated the conflict. Eventually, the child was able to register without submitting the form. He reminded the Committee that Chairman Heider had tried to pass legislation identical to **RS 25728** during the 2017 Legislative Session. **Senator Martin** compared this to his own experience of drafting legislation to solve the Humane Society conflict mentioned previously. He noted that Chairman Heider had told DHW that he would not run the bill if DHW revised the form; DHW complied. **Senator Martin** asserted that it would be unfair to send **RS 25728** to print. He then commended the parents who were present for their concern about their children.

Senator Potts shared his personal experience with immunization exemptions in schools. He explained that is often unpleasant to tell school administrators that a student is not immunized. **Senator Potts** asserted that having an immunization exemption form is necessary; however, he felt that the religious and medical explanation sections on DHW's form are unnecessary. **Senator Potts** stated that the ambiguity in Idaho Code allows schools to make the immunization exemption process even more difficult. He felt that **RS 25728** eliminated the ambiguity and therefore deserved to be sent to print.

ROLL CALL VOTE: **Chairman Heider** called for a roll call vote. **Senators Souza, Lee, Agenbroad, Foreman, and Potts** voted aye. **Senators Heider, Martin, Harris, and Jordan** voted nay. The motion carried.

ADJOURNED: There being no further business, **Chairman Heider** adjourned the meeting at 4:54 p.m.

Senator Heider
Chair

Rachel Goodman
Secretary