

Juvenile Justice Public Safety Improvement Act

Oversight Council Meeting

February 11, 2022

4pm CT

Present

- Judge Sandra Hanson
- Greg Sattizahn
- Justice Janine Kern
- Kelly Marnette
- Justice Scott Myren
- Kristi Bunkers
- Chuck Frieberg
- Bryan Harberts
- Tiffany Wolfgang
- Commissioner Gerald Beninga
- Rep. Linda Duba
- Secretary David Flute
- Rep. Kevin Jensen
- Joanna Lawler
- Dr. Kelly Gldot
- Melissa Klemann
- Angela Shute

Absent

- Lindsey Riter-Rapp
- Senator Red Dawn Foster
- Senator Wayne Steinhauer

Guests

- Annie Brokenleg
- Judge Doug Hoffman
- Ryan Brunner

Opening

Mr. Sattizahn opened the meeting at 4pm. He started the meeting with an overview of SB 198, then opened the table for comments from the committee members.

- Justice Kern gave the group an overview of the history of juvenile justice in South Dakota, tracing through the Juvenile Justice and Delinquency Prevention Act of 1974 and South Dakota's compliance. She pointed out it was very easy to tear down services, but time consuming to build them back up. The bill showed there were still gaps in services but repealing something that took 25 years to build is not the answer. She did not support the bill but supported the convening of a committee to identify service gaps, missed achievements, and areas of improvement. Justice Kern stressed that it was vital to proceed carefully aided with data.
- Justice Myren agreed with Justice Kern's comments and was also concerned with the full repeal. The collaborative effort outlined by Justice Kern was an important improvement to the current juvenile justice system. Completely abandoning the work is unnecessary when minor changes could be made to fix the deficiencies. If there was to be a full repeal, a process similar to the 2014 workgroup process would need to be undertaken with a concisely formed committee.
- Judge Hanson agreed with Justice Kern and Justice Myren. She felt that the bill was rushed but supported a study group.

- Joanna Lawler thought that a greater emphasis needed to be placed on the data. National studies show that incarcerating children does not make society safer; incarcerated children are more likely to become adult offenders. She agreed that schools need more resources, and thought that the focus of any study needed to be identifying the gaps. She pointed out that the reforms are still relatively new, and reforms take time to show their full effect.
- Kelly Marnette agreed with Justice Kern and Justice Myren. She felt that there were good things in the bill. It would be necessary to go through the bill line-by-line. Ms. Marnette does not support the complete reform and repeal of SB 73.
- Tiffany Wolfgang also agreed with the previous statements. A concise focused group would be necessary to improve the system and would prevent the juvenile justice system from splintering into many groups.
- Kristi Bunkers also touched on the history of the OJJDP. DOC is responsible for overseeing it, and she felt that SB 198 went too far. The data shows that the outcomes are exactly what was intended. The council does not have performance measures for education and Ms. Bunkers felt like that could be helpful, but she was concerned with South Dakota's high tolerance for placement. She was open to exploring but not repealing.
- Angela Shute did not believe that the current system was perfect. There are frustrations; however, changing the system completely is not the answer.
- Dr. Kelly Glodt said he generally agreed with the previous comments. He did not believe the majority of school officials want South Dakota to be first in the nation for incarcerations. However, educators are frustrated and need help. Dr. Glodt agreed with Ms. Bunkers that the state was too comfortable with incarcerating youth, but now the pendulum has shifted too far in the other direction—especially when there are limited services to handle concerns at the local level. He did not believe this bill was the answer, and he did not think that most educators would think this bill is the answer—repealing it would be disastrous. Educators are not interested in locking up children unnecessarily, but they need help because expelling students helps no one.
- Commissioner Beninga was concerned about tearing down 25 years of progress. He thought that a summer study would be beneficial to improve the current law and continue down the path of following the recommendations of experts and addressing the concerns of the school superintendents. He thought it was telling that 2 out of the last 3 governors felt the same way. An opportunity to discuss this during the summer would be a great opportunity.
- Rep. Keven Jensen felt that the state has been misguided with SB 73 from the beginning. He did not like the word anecdotal but felt that there were concerns that could not be fully expressed through data. He was concerned that the judicial system does not dispense an appropriate level of punishment to youth that are stealing vehicles and shoplifting. He thought it was important to have more consequences than a \$100 fine, especially with marijuana on the horizon.
- Rep. Linda Duba said she had recently spoken with the bill sponsor. While she does not agree with the full SB 73 repeal, she would support giving the bill a more narrow focused. It would be crucial to get data about what types of behaviors are happening, and then figuring out how to fix them.

- Secretary David Flute did not think it would be beneficial to fully repeal the legislation. From a tribal standpoint, there have been positive outcomes for Native American children. Building on the current foundation is better than starting over.
- Chuck Frieberg liked the idea of creating a summer study—it would provide an opportunity to return to the legislature with some really good suggestions and answers. He had heard some concerns about SB 73 from the court service officers, and felt that they could be addressed through a targeted summer study rather than a full repeal.
- Bryan Harberts was initially concerned that a total repeal would overwhelm the system because they do not have the capacity. Nationwide, no state has the capacity. Before any changes occur, the infrastructure needs to be established. SB 73 was a quick turnaround and the providers had to scramble, so they did not want to revert back to that.

Mr. Sattizahn then opened the discussion to any guests present on the call.

- Ryan Brunner indicated that any formal approval would need to take place through their own internal process, but they want to be part of the discussion.
- Judge Hoffman did not think it was beneficial to point all the blame on SB 73 when the data indicates a different story. He felt that the judicial system was skilled at determining which youth were violent and dangerous, and that violent and dangerous youth were being punished appropriately. He invited the legislators near Sioux Falls to visit juvenile court.

Mr. Sattizahn summed up the comments made by the members and thought that there is consensus that SB 198 raises important issues. While it would be difficult to support the current form, he did agree that something needed to be done to address the school concerns, which has always been a discussion point. Mr. Sattizahn also believed that it would be important to have a targeted group to review the reforms. No one ever believed SB 73 was a perfect bill, but a policy group would be able to improve the deficiencies.

Judge Hanson made a motion.

Motion: That the Juvenile Justice Oversight Council oppose SB 198 in its current form but recommend and endorse legislation appointing a multi-disciplinary stakeholder group to study and make recommendations concerning the intersection of justice involved youth and the educational system. The study group should analyze data, review legal or procedural changes in the juvenile justice system and the impact of those changes on schools, determine available services for students and make recommendations to address the group's findings. The study group should include stakeholders from the schools, criminal justice system and treatment community and consist of appointments from the Legislative, Executive and Judicial Branches and staffed with a facilitator with experience in the educational and legal setting.

Rep. Duba seconded the motion.

Mr. Sattizahn took a rollcall vote

Yea

- Justice Kern
- Justice Myren
- Judge Hanson
- Joanna Lawler
- Kelly Marnette
- Kristi Bunkers
- Angela Shute
- Dr. Kelly Glodt
- Commissioner Gerald Beninga
- Rep. Linda Duba
- Secretary David Flute
- Chuck Frieberg
- Greg Sattizahn

Abstained

- Bryan Harberts
- Tiffany Wolfgang

Absent

- Rep. Kevin Jensen
- Melissa Klemann

Rep. Duba thanked everyone for all the information they provided during the meeting. What the state is seeing is that COVID has exacerbated the traumas in young children. It is rising exponentially. She applauded everyone for their hard work. Rep. Duba thanked Judge Hanson for the amendment and said she would work on it from the legislative perspective.

Judge Hoffman invited the legislators on the group to visit his juvenile court anytime they were in the area.

Mr. Sattizahn thanked everyone for their time. The meeting concluded at 5:15