

MEETING MINUTES

STATE PUBLIC DEFENSE COMMISSION

Date | time 1/5/2016 1:00 PM | *Location* JRW Building, East Conference Room
700 W. State Street, Boise, ID 83702

Meeting January Commission Meeting

Commission members present

Molly Huskey, Chair, Applet Judge | Darrell Bolz, Vice Chair, Juvenile Justice Comm. | Sara Thomas, SAPD left at 2:30pm | Chuck Winder, Senator | William Wellman, Defense Attorney | Christy Perry, Representative

Nichole Devaney, Admin. Asst.

Commission members absent

Kimber Ricks, Madison Co. Comm. (Joined meeting via telephone at 3:22pm)

Others present

Judge Bryan Murray, Bannock County Magistrate Judge; Debra Alsaker-Burke, Statewide Child Protection Manager - Idaho Supreme Court, Kathy Griesmyer, ACLU

| | Item | Responsible |
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| 1. | Welcome and Call to Order: The meeting was called to order at 1:00pm. | Huskey |
| 2. | Presentation by Judge Bryan Murray on High Quality Representation in Child Welfare Cases: PowerPoint Presentation attached. | |
| 3. | Approval of prior Meeting Minutes (12/01/15): Bolz motioned to approve the 12/01/15 minutes, Wellman seconded, and the motion passed unanimously. | Huskey |
| 4. | Discussion on Interim Committee Meeting Legislation: Perry stated that over all the committee members seemed pleased with the second draft of proposed legislation (DRRCB042) there are a few tweaks that need to be made prior to their next meeting but they are minimal. The IAC objected to the draft completely and would like to see the committee start over. She went on to explain the draft would require the commission to determine standards for which each county would need to adhere. The county would then submit a plan and cost analysis to the Commission on how it would go about meeting the standards. If the Commission approved of the plan and determined the standards had been met that county would receive additional funding from the state in the form of a grant. The grant amount awarded to the county would equal 15% of the counties average total budget expended on public defense over the previous three years. There was some conversation as to whether 15% would be sufficient for the counties to comply which was not resolved and will like come up again. The Commission's request to have forms standardized was addressed in this draft as well as the commission's ability to promulgate rules through the legislative process. The last hurdle has been the enforcement mechanism, | Thomas |

the draft legislation followed the Michigan model, proposing that should a county refuse to meet the standards set, the Commission would take over public defense for that county. The county would be billed for those services and if not paid tax revenue allocations would be withheld in the sum of the invoice for payment. The county commissioners objected strongly to any type of revenue deductions. Perry asked the members for any ideas or suggestions on enforcement mechanisms she could take back to the committee.

Bolz referenced page 7 – Section 19-862A7b “Undertake the provision of indigent defense services in lieu of the county”; stating that under the Commission’s current formation that would be very difficult. Perry explained that the whole first section of page 7 was part of this enforcement mechanism issue and would need to be reworked, therefore that portion would be amended.

Winder asked how this legislation affects counties that have difficulty affording public defense services currently. Perry commented that the issue would potentially be address through the grant process however as she indicated previously there is some discussion if the 15% would adequately fund the smaller counties that have the most difficulty.

Perry went on to say that the hiccup now with the proposed legislation is the enforcement mechanism and when and how it rolls out. Explaining that some of the committee members suggested moving forward with the draft legislation minus the enforcement portion, then adding it at a later date if it were needed. Winder suggested waiting to implement enforcement until they knew if there was a problem was his preferred method.

Wellman asked how the Commission would be responsible for compliance. Perry stated that the committee is agreeable to additional personal as the commission deemed necessary.

Judge Huskey advised each of the members to read through the draft legislation carefully sharing that she had concerns the Commission would be at risk for further legal action. She pointed out a few areas where the commission has the responsibility to set standards and the like but not the ability to enforce them. She then commented that she was jumping ahead on the agenda a bit (6. Update from Judge Huskey) sharing that Chief Justice Jones decided that having a judge on the commission poses a conflict as the commission’s responsibilities change. She further explained she will be replaced effective tomorrow (January 6, 2016) with an individual selected from the administrative office of the court.

Ricks asked what the legislature’s position is on the proposed legislation. Perry shared that typically the legislature sided with the Interim Committee.

Perry would like to be able to go back to the committee with the commission’s comments at their next meeting. Judge Huskey suggested that those discussions not take place with her in attendance as she would not want to influence the discussion. Adding that in her opinion anything mandating the commission insure the 6th Amendment is met is not a position the commission should be in. She asked that the final draft of the legislation be sent to the members once completed and a discussion be held at that point.

Perry asked if the enforcement mechanism as proposed is something the members like or would they suggest another. Wellman commented that the members had not discussed other enforcement mechanism recommendation and would need to do so. The members concurred that the commission provided a mechanism recommendation to the committee

| Item | Responsible |
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| but it was rejected therefore they did not understand why they should have to come up with something else. | |
| It was agreed that timing is critical with this legislation in regards to the commission's staffing and other fiscal responsibility. Within these drafts of legislation there will soon be a need for staff and quickly. | |
| 5. JFAC Presentation: | Bolz |
| 6. Update from Judge Huskey: See above comments | |
| 7. Future Meeting Schedule: Tues. January 19 th at 1pm | |
| 8. Agenda Items for Next Meeting: - Legislation Discussion Invite Legislative Services Representative Jared Hoskins - Election of new Vice Chair | |
| 9. Next Meeting Location : TBD | |
| 10. Adjournment: Wellman moved to adjourn, Bolz seconded, and the motioned was unanimously passed. The meeting adjourned at 3:59. | Huskey |

Attachments:

Power Point Presentation by Judge Murray
Interim Committee Proposed Legislation