MINUTES
Approved by the Committee
Foster Care Study Committee
Monday, November 28, 2016
9:00 A.M.
State Capitol, Room EW 42
Boise, Idaho

Co-chair Senator Abby Lee called the meeting to order at 9:08 a.m., and a silent roll was taken. Members present: Co-chair Senator Abby Lee; Representatives Mike Moyle, Lynn Luker, Jason Monks, and Melissa Wintrow; and Senators Bart Davis, Mary Souza, and Cherie Buckner-Webb. Senator Kelly Anthon was absent and excused. Co-chair Representative Christy Perry was absent and excused, but participated via conference-phone following the lunch break. Legislative Services Office (LSO) staff present: Ryan Bush, Jared Tatro and Ana Lara.

Other attendees: Stephanie Miller, Russ Barron, Michelle Weir, Gary Moore, Amanda Pena, Misty Myatt, Brent King, Miren Unsworth, and Sabrina Brown, Dept. of Health and Welfare; Val McCauley and Brian McCauley, Foster Care Reform; Jaime Hansen and Jeffrey Dearing, Family Advocates; Rakesh Mohan and Lance McCleve, Office of Performance Evaluations (OPE); McKinsey Lyon, Gallatin; and the Honorable Judge Bryan Murray, Michael Henderson, and Kerry Hong, Idaho Supreme Court.

Note: Presentations and handouts provided by presenters/speakers are posted on the Idaho Legislature website: https://legislature.idaho.gov/sessioninfo/2016/interim/fostercare; and copies of those items are on file at the Legislative Services Office located in the State Capitol.

Co-chair Lee began the meeting by addressing the agenda. Co-chair Lee discussed the definition of 'fictive kin,' specifically the requirement that there be a significant relationship prior to care. She explained that the DHW has recognized that this is not a definition in statute or IDAPA; it has been an interpretation based on their perception of the rules. She reminded the committee that there may or may not be a problem so much with statutes or rules, but with the application of those items. Co-chair Lee looks forward to continuing this discussion with all parties involved.

Update on OPE's Upcoming Foster Care Report - Mr. Lance McCleve

Co-chair Lee called upon Mr. Lance McCleve from the Office of Performance Evaluations to present. Mr. McCleve stated that OPE had traveled to each region to conduct intensive interviewing with Dept. of Health and Welfare (DHW) staff including social workers, supervisors, and management. They performed some analysis on the interviews in order to have a good understanding on:

- What drives the activity of social workers;
- How social workers make daily decisions; and
- What kind of restraints affect their decisions.

He explained that determining what makes a program take shape on the ground facilitates the ability to make policy changes that will affect the program in an effective manner. Surveys have been conducted with DHW staff, CASA, and foster parents; they're currently working toward having judges complete a survey as well. Some of the questions on the surveys have some overlap between each group so that OPE can understand how each group sees certain aspects of the program; the surveys also contain questions that deal specifically with respective group's experience in the program. The survey results have been useful and interesting.

OPE has been working with a consultant who has been reviewing some early intervention strategies to prevent children from having to go into out-of-home care. The consultant is putting together some national evidence-based practices, including information on how those practices have been implemented. They have also been performing some document reviews in order to look into policies, and better understand the program. This will help OPE have a better discussion regarding

the program "on paper" versus the program in practice. Mr. McCleve clarified that OPE is not performing a compliance review in terms of auditing behavior. He explained that they are attempting to determine why a gap exists between expectations and what is actually occurring.

OPE also looked into federal policy, and explained that the child protective area is very vague, in some cases deliberately so, to allow states some flexibility in implementing their policies.

Co-chair Lee asked when the committee might expect the OPE report on foster care. Mr. McCleve responded that the report should be ready the third week of January.

Discussion on Guardianship - Mr. Michael Henderson

Co-chair Lee called upon Mr. Henderson, Legal Counsel for the Administrative Office of the Courts, to present next. Mr. Henderson began his presentation by discussing the *Doe v. Doe* case that the Idaho Supreme Court ruled on earlier this year in which the court stated that there is no authorization in statute for the appointment of co-guardians. In the draft legislation, with regard to minors and incapacitated persons, there would be a provision added to the definition section that speaks to what co-guardians are, and a similar provision added in a separate title that deals with persons with developmental disabilities. This would place some guidance and limitations on the appointments of co-guardians, while simultaneously authorizing such appointments. Some of the elements of the legislation are:

- There is no requirement to appoint co-guardians, but the court may do so if it finds that it serves the best interest of the protected person;
- No more than two co-guardians can be appointed for the individual;
- The parents of the incapacitated person would have preference over other persons to be appointed as co-guardians, unless the court found that the parents were unwilling or unable to serve the interest of the incapacitated person;
- The court can appoint co-guardians only if it makes a finding that those co-guardians will work cooperatively to serve the best interest of the minor, person with developmental disability, or the incapacitated person;
- The court would have to specify how the co-guardians would work so that the lines of authority would be clear between the co-guardians.
- Provisions dealing with temporary guardians with regard to minors and incapacitated persons to clarify the standards for the appointments and what the authority of temporary guardians is;
- New statute 66-404a that provides for the appointment of a temporary guardian or conservator for an individual with a developmental disability; and
- Proposed rule for the content of some reports (e.g., visitor reports).

Representative Luker asked if it was Mr. Henderson's intent for the committee to comment on this legislation, or was this presentation mostly informative, given that the committee had just received the proposed legislation. Mr. Henderson stated that it was his assumption that this legislation would proceed to the germane committee, but he welcomed comments from the committee.

Senator Davis referred to Section 15-5-101(a)(3), Idaho Code, and asked if it was in reference solely to ad litem matters. Mr. Henderson responded in the negative, and explained that guardian ad litems are addressed separately in code.

Senator Davis made a motion that this committee recognizes that legislation will be needed on guardianship. It appreciates the court's efforts on this matter, and the proposed legislation will be addressed by the germane committees. Representative Moyle seconded the motion.

Mr. Henderson stated that the Idaho's rules of evidence, and the provision regarding the application of those rules in Child Protection Act (CPA) proceedings, were modeled after the federal rules of evidence, and have been amended several times since their adoption. The rules of evidence with regard to shelter care hearings are consistent with statues. There are several instances where rules

of evidence do not apply. Judges use their best judgement in instances where rules of evidence do not apply.

Senator Davis asked if hearsay is allowed for purposes of corroboration in a CPA proceeding, or do the standard rules of hearsay apply throughout the proceeding. Mr. Henderson responded that the rules of evidence do not apply, except in the adjudicatory hearing. Senator Davis followed up by asking if hearsay is allowed in the final hearing for the purpose of corroboration testimony. Mr. Henderson responded that in a permanency hearing, the rules allow for the admission of a broad range of evidence including hearsay.

Discussion on Foster Care Notification - The Honorable Judge Bryan Murray

Co-chair Lee called upon Judge Murray to present next. Judge Murray began his presentation by explaining that a child protection case is difficult because it involves the rights of parents and their children. The Legislature decided by policy some time ago to provide Law Enforcement the right to deem that a child is in imminent danger. The DHW may request the court to remove the children from a home when an implemented case plan has been unsuccessful. He explained that in the case where Law Enforcement has removed the children due to safety concerns, and parents are not present at the time of removal, a notification is placed on the door of the home at the time of removal.

Judge Murray proceeded to the topic of shelter care hearings, and explained that as much notice and information is provided to the parents as possible at the time of the hearing. The shelter care hearing is an informal hearing that provides an opportunity to begin the process of reunification. Judge Murray explained that the rules of evidence do not apply in shelter care hearings, but the court focuses on what is relevant at the time to determine whether the children need to be in shelter care. Judge Murray stated that there are often other options available for children besides shelter care (e.g., voluntary placement with a grandmother). During the shelter care hearing, the court attempts to collect information on both parents, and this can be difficult because oftentimes fathers are absent from the child's life, or his identity may be unknown.

At the entrance of the door, the court clerk provides parents with a form that lists the rights of the parents. Judge Murray stated that the task of assigning public attorneys can be complicated, especially if the county has a few public defenders, and any conflicts of interest arise. The court attempts to collect information during this hearing, and to begin addressing the problem as soon as possible. In cases where the DHW has been working with the parents, there is usually substantial history of efforts made by the DHW to correct the issue before the child is removed from the home. Many different types of evidence are considered (e.g., police officer report, DHW's affidavits). However, he said, a shelter care hearing is not a trial.

One of the issues that exist is the shortage of visitation for parents to see their children, and it is an area where assistance is needed. Judge Murray stated that studies show that a higher quantity of visitation will help motivate parents to get their children home.

Discussion:

Senator Souza asked if the shortage of visitation between parents and their children is due to a lack of personnel. Judge Murray responded in the affirmative. He suggested that more resources and personnel are needed to address this issue. Senator Souza asked if the person supervising the visitation would need training or credentials, or could he simply be a volunteer. Judge Murray responded that he is not aware of any specific requirements, and opined that volunteers could potentially be used to facilitate visitation.

Senator Buckner-Webb made reference to teenagers who do not wish to have ongoing visitation with their parents due to years of experienced abuse and trauma, and asked what the court does in those situations. Judge Murray responded that teenagers often present a high level of complication due to the experienced abuse and trauma. He explained that he tries to speak with them directly in court, in

a comfortable setting, to find out why they do not wish to visit with their parents. He also attempts, through the use of motivational interviewing, to persuade the child to meet with a therapist.

Senator Buckner-Webb followed up by asking if there is long-term placement available for teenagers, particularly for those who live in rural areas. Judge Murray explained that if a teenager does not wish to have contact with their parents within the initial 30 days, he requests assessments for the teenager, and placement with a more cultivated foster home. It is not unusual in rural areas for foster children to be moved to a different community in order to find a foster home that can deal with the difficulty of a particular child.

Representative Luker referred to Section 16-1615(b), Idaho Code, regarding shelter care hearings, and stated that he did not see language about visitation in this subsection. He asked for Judge Murray's thoughts about a potential requirement for an evaluation on visitation between parents and their children. Judge Murray agreed with this potential addition. Representative Luker followed up by asking, in regard to shelter care hearings, if specific findings are entered regarding the listed items in subsection (b). Judge Murray responded in the affirmative, and explained that the specific findings are required for funding for the child.

Representative Luker asked if adjudicatory hearings are normally held on the 30th day. He also referred to Section 16-1619, Idaho Code, and asked what findings are made in adjudicatory hearings. Judge Murray responded that the adjudicatory hearing is a trial. He explained that the first part of the hearing consists of determining whether the court should take jurisdiction. The second part of the hearing is the disposition.

Senator Souza asked if there should be a limit on the number of attempts to reunify children with their parents. Judge Murray explained that there is a provision in the Child Protective Act for aggravated circumstances. It is a formal process that can be held at the time of the adjudicatory hearing, or at another time afterwards, where the state can move for termination. This is another trial where all the rules of evidence apply. Another tool that the DHW has is the option to file for termination of parental rights at any time they believe they can prove their case.

Senator Souza asked if the child's opinion counted for very much in the eyes of the courts and the DHW. Judge Murray answered that the child's opinion matters very much to him. He explained that the guardian ad litem and the DHW work with the children to determine their preference. If the children are older, they are appointed an attorney in an effort to assist them in stating their preference.

Co-chair Lee asked for Judge Murray's opinion on who has the legal responsibility of notifying parents of their rights. Judge Murray responded that the initial notice provided by law enforcement includes both the notice of removal, and instructions to contact the court to obtain an attorney if one is needed. Sometimes the DHW provides parents with this information if they are in jail. He opined that it was the duty of the court to ensure that parents understand their rights.

In an effort to reduce the delay in cases given the potentially lengthy time period it takes to find biological fathers, Co-chair Lee asked if it would be helpful to place a time frame for finding fathers. Judge Murray responded that it is difficult to determine a set time frame. Co-chair Lee opined that more discretion should be given to either the courts or the DHW for determining when there is an absence of a "fit and willing" relative so to proceed to a more permanent option. Judge Murray stated that while deference is given to relatives, the best interest of the child supersedes the placement priority hierarchy.

Senator Davis commented that, from a statutory view, a foster parent is subordinate to fit and willing nonrelatives. Judge Murray acknowledged that argument, and explained that it depends on how 'best interest' is applied. The DHW's counsel has advised him that fit and willing nonrelatives do not include foster parents. He added that since the passing of new legislation this year, the DHW now discloses to the court how they arrived at their recommendation for what is in the best interest

of the child. Senator Davis asked if it would be beneficial to modify the language in the statute so that foster parents and fit and willing nonrelatives are not subordinate to each other. Judge Murray responded in the affirmative.

Representative Moyle commended Judge Murray for his efforts in CPA cases. He expressed his concern regarding the lack of timetables. Judge Murray commented that he has no issue with timetables, as long as they allow for exceptions for some of the more difficult cases in order to do what is best for the children.

Representative Luker asked, given the new legislation that passed this year, whether he as a judge has enough tools to render his decisions. Judge Murray answered that he believes it will be an ongoing evaluation process. Representative Luker referred to the putative father registry, and asked if there is something that can be done, within constitutional bounds, so that entities can rely more easily on the registry. Judge Murray responded that he carefully considers all the possibilities for who the father might be.

Co-chair Lee referred to the permanency placement hierarchy, and asked if a policy change in this area would provide the court with more flexibility in arriving at what is in the best interest of the child. Judge Murray said that the DHW is continually looking for potential relative placements. He opined that oftentimes more information should be acquired before certain placement decisions are made, and sometimes the DHW does not have enough information before making placement decisions, which causes more placement movements.

Representative Wintrow asked how many judges are in the position to make decisions regarding child protection services, and what amount of resources exist for ongoing training and support for the judges. Judge Murray responded that the court has allowed for judges to do training for child protection, but he voiced his concern that funding provided by the federal government may potentially be discontinued. Representative Wintrow asked how often do the stakeholders in child protection services (e.g., law enforcement, courts, social workers) come together formally to discuss how improvements can be made to the system. Judge Murray answered that this collaboration does not happen enough, and part of the reason for this has to do with funding. He explained that cross-training is some of the best training that can be done when all stakeholders come together. The manner in which information is exchanged among stakeholders is in need of improvement.

The committee adjourned for break at 11:08 a.m.

The committee reconvened from break at 11:22 a.m.

The Court's Federal Funding for Child Protection - Mr. Kerry Hong

Co-chair Lee called upon Mr. Kerry Hong, Justice Services Director for the Idaho Supreme Court, to present next. Mr. Hong began his presentation by explaining that he would be testifying on behalf of Director Sara Thomas. Mr. Hong proceeded to provide the committee with additional information regarding questions that had been posed earlier in the meeting. He explained that there are 60 magistrate judges who hear CPA proceedings.

Mr. Hong stated that there is a standing supreme court committee, the Child Protection Committee, that meets twice a year. There is also the Child Protection Advisory Team, which consists of representative magistrate judges representing each of the seven judicial districts, and they also meet twice a year. There are also stakeholder meetings, where there is representation from the courts, law enforcement, DHW's regional offices, etc.

The court improvement program (CIP) was established by the federal government in 1993, and provides funding to states to specifically accomplish the following:

- Conduct a self-assessment on how child protection cases are heard and reviewed by the courts;
- Conduct strategic planning to develop recommendations on needed reforms; and
- Implement recommendations on those reforms.

The Idaho Supreme Court receives 3 grants as part of the CIP project:

1. Basic grant;
2. Training grant; and
3. Data grant.

In FY2016, this totalled $344,216 in CIP grants to Idaho to accomplish the overall mission of the CIP program which is "Idaho child protection courts will provide due process and timely justice to all children and families, while working collaboratively with the state child welfare agency and other key stakeholders to ensure safety, well-being, and timely permanency for children." The Idaho Supreme Court applies for these grants on a regular basis. The funds are applied to the three objectives referenced earlier, as well as to support the work of the standing supreme court Child Protection Committee. They serve as a steering committee for the CIP in Idaho, and also as a statewide task force for issues relating to child welfare. This committee takes a broad-based approach geographically, by role and responsibility, and willingness to serve and accomplish statewide objectives.

Funds are also used to support the meetings of the Child Protection Advisory Team, and to provide a central projects staff. The court has a child protection manager, Debra Alsaker-Burke, who has been recognized by various awards for her work in this field. The child protection manager position is funded completely by the CIP program, and also partially funds an administrative assistant and a research evaluation specialist.

The courts have found that data-informed decision-making is becoming more and more crucial. It is important to have accurate data to understand systems, and to place resources where they can make the most difference. The CIP data grant assists in providing data dashboards to judges, decision-makers, and court administrators to help them understand how these cases are, or are not, moving through. The CIP funding also supports training.

Congress failed to reauthorize the Family First Prevention Services Act, which would have reauthorized the entire CIP. As a result, both the data and the training grants will be discontinued unless congress can offset the funding; the CIP basic grant will continue to be available. This will result in a reduction of funding to the Idaho Supreme Court from the federal government in FY2018 in the approximate amount of $169,200, and $225,500 for each state each fiscal year thereafter. Mr. Hong provided this information to make the committee aware of the different pressures of the funding process upon resources that historically have been instrumental in trying to address child welfare and system improvements in Idaho. As the Idaho Supreme Court develops its budget legislative priorities, a request for the state to continue these essential services in the absence of federal funding will be included. The Idaho Supreme Court would appreciate any consideration or any assistance that the Foster Care Study Committee could offer.

Discussion:

Representative Luker asked, regarding the $225,000 in federal funding that will be discontinued, how it is divided between the training and data grants. Mr. Hong responded that both grants are roughly equal at about $112,000 each. Representative Luker asked if the State of Idaho would have any additional flexibility if it were to provide the funding. Mr. Hong answered that he would have to do additional research to see what specific assurances they had to agree to in order to obtain the grants. He explained that although at times they would appreciate the greater flexibility that state funding could provide, the challenge they are faced with right now is the absence of funding, regardless of conditions attached.

Co-chair Lee asked Mr. Hong how much longer the Idaho Supreme Court has funding for the grants. Mr. Hong answered that they have funding through September 2017, and then they would have only the basic grant, which represents only a third of the funding they have had in the past.

Committee adjourned for lunch at 11:35 a.m.

Committee reconvened at 1:06 p.m.

Summary of Code X - Dept. of Health and Welfare

Co-chair Lee called upon Ms. Miren Unsworth, Deputy Administrator for the Dept. of Health and Welfare, to speak to the committee regarding Code X. Code X is intended to be utilized in exigent circumstances to allow the DHW to place children with relatives and fictive kin prior to full foster care licensure. An exigent circumstance is currently defined in Idaho as within 30 days of a child's disruption. There are opportunities for the DHW to expedite licensure in certain circumstances per their IDAPA rules. On average the DHW does one to two expedited licensures per month in each HUB, and the process typically takes 60 to 90 days.

Discussion:

Representative Luker inquired whether the DHW has all the tools they need to perform expedited licensures. Ms. Unsworth responded that in reviewing their processes they are looking for opportunities that might further streamline licensure of relatives for both the purposes of Code X, and for expedited licensure. She explained that the workload issue of expedited licensing can impact the recruitment of foster families because they are having to wait longer to be licensed. Representative Luker asked for an example of when foster care licensure is needed for relatives. Ms. Unsworth explained that it depends on the circumstances. She said that there are opportunities for families to do temporary placements as part of their safety plan. Ms. Unsworth further explained that it can be difficult if a parent attempts to remove the child from the relative's care if the child has not been formally placed in the custody of the relative or the state.

Co-chair Lee asked when the committee could expect to receive updated materials. Ms. Unsworth responded that the materials should be updated within the next two months. Co-chair Lee asked how often the DHW is reviewing their communication tools. Ms. Unsworth explained that as far as their brochures, they recognize that there is a need for them to be updated more often. The goal going forward is to review their informational materials annually.

Committee Discussion on Draft Resolution DRRCB032

Representative Luker suggested the following revisions to draft resolution DRRCB032:

- Revising the language in lines 28 to 31 in light of respectively reviewing the OPE report;
- Adding another "Whereas" entry to include Senator Davis' motion;
- Adding another "Whereas" entry to consider legislation that includes the consideration of visitation in the initial shelter care hearing order that would allow visitation in the least restrictive manner consistent with the best interest of the child; and
- Adding another "Whereas" entry to consider putting putative parents on notice, through a publication requirement, when a need for permanency is determined.

Co-chair Lee stated her desire for more discussion on time frames once they are able to review the OPE report. Senator Souza suggested limiting the time frame and methods for searching for biological parents with the objective being to move the time frame toward permanency.

Senator Souza asked if it would be pertinent to include in the draft resolution a reference to the proposed prioritization for placement found in draft legislation DRRCB033. She suggested that this could potentially ensure that the outcome on this matter remains the same. Co-chair Lee suggested that the prioritization regarding permanency could be included as a topic in the draft resolution.

Senator Davis opined that the language in the first resolution beginning on line 36 may be too vague. Senator Davis referred to the last resolution in the draft where it states that findings will be reported to the Second Regular Session of the Sixty-fourth Idaho Legislature. He inquired if the committee should allow for more time to expire in order to see the full effects of the legislation passed, and then ask for a potential committee to be reconstituted in the year 2018. Senator Davis also suggested removing the resolution beginning on page 2, lines 3 to 8.

Representative Luker referred to his specific recommendations voiced earlier, and he suggested making specific recommendations to the germane committees on those points in a separate resolution. He stated his neutrality on whether the committee is reconstituted in either the year 2017 or 2018. Senator Davis asked the committee if they felt comfortable allowing the co-chairs to modify the resolution as needed once the OPE report is presented and reviewed.

Senator Davis made a motion that the committee report formally request that this committee be reconstituted, and meet during the interim of the year 2017. The appropriate HCR will be presented to the Legislature to allow them to complete their study, and report possible recommendations of additional legislation to the Second Regular Session of the Sixty-fourth Idaho Legislature. We recommend that the work be continued based significantly on the notion that additional judicial work would be beneficial. There would be an added benefit of having the OPE report available at that time. Senator Souza seconded the motion. The motion passed unanimously.

Co-chair Lee asked the committee for a vote on Senator Davis' motion made earlier in the meeting. **The motion passed unanimously.**

Representative Luker made a motion that the two suggestions he made earlier in the meeting be included as recommendations to the germane committees. These recommendations call for potential legislation to include visitation evaluations at the shelter care hearing stage which would involve providing for visitation in the least restrictive manner consistent with the best interest of the child. Representative Monks seconded the motion. Representative Luker emphasized that he is advocating the concept of this visitation, and it would allow the court and the DHW to provide their input.

Representative Wintrow asked if it was his understanding that there is nothing in statute that guides or requires visitation. Representative Luker responded that this is his understanding. He explained that while the court has the inherit authority to rule on visitation, it would be beneficial to include this in statute to make all parties aware. Co-chair Lee explained that this recommendation would be included the committee's final report. She stated that since this recommendation is not currently stated in statute, she would welcome input on what the language should be.

Senator Davis reminded the committee that if any of the committee members are troubled with the committee's final report, they have the option to file a minority report on the final report or on sections of it. He added that LSO staff can assist with filing a minority report.

The motion passed unanimously.

Representative Luker made a motion to recommend to the germane committees the provision of required publication notices to putative parents at the appropriate stage of the hearing, with input from the Judiciary. Representative Monks seconded the motion. Representative Luker reminded the committee that this is a regular practice for Judge Murray. Senator Davis asked for clarification on this matter. Representative Luker explained that he made this motion in an effort to shorten the time frame for putative parents to stake their claim. One potential method for accomplishing this might be for the courts to send out a notice of publication to all interested parties, including putative parents, as Judge Murray does in his own courtroom. Senator Davis voiced his reluctance for supporting this motion due to the lack of information regarding this matter. He stated his preference for the committee to converse with a collective group of magistrates about what methods are available to compress the time frames allowed for a parent to attempt to assert their parental right late into the permanency process. After some discussion, Representative Luker suggested placing this topic in the resolution as an issue for the reconstituted committee to consider.

Senator Davis made a substitute motion that, in addition to including the topic of compressed time frames for parents to assert their parental rights late into the permanency process as part of the resolution for a reconstituted committee to consider, the committee include language

stating their belief that there is value in providing compressed time frames, especially for younger children. Representative Luker seconded the motion. Co-chair Lee reminded the committee that Judge Murray had advised that there should be some flexibility allowed in some of the more complicated cases or extenuating circumstances, and she would like to see more research on this topic. **The substitute motion passed unanimously.**

Committee Discussion on Draft Legislation DRRCB033

Senator Davis made reference to Section 16-1629(2), Idaho Code, and asked if the language could be revised so that the DHW has the affirmative duty to inform parents of their rights and responsibilities, but that noncompliance on behalf of the DHW does not necessarily call for a CPA action to be changed.

Senator Davis noted that Section 16-1629(2), Idaho Code, makes reference to Section 16-1629(1), and opined that both subsections are in conflict with each other. Co-chair Lee voiced her discomfort with proceeding with the proposed language written in Section 16-1929(2) of the draft. She explained that while she believes it is important for parents to be notified of their rights and responsibilities, she is aware that in many situations the DHW is not the first entity to have interaction with parents. Co-chair suggested that a committee member could make a recommendation, and it be included in the final report, that this issue be reviewed and addressed in committee in the future.

Representative Monks and Senator Buckner-Webb voiced their concern regarding the wording of 'taken into custody' or 'placement' versus 'removal.' Representative Monks explained that he wanted to ensure that the language captured the objective of parents being notified at the time their child is removed. Senator Buckner-Webb voiced her concern about the potential lag time between the time the child is removed from the home and when the child is placed elsewhere. She explained that during this time parents are not always made aware immediately of their rights and responsibilities.

Representative Wintrow asked what the current process is for when parents are notified of their rights and responsibilities. Ms. Unsworth referred to Section 16-1609(1)(c), Idaho Code, where it specifically requires law enforcement to provide notice when making a declaration of emergency removal. As Judge Murray indicated, there is also an advisement of rights at the shelter care hearing, as well as some brochures that are provided to the parents at the conclusion of the shelter care hearing.

Senator Souza inquired about what information is included in the notice provided by law enforcement. Ms. Unsworth responded that the information on the notice is brief. She explained that it generally indicates that there has been an emergency removal, the contact information for the court to obtain a public defender, and the time and location of the shelter care hearing.

Senator Davis made a motion that the committee take subsection (2) of the draft and modify the language so that the DHW, at the time of either the removal or placement, whichever is the triggering event, provides a written description of the rights and responsibilities. At the adjudicatory hearing, there will be an additional duty to provide parents with a written description of their rights and responsibilities. The language in this subsection should be written with exculpatory language so that a failure to comply on the DHW's part does not jeopardize the need of the court and the DHW to protect the child. Senator Souza seconded the motion.

Representative Luker opined that this language should be codified in Sections 16-1608 and 16-1609, Idaho Code, since these sections deal specifically with emergency removals. Senator Davis explained that his motion is in reference to the principles that are to be included in the final report and codified in the appropriate code section, and was not necessarily advocating for a specific code section. Representative Luker opined that the best place for this subsection would be in Section 16-1609, Idaho Code. Representative Luker referred to Section 16-1615(2), Idaho Code, where it provides specific information about what information is to be included in the notification. He questioned the committee about what additional information should be provided in the notification.

Co-chair Lee explained that the proposed subsection (2), Section 16-1629, Idaho Code, is a response to the discussion about parents potentially not being informed of their rights and the process. She added that if the committee believes there is enough statutory language to address this, she has no issue with removing this subsection.

After some discussion, Senator Davis modified his motion, with permission of Senator Souza who had seconded the original motion, to state that the new draft would take the concept of what is in the current draft subsection (2), Section 16-1629, Idaho Code, and move it to 16-1609(1)(c), Idaho Code. In addition to all the notifications included, it would add a written description of all the rights and responsibilities of parents, as well as the right to counsel that is mentioned in Section 16-1615, Idaho Code.

Representative Luker questioned who will decide what will be placed in the brochures in terms of rights and responsibilities. Co-chair Lee offered that there had been discussion that the court may offer court rules to address the issue of notifications.

After some discussion, the committee proceeded to vote on the modified motion. Co-chair Lee, Senator Davis, Senator Souza, and Senator Buckner-Webb voted aye. Representative Luker, Representative Monks, and Representative Wintrow voted nay. The motion failed.

The committee proceeded to page 3 of the draft, and discussed the proposed removal of the words "fit and willing nonrelative" and that it be replaced with the words "person or persons" in the draft for Section 16-1629(11)(b), Idaho Code. Senator Davis inquired about the intent of the proposed change. Co-chair Lee explained that the intent of the proposed language was to remove much of the hierarchy so as to create a more equal setting for those individuals who are not fit and willing relatives. Senator Davis voiced his concern regarding the language, and not the intent, of the proposed modification to Section 16-1629(11)(b), Idaho Code. After some discussion, the committee members agreed that it would be best to retain the words "fit and willing."

After some discussion about potential conflict with the federal standard for placement, Co-chair Lee reminded the committee that as long as relatives retain their priority for placement, the DHW has said that they can collapse the hierarchy among other categories of nonrelatives.

Senator Davis made a motion to retain the words "fit and willing nonrelative" and combine paragraphs (b) and (c), Section 16-1629, Idaho Code, so that foster parents and other persons licensed in accordance with Chapter 12, Title 39, Idaho Code, with a significant relationship with the child are included in Section 16-1629(b), Idaho Code. Senator Souza seconded the motion. The motion passed unanimously.

Co-chair Lee called for the approval of the minutes of October 26, 2016. Representative Luker made a motion to accept the minutes of October 26, 2016. Senator Buckner-Webb seconded the motion. The motion passed unanimously.

Senator Souza presented a letter from a constituent in her district, the wife of Mayor Steve Widmyer. In the letter, Ms. Widmyer shared her experience growing up in foster homes.

Co-chair Lee thanked the committee for their hard work, as well as the public for offering their testimony.

The meeting adjourned at 3:15 p.m.