



Law and Justice Interim Committee

58th Montana Legislature

SENATE MEMBERS

DUANE GRIMES--Chair
BRENT CROMLEY
DANIEL MCGEE
GERALD PEASE
GARY PERRY
MICHAEL WHEAT

HOUSE MEMBERS

JOHN PARKER--Vice Chair
GAIL GUTSCHE
MICHAEL LANGE
DIANE RICE
JIM SHOCKLEY
FRANK SMITH

COMMITTEE STAFF

SHERI HEFFELFINGER, Research Analyst
VALENCIA LANE, Staff Attorney
REBECCA SATTTLER, Secretary

MINUTES

May 20, 2004

Room 102, State Capitol Building

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

SEN. DANIEL MCGEE
SEN. BRENT CROMLEY
SEN. GERALD PEASE

REP. GAIL GUTSCHE
REP. MIKE LANGE
REP. JOHN PARKER
REP. DIANE RICE
REP. JIM SHOCKLEY

COMMITTEE MEMBERS EXCUSED

SEN. DUANE GRIMES
SEN. GARY PERRY
SEN. MIKE WHEAT

REP. FRANK SMITH

STAFF PRESENT

SHERI HEFFELFINGER, Research Analyst
VALENCIA LANE, Staff Attorney
CYNTHIA A. PETERSON, Committee Secretary

Visitors

Visitors' list, ATTACHMENT 1
Agenda, ATTACHMENT 2

COMMITTEE ACTION

- The LJIC will draft a committee bill to resolve the problems that active-duty military personnel and their spouses are experiencing when attempting to renew their drivers' licenses.
- The LJIC directed Ms. Lane to review the issue of jurisdiction with respect to drafting Committee legislation to address the complaint process for all state agencies and to report back at the next meeting with options on how to proceed.
- The LJIC voted to investigate the complaints alleged by witnesses about Child Protective Services in Ravalli County, and about a constituent of Rep. Rice.

CALL TO ORDER, ROLL CALL, APPROVAL OF MINUTES

Rep. John Parker, Vice Chairman of the Law and Justice Interim Committee (LJIC) called the meeting to order at 9:30 a.m. The secretary noted the roll (ATTACHMENT 3). The minutes of the April 20, 2004, meeting were approved without amendments.

REVIEW OF SJR 31 JUVENILE PROBATION ISSUES AND AUGUST 5, 2003, MEETING; STAFF REVIEW OF PREVIOUS STUDIES AND FINDINGS ON ADMINISTRATION OF JUVENILE PROBATION; OVERVIEW OF OTHER STATES

Ms. Sheri Heffelfinger, Committee staff, reviewed information from the August 5, 2003, minutes and SJR 31 (EXHIBIT 1). Ms. Heffelfinger reminded the Committee that SJR 31 relates to the administration of juvenile probation officers, and that the request of the Legislature was to examine the various elements of the juvenile probation system and decide whether juvenile probation officers should operate under the Executive Branch or the Judicial Branch. Ms. Heffelfinger directed the Committee's attention to Parental Rights and Responsibilities, Overview of Current Statutory Requirements (EXHIBIT 2), and a flowchart depicting the various Juvenile Corrections and Justice Entities (EXHIBIT 3). Ms. Heffelfinger provided the Committee with an outline of LC 931 (EXHIBIT 4). Ms. Heffelfinger explained that SB 388, introduced by Sen. Bill Tash, moved juvenile probation officers to the Department of Corrections; however, it was the preliminary draft of the bill, LC 931, that primarily related to the issues Sen. Tash addressed on August 5, 2003. Ms. Heffelfinger identified the key issues as parental rights and grievance procedures. She said that LC 931 clarified and strengthened juvenile laws related to parental rights and provided that juvenile probation officers may not infringe upon those rights. She said the bill clarified a key point in statute in the definitions of "physical custody" versus "legal custody." Ms. Heffelfinger explained LC 931 arose from a particular case where parental rights were not terminated and the juvenile probation officer had taken actions that the parents felt infringed upon their parental rights. Ms. Heffelfinger pointed out the definition of "commit" was amended in the bill to mean to handover a youth into custody and does not mean to transfer legal custody.

Rep. Jim Shockley wondered why "commit" would not include the transfer of legal custody. Ms. Valencia Lane, staff attorney, explained the bill was requested by Sen. Tash over two years ago, and one of the concerns was who gets to make decisions about things such as medications and who actually has the right to make those types of decisions. Ms. Lane explained LC 931 was a preliminary draft that was never introduced and attempted to

distinguish between the legal right to make decisions about physical custody, mental health treatment, and medications versus just having physical custody. Ms. Lane commented she was happy the draft legislation was going to be looked at by the LJIC.

Ms. Heffelfinger reviewed “Briefing Points and Cover Page for Attachments” explaining what is done nationally regarding juvenile probation issues (EXHIBIT 5). Ms. Heffelfinger noted the 230 percent increase in drug offenses which resulted in probation.

Sen. Dan McGee asked Ms. Heffelfinger for an explanation for the 40 percent drop in referrals handled by juvenile probation officers between 1997 and 2002. Ms. Heffelfinger could not provide an explanation for the decrease in referrals and suggested that the Montana Board of Crime Control may have examined the reasons..

BRIEFINGS BY THE JUDICIAL BRANCH

- **Beth McLaughlin, Office of the Supreme Court Administrator**

Ms. Beth McLaughlin, Court Services Director, Office of the Supreme Court Administrator, submitted a packet of information to the LJIC (EXHIBIT 6). Ms. McLaughlin provided an overview of how probation officers are managed within the Judicial Branch and reviewed policies put in place to deal with management since state assumption of district courts in July 2002.

Sen. McGee asked if there was a quality control component to supervision and whether there were any contracted probation officers. Ms. McLaughlin explained they have contractors that provide services for the youth courts, but no contracted probation officers. Ms. McLaughlin stated the system is highly dependent on contracted services. Ms. McLaughlin clarified that the 45 support personnel in the youth court system includes a mixture of clerical and non-clerical personnel. Ms. McLaughlin admitted that in smaller districts, they have been experiencing problems because Chief Probation Officers were not actively managing staff effectively. She said that the judicial branch is now providing management training for Chief Probation Officers.

Sen. McGee requested an estimate of what the entire juvenile probation system costs. Ms. Heffelfinger responded she would make that information available and send it to LJIC members.

Rep. Diane Rice was curious about where the grant money comes from. Ms. McLaughlin replied that most of the money comes through the Board of Crime Control and that this year they were fortunate to receive a grant from the Office of Public Instruction.

Rep. Mike Lange was curious about probation officer turnover rate. Ms. McLaughlin responded that the turnover rate is stable and the average length of service for a Chief Probation Officer is approximately 23 years. Ms. McLaughlin cautioned that they would soon be experiencing a high number of employees retiring.

Ms. McLaughlin explained how an avenue for complaints was missing from the system and how they have remedied that situation by adopting state policies, instituting a formal complaint process, and making an informational brochure about the complaint process available to

parents.

(Tape 1; Side B)

Rep. Parker commented that in his experience, many times an active and involved parent is absent. He asked if the complaint mechanisms are available for a public defender or private attorney representing a juvenile. Ms. McLaughlin agreed that is often the case, and replied that the complaint process is available to other people who are involved, and those individuals do not necessarily have to be involved in the youth court prosecution.

Rep. Lange asked if the formal complaint process has reduced the number of frivolous complaints. Ms. McLaughlin replied it has helped to reduce that number. Rep. Lange suggested the LJIC may wish to investigate the establishment of a unified complaint process for all State of Montana agencies. Rep. Lange thought the complaint process implemented for the juvenile justice system could be a model for other agencies.

Sen. Gerald Pease asked if the complaint process was also available in the tribal court system. Ms. McLaughlin noted tribal court was a separate jurisdiction from the Montana Youth Court Act. Ms. McLaughlin clarified that if a child is involved in the judicial district youth court, and their parents live on the Reservation, the complaint process would be available. Rep. Parker asked if the case was being adjudicated under tribal jurisdiction, whether the complaint process would be able to direct the parent in the right direction if it turns out the State of Montana is not the right entity. Ms. McLaughlin responded that if they received a complaint they did not have jurisdiction over, they would direct the complaining party in the right direction.

Ms. McLaughlin explained the focus now is on adopting policies regarding cost recovery and, if a person has the ability to pay, they will be directed to do so. Ms. McLaughlin explained that Youth Court does extensive drug testing of youth on probation, that most of that testing is done in-house, and that the cost of doing in-house testing is significantly lower than contracting for drug testing. Parents can be directed to pay for services such as drug testing and court-appointed counsel. In addition, probation officers would like to standardize fees and fines. Ms. McLaughlin explained these policies are still in draft and will need to be approved by the District Court Council. Ms. McLaughlin also explained they are in the process of drafting a procedures manual for Youth Court, and that the manual should be completed within six months. Ms. McLaughlin absolutely believed Youth Court should remain attached to the Judicial Branch.

Sen. McGee was curious why Ms. McLaughlin believed Youth Court should remain with the Judicial Branch. Ms. McLaughlin responded that youth court officers and probation officers operate as an extension of the judge. Currently, approximately 86 percent of youth handled by probation never see the judge because the youth court officer has the ability to operate as an arm or extension of the judge.

- **Bob Peake, Office of the Supreme Court Administrator**

Mr. Bob Peake, Bureau Chief, Youth Court and District Court Services, Office of the Supreme Court Administrator, presented a review of the case that resulted in SB 388 (EXHIBIT 7). Mr. Peake suggested that if the probation officer in the case had wanted to keep the parents separated from the case, the officer should have sought approval from the judge.

(Tape 2; Side A)

Rep. Parker asked Mr. Peake if Exhibit 7 documents the fact the court order was flawed and confusing. Mr. Peake replied it did not. Rep. Parker asked Mr. Peake to add that detail into the report and direct a copy of the Exhibit to Sen. Tash. Rep. Parker thought it was imperative to understand it was not clear which agency the youth was committed to, and the fact that the youth was committed to a combination of two agencies was indicative of a need for better case management.

Rep. Lange inquired about Mr. Peake's recommendation that parents should be educated on how to file a complaint and the process a complaint goes through. Rep. Lange wondered if including the complaint process in statute would give parents a better sense that the policy would be followed and would provide statutory protection. Mr. Peake wholeheartedly agreed. Mr. Peake recommended taking the language right out of the policy and inserting it into the Youth Court Act.

Rep. Gail Gutsche inquired if there was a process to make sure case managers know their responsibilities in the placement process. Mr. Peake replied that the recent hiring of more people for oversight of case managers is a good first step. Rep. Parker requested Mr. Peake direct a copy of his revised report to Gail Gray, Director of the Department of Health and Human Services.

Mr. Peake submitted statistical information regarding youth placement (EXHIBIT 8) and asked the LJIC to keep in mind the case referenced in Exhibit 7 is not the norm. Mr. Peake suggested that the number of referrals has decreased because there is a national trend to try youth as adults, and those youth are no longer counted in the juvenile process.

Sen. McGee asked if the Youth Court Act was working. Mr. Peake responded the Youth Court Act is a very good piece of legislation and that Montana's system works better than most states. Mr. Peake believed Montana's informal process works great because it prohibits youth from getting deep into the system.

BRIEFING BY THE DEPARTMENT OF CORRECTIONS

- **Steve Gibson, Juvenile Corrections Division Administrator**

Mr. Steve Gibson submitted a packet of Exhibits to the LJIC, which included the following Exhibits:

- Juvenile Corrections Division Organizational Chart (EXHIBIT 9).

- An explanation of the Juvenile Corrections Division, Montana Department of Corrections (EXHIBIT 10).
- Statistical fact sheet of Juvenile Correction (EXHIBIT 11).
- A brochure about Pine Hills Youth Correctional Facility (EXHIBIT 12).
- Riverside Youth Correctional Facility (EXHIBIT 13).
- A brochure on Youth Reentry in Montana, Montana Department of Corrections, Juvenile Corrections Division (EXHIBIT 14).
- A copy of a newspaper article from the February 3, 2004, edition of the Miles City Star reporting Pine Hills accreditation from the Commission on Accreditation for Corrections (EXHIBIT 15).
- A brief summary of Juvenile System Organizations of States (EXHIBIT 16).
- A position paper of the Montana Juvenile Corrections Division (EXHIBIT 17).

Mr. Gibson strongly agreed with Sen. McGee's statement that corrections should be run like a business, and stated that they try to base their programs on research-based outcomes that reduce recidivism. Mr. Gibson stated that the numbers relating to admission and recidivism are down and he attributes this to the work probation does. Mr. Gibson commented he would like to see performance-based budgeting where budgets are allocated based on results.

Rep. Lange asked about the process for handling complaints. Mr. Gibson responded their complaint process follows standards set by the American Correctional Association (ACA).

Rep. Gutsche asked Mr. Gibson to comment on why admissions and recidivism are down. Mr. Gibson replied the numbers are down because of a combination of factors, including a decline in national statistics, community-based programs, and a drop in violent crimes committed by juveniles. Mr. Gibson also attributed the decline to prevention services, but he cautioned Montana has not experienced the full brunt of the methamphetamine problem yet.

Rep. Gutsche inquired if admissions were down among boys and girls equally. Mr. Gibson thought the question was difficult to answer since girls are not institutionalized as often as boys, and juvenile girls often times have other issues.

Rep. Rice asked Mr. Gibson to comment about the lack of a methamphetamine treatment program in the Youth Challenge Program. Mr. Gibson responded that alcohol and drug treatment for juveniles needs to be different than treatment for adults, and also that the Youth Challenge Program was not designed as a treatment program but to divert kids at risk.

OVERVIEW OF THE CORRECTIONS PLACEMENT MONEY FOR YOUTH SUPERVISED BY JUVENILE PROBATION OFFICES

- **Taryn Purdy, Legislative Fiscal Division**

Ms. Taryn Purdy, Senior Legislative Fiscal Analyst, submitted a summary of Juvenile Placement Funds (EXHIBIT 18) and a memorandum from Todd Younkin (EXHIBIT 19).

- **Bonnie Adee, Mental Health Ombudsman**

Ms. Bonnie Adee, Mental Health Ombudsman, provided an update on the Dillon case referenced by Sen. Tash.

(Tape 2; Side B)

Ms. Adee clarified that the parent involved in the Dillon case did try to use the system and attempted to speak with the probation officer, as well as the judge. The parents also contacted the Montana Advocacy Program, attempted to work with the previous Supreme Court Administrator, and contacted Sen. Tash out of frustration. Ms. Adee clarified that the current Court Administrator and Mr. Peake have been very responsive. Ms. Adee reported that she has first-hand knowledge of the parent being improperly restricted from access to information and decision making. The parent in the Dillon case wanted an opportunity to disagree with diagnostic conclusions, prescribed medications, and wanted to choose an appropriate medical provider. Ms. Adee identified the whole purpose of the juvenile system is to keep kids out of the deep end of the system and keep them home whenever possible. Ms. Adee explained the circumstances of the juvenile's arrest and how the parents were unable to find help.

PREVIEW OF "COMING ATTRACTIONS" FOR THE JULY 15 COMMITTEE MEETING (I.E., CONCEPTS ON THE RADAR SCREEN FOR POSSIBLE AGENCY OR COMMITTEE LEGISLATION FOR THE 2005 SESSION)

- **Sheri Heffelfinger, Research Analyst, Legislative Services Division**

Ms. Heffelfinger reviewed "Procedure for Review, Request, and Drafting of Agency Legislation" dated January 16, 2004 (EXHIBIT 20). Ms. Heffelfinger reviewed the list of proposed legislation from the Department of Corrections and the Department of Justice and explained the procedure for introducing legislation.

Rep. Shockley commented most of the proposed bill draft requests were labeled as housekeeping in the summary checklist. Ms. Heffelfinger added it is very important that the bill drafter receive all the information necessary to draft the legislation.

- **Bill Slaughter, Department of Corrections**

Mr. Bill Slaughter, Director of the Montana Department of Corrections, commented that the Department of Corrections' Advisory Committee and an excellent management team has eliminated the need for substantial legislation relating to criminal justice. He explained the proposed legislation relates to pre-release center bonding. He submitted graphs depicting

“Male and Female Institutional System Trends vs. Projected” (EXHIBIT 21). He spoke about how the methamphetamine problem has impacted Montana’s prison population. Director Slaughter suggested not all of the new beds they will need have to be prison beds. He noted the overcrowded conditions in Montana’s county jails, as well as the prisons, and how they are trying to manage inmates in not only the cheapest, but also the most appropriate bed. Director Slaughter identified inmate suicides as a major concern, so the Department hired an outside contractor to assist in making changes to address these concerns. Director Slaughter stated many people are working together to address the methamphetamine issue, but cautioned the problem has not peaked in Montana.

Rep. Shockley asked Director Slaughter to explain why CCA was hired to move prisoners for a short period of time both inter and intrastate. Director Slaughter explained the Northwest Transportation System used County Sheriffs to transport prisoners to the borders of Montana. Director Slaughter indicated there were too many prisoners to continue the program. Currently, Montana contracts with Transcorps to transfer and extradite prisoners. Director Slaughter suggested transporting prisoners as a huge liability and that Montana had been very lucky when it was using County Sheriffs to transport prisoners.

Rep. Parker requested Director Slaughter to update the LJIC on the status of the Department of Corrections creating inpatient beds for methamphetamine treatment prisoners within existing dollars. Director Slaughter replied they have a pilot program for non-dangerous offenders with drug or alcohol problems. He explained they have a 70 percent success rate. Director Slaughter explained prison only deals with symptoms of addiction and does not necessarily deal with the problem. The therapeutic model will have a 40-bed facility and will be at least nine months long. Director Slaughter further explained the Department had not decided on a location for the new facility, and it will go through the RFP process.

- **Larry Fasbender, Montana Department of Justice**

Mr. Larry Fasbender, Deputy Director, Montana Department of Justice (DOJ), reviewed DOJ’s proposed legislation contained in Exhibit 20. Mr. Fasbender submitted a list of agency codes (EXHIBIT 22).

(Tape 3; Side A)

Rep. Shockley noticed some of the proposed legislation had been introduced in prior sessions. Sen. McGee agreed and wondered why, if the Legislature had already spoken, the Department would bring these issues again. Mr. Fasbender replied the issues are important and possibly legislators will now understand the gravity of the legislation. Mr. Fasbender pointed out the majority of legislation introduced is to correct previous legislation, and that is simply the nature of the process.

- **Beth McLaughlin, Court Administrator's Office**

Ms. Beth McLaughlin, Court Services Director, Court Administrator's Office, spoke on behalf of the Court Administrator, Jim Oppedahl. Ms. McLaughlin described two pieces of legislation, the first being a clean-up of § 3-5-901 to correct a discrepancy with payment for transcripts. The second piece of legislation concerns court automation funding and the sunset of the surcharge in June 2005.

- **Committee Legislation**

Ms. Heffelfinger suggested the LJIC may want to consider issues such as Homeland Security and LC 931 dealing with parental rights as topics for committee legislation. Ms. Valencia Lane, at the request of Mr. Greg Petesch, suggested the LJIC may want to consider legislation regarding the renewal of drivers' licenses for active-duty military personnel. Ms. Lane explained under current law, a driver's license can only be renewed by mail one time and thought the Committee may want to consider amending § 61-5-125(3) to include dependents of active-duty military personnel.

Rep. Lange shared a similar story of one of his constituents who was active-duty military personnel and his difficulties in being able to renew his driver's license because his military I.D. was not acceptable for renewal.

Rep. Shockley recalled if a person was on active duty, they could keep the same license and it would be good until discharged.

Rep. Shockley moved the LJIC draft a committee bill to resolve the problems that active-duty military personnel and their spouses are experiencing when attempting to renew their drivers' licenses. The motion carried unanimously.

Sen. McGee advised the LJIC that he serves on the Homeland Security Task Force and anticipates having two or three pieces of legislation for the LJIC to consider in the future. In addition, Sen. McGee said proposed legislation would also arise from the work of the Public Defender Subcommittee.

Rep. Lange stated it is his intention to introduce legislation, either on his own or as a committee bill, regarding the statewide set up of a formal complaint process for the citizens of Montana. Rep. Lange described a hodgepodge of processes throughout state agencies, boards, and divisions. Rep. Lange thought a formal complaint process would alleviate unnecessary litigation filed against the State.

Rep. Parker wondered if the scope of the jurisdiction of the LJIC was too narrow to pursue a bill that would be comprehensive to all state agencies. Rep. Shockley agreed with Rep. Lange and thought it would be easier to get a committee bill through the Legislature. Sen. McGee did not feel the LJIC's jurisdiction would be limited. Rep. Gutsche commented it would make more sense for the LJIC to limit its jurisdiction to things within the realm of law and justice. Rep. Shockley pointed out that having any complaint resolved would be within the scope of the LJIC.

The LJIC directed Ms. Lane to review the issue of the Committee's jurisdiction concerning a

state-wide complaint process and to report back at the next meeting with options on how to proceed with legislation covering all state agencies.

UPDATE ON WORK BY THE SUBCOMMITTEE ON REFORMING MONTANA'S PUBLIC DEFENDER SYSTEM

Sen. McGee, Chairman of the Public Defender Subcommittee, updated the LJIC on the work of the Subcommittee.

(Tape 3; Side B)

The Subcommittee had recently received a report on the Oregon Public Defender System from Peter Ozanne, the Chief Public Defender in Oregon. Sen. McGee noted Oregon has a hybrid system that utilizes both an employee and contract structure. Mr. Ozanne had suggested the system needs a business manager as a director rather than an attorney. In addition, it was noted Oregon is in a financial crisis, and provides indigent defense for misdemeanors, guardian issues, and mental health commitments. Sen. McGee reported Oregon also utilizes sentencing guidelines, but his recollection from past public hearings was that Montana citizens had rejected implementing sentencing guidelines. Oregon also utilizes non-profit consortiums to alleviate conflicts of interest. Mr. Ozanne had also suggested Montana utilize private contract attorneys in particular judicial districts rather than having full-time employees.

Rep. Gutsche expressed confusion about the involvement of non-profit organizations. Sen. McGee replied the non-profit would act like an administrative agency. Ms. Heffelfinger explained further that in Oregon the contract is put out on an RFP which specifies the contractor has to have a governing board of directors to act as a buffer between the supervisory authority and the performance and oversight of the attorneys.

Rep. Shockley noted federal public defenders in Montana are a non-profit corporation.

Rep. Rice asked if the public defenders are paid hourly or per case. Ms. Heffelfinger reported they are paid on an hourly contract basis, but that there are caps that can be placed on certain case types.

Rep. Parker expanded that there are a wide variety of ways contracts can be set up. Sen. McGee added conflict resolution will be an important factor to consider in any proposed legislation.

Ms. Heffelfinger directed the LJIC's attention to a recent newspaper article reporting the City of Helena has contracted with the County Public Defender's Office to provide public defender services at the city court. Ms. Heffelfinger offered to get more information.

PUBLIC COMMENT

Melissa Worthan, a parent from Missoula, Montana, testified about her experiences with ineffective public defender counsel and the termination of her parental rights.

Pastor Cook, Stevensville, Montana, testified about the poor representation he received and his

frustration in defending himself against sexual abuse allegations.

Kimberly Gardiner, Administrator of Alternative Youth Adventures in Boulder, Montana, testified that she provides therapeutic mental health services for youth. She said she has worked both prior to and after state assumption of district courts and testified she is impressed with the evolution of youth court and probation officers. Ms. Gardiner explained they are in the process of beginning a new wilderness therapy program, which will provide a good interface between probation and mental health, and will better enable them to keep families together.

Mr. James Olson, Hamilton, Montana, told the LJIC of his experience in having Child Protective Services take custody of his 28-hour old daughter. Mr. Olson testified he was never served with any documentation stating the reasons for Child Protective Services taking custody of his child.

Richard Stevens, Flathead County, Montana, testified that he believes his rights were violated by an illegal appropriation of his water rights.

(Tape 4; Side A)

Donna Underbrink, Hamilton, Montana, testified about her two granddaughters, including one granddaughter who was only 28-hours old, being removed by Child Protective Services. Ms. Underbrink believed the allegations of Child Protective Services were false and unsubstantiated.

Mr. Richard Kingdon, a restaurant owner in Hamilton and long-time friend of James Olson and Pastor Cook, testified in support of Mr. Olson and Pastor Cook. Mr. Kingdon identified Child Protective Services as out of control in Ravalli County and thought public defenders were useless in cases involving Child Protective Services.

INSTRUCTIONS TO STAFF

There were no further instructions to staff.

FURTHER BUSINESS

Rep. Shockley moved the LJIC investigate the three complaints alleged by witnesses with Child Protective Services in Ravalli County. Rep. Shockley suggested issuing subpoenas in an effort to hear the other side of the story.

Rep. Parker suggested it would be helpful if the LJIC could obtain relevant court documents so the LJIC would have a full record and would not be relying solely on the testimony of one party. Rep. Shockley offered to obtain names and dates as well.

Ms. Lane pointed out signed Privacy Act waivers would be needed to obtain information. Rep. Shockley agreed to get waivers.

Rep. Rice asked to amend the motion to include one of her constituents in the investigation as well.

Rep. Parker said the LJIC has a legislative prerogative to do fact finding, but urged caution to not interfere with ongoing litigation.

Rep. Lange said that a caseworker could remove a child from a home based on “physical or psychological abuse,” but stated he could not find a definition of “physical abuse” or “psychological abuse.” Rep. Lange said he learned from social workers in Billings that individual social workers are charged with determining whether a child is in a threatening situation. Rep. Lange would like to know from DPHHS if they have a definition in their Administrative Rules and what the policy is. Rep. Lange commented justice may be blind, but it need not be deaf.

Rep. Parker clarified the cases to be investigated under the motion were Pastor Cook, James Olson, Melissa Wortham, and Rep. Rice’s constituent.

Rep. Shockley’s motion that the LJIC investigate the complaints alleged by witnesses with Child Protective Services in Ravalli County, including Rep. Rice’s constituent, carried unanimously.

Rep. Parker then advised the members of the public that the LJIC could do fact finding, investigation, and interview witnesses. If at that time the LJIC determines legislation is needed to alter the State’s policy, they would introduce legislation. Rep. Parker was clear the LJIC could not promise to alter the outcomes of ongoing litigation.

Discussion was held among the LJIC regarding jurisdiction and the involvement of the Children, Families, Health, and Human Services Interim Committee (CFHHS). Sen. McGee commented that citizens have come before the LJIC seeking assistance and investigation by the LJIC would be appropriate.

Rep. Shockley commented that while the stories and incidents coming out of Ravalli County were shocking, he has heard much worse stories coming from Yellowstone County. Rep. Shockley has also handled cases in his private law practice and suggested some of those people may want to provide their stories.

Rep. Parker suggested setting the limit at four cases to facilitate thorough fact finding and then holding a public comment period for citizens to express their views. Rep. Parker thought all citizens should have a chance to speak and the Department of Health and Human Services should also have a chance to be heard.

Sen. Pease commented that he sits of the CFHHS, and they have heard the same testimony and share the same concerns as LJIC.

Sen. Parker requested that Ms. Heffelfinger to inform the Chairman of CFHHS of the LJIC’s actions.

ADJOURNMENT

There being no further business to come before the Subcommittee, the meeting adjourned at 3:53 p.m.

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