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MINUTES
Jolene's Law Task Force

Senator Deb Soholt, Chair
Senator Alan Solano, Vice Chair

First Meeting
2014 Interim
August 5, 2014

Room LCR 1 & 2
State Capitol Building
Pierre, South Dakota

Tuesday, August 5, 2014

The first meeting of the Jolene's Law Task Force for the 2014 Interim was called to order by Senator Deb Soholt at 10:00 a.m. (CDT) in Legislative Conference Rooms 1 & 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representative Peggy Gibson, Representative Jenna Haggart, Senator Deb Soholt, Senator Alan Solano, Christine Bisek, Cam Corey, Dr. Nancy Free, Ann Larsen, Angela Lisburg, Jolene Loetscher, Hollie Strand, Virgena Wieseler, and Colleen Winter. Members excused: Daniele Dosch and TateWin Means.

Legislative Research Council staff members present included Amanda Reiss, Senior Legislative Attorney; Roxanne Hammond, Legislative Attorney; Jason Simmons, Senior Fiscal Analyst; and Cindy Tryon, Senior Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office and some can be found on the Legislative Research Council website at <http://legis.sd.gov/Interim/CommitteeDocuments.aspx?Session=2014>. This meeting was web cast live. The archived web cast is available at the LRC website at <http://legis.sd.gov>.

Opening Remarks and Introductions

Senator Deb Soholt welcomed everyone to the first meeting of the Jolene's Law Task Force. The task force was established with the passage of Senate Bill 154 of which Senator Soholt was the prime sponsor ([Document #1](#)). The bill was called Jolene's Law because Ms. Jolene Loetscher was willing to publicly speak about the abuse she had endured as a child and become the face for this piece of legislation.

Section 1 of SB154 defines the makeup of the members of the task force. Senator Soholt had the task force members introduce themselves in the order that they are listed in the bill.

- (a) Child abuse pediatrician – **Dr. Nancy Free**, Sioux Falls, Medical Director of Child's Voice, Sanford Children's Hospital, a pediatrician for more than 25 years and the last 10 years has been devoted to children who are suspected victims of sexual abuse.
- (b) Representative with a non-profit organization – **Ms. Hollie Strand**, Rapid City, Education and Public Awareness Specialist, Children's Home Society, has worked with victims for many years starting in Martin as a law enforcement officer.

- (c) Representative from a child advocacy center – **Ms. Angela Lisburg**, Pierre, Nurse Practitioner, Avera St. Mary's Child Advocacy Center, evaluates children and works at getting them the help they need.
- (d) Victim of sexual abuse as a child – **Ms. Jolene Loetscher**, Sioux Falls, was abused at the age of 15-16 by a family friend.
- (e) Representative from a tribal organization with experience and training in this area – **Ms. TateWin Means**, Pine Ridge, Oglala Sioux Tribe Attorney General, was unable to attend today's meeting because of a conflict, but will attend future meetings.
- (f) Representative of a law enforcement organization with experience working with child sexual abuse investigations – **Mr. Cameron Corey**, Watertown, Division of Criminal Investigation (DCI), specializing in sexual assault crimes.
- (g) Victim's advocate who works with child victims of sexual abuse – **Ms. Daniele Dosch**, Rapid City, FBI Victim Advocate, was unable to attend today's meeting because of a conflict, but will attend future meetings.
- (h) Mental health professional with experience and training using trauma focused cognitive behavioral therapy – **Ms. Christine Bisek**, Pierre, Capital Area Counseling Services, where therapy is provided for children who have been sexually abused
- (i) Representative from the Department of Social Services – **Ms. Virgena Wieseler**, Pierre, Division Director, Child Protection Services. Ms. Wieseler said that she has worked in some area of child protection for 33 years. She has been division director for 15.
- (j) Representative from the Department of Health – **Ms. Colleen Winter**, Pierre, Division Director, Health and Medical Services. One of Ms. Winter's duties is to oversee community health nurses, who serve families with children by doing screenings and some health education in the schools.
- (k) Representative from the Department of Education – **Ms. Ann Larsen**, Pierre, Director of Educational Services and Support. Ms. Larsen's division oversees the federal programs regarding children's services.
- (l) Speaker of the House Appointee – **Representative Peggy Gibson**, Huron, has worked tirelessly with women and children victims in trying to find them the assistance they need.
- (m) Speaker of the House Appointee – **Representative Jenna Hagggar**, Sioux Falls, said that if the task force can help victims become survivors like Jolene, she will be proud to have been a part of it.
- (n) President Pro Tem Appointee – **Senator Alan Solano**, Rapid City, is the Chief Executive for a health systems agency that does a lot of work with women and children who are survivors of abuse.
- (o) President Pro Tem Appointee – **Senator Deb Soholt**, Sioux Falls, a registered nurse and Director of Women's Health at Avera McKennan, has worked in the area of women's and children's health her entire career, and was prime sponsor of Jolene's Law.

Election of Officers

A MOTION WAS MADE BY MS. LOETSCHER, SECONDED BY REPRESENTATIVE GIBSON, TO NOMINATE SENATOR DEB SOHOLT AS CHAIR OF THE JOLENE'S LAW TASK FORCE AND THAT NOMINATIONS CEASE. The motion prevailed unanimously on a voice vote.

The newly elected chair, Senator Soholt, then asked for nominations for the position of Vice Chair.

A MOTION WAS MADE BY SENATOR SOLANO, SECONDED BY MR. COREY, TO NOMINATE REPRESENTATIVE JENNA HAGGAR AS TASK FORCE VICE CHAIR.

A MOTION WAS MADE BY REPRESENTATIVE GIBSON, SECONDED BY MS. STRAND, TO NOMINATE SENATOR ALAN SOLANO AS TASK FORCE VICE CHAIR.

SENATOR SOLANO WAS ELECTED VICE CHAIR OF THE JOLENE'S LAW TASK FORCE BY SECRET BALLOT.

Remarks from the Chair

Senator Sohlt discussed SB154 and the direction given to the Task Force through that legislation. Section 3 of SB154 states that, "The task force shall study the impact of sexual abuse of children in the state and make a report to the Legislature on the prevalence of sexual abuse of children in the state and make policy recommendations to address the following areas:

1. Methods to increase awareness of issues regarding sexual abuse of children, including warning signs that may indicate that a child is the victim of sexual abuse and the actions and language a child may use to express that they are a victim of sexual abuse;
2. The actions that a child who is the victim of sexual abuse could take to obtain assistance and intervention;
3. How to best provide support and assistance to children who are victims of sexual abuse;
4. Policies to encourage adults to take responsibility for the protection of children from sexual abuse and to respond appropriately when sexual abuse of a child is suspected;
5. Collaboration of public and private organizations to assist in the recognition and prevention of sexual abuse of children, using research and evidence based practice; and
6. Any other recommendation the task force deems appropriate in addressing this issue."

Senator Sohlt explained that this task force will not be addressing why people abuse children or about how to rehabilitate perpetrators, as they would be beyond scope in committee timing and are subjects unto themselves for future studies. The Senator stated that the goals for the task force are very clearly defined and will focus the work of the group. The child is the most important part of this study: how do we help the child come forward, talk and get the help he or she needs.

Context for Regarding the Sexual Abuse of Children

Dr. Nancy Free, Sioux Falls, a pediatrician specializing in child abuse victims, said that all will benefit professionally from serving on the task force. She shared that individually every member of the task force does good work, but that it is important to link services to create a stronger whole for protection and support to children/families when faced with sexual abuse. This task force is a giant step in helping that to happen, and the work of this group will help identify the bigger picture for these children.

Dr. Free defined child sexual abuse as any sexual activity with a child. She said that play between same aged playmates can be excluded, but any other sexual activity or exploitation, including pornography, is child sexual abuse.

Dr. Free stated that child sexual abuse is very alive in South Dakota. Every type of abuse can be found in our state, yet many people do not believe these horrible things happen here. There is no way to actually tell if someone is a victim or an abuser. Statistics show that 1 out of 4 girls and 1 out of 6 boys will be the victim of sexual abuse sometime during their childhood.

Abused children often do not come forward because of guilt or threats. The vast majority of abusers are someone the child knows and in most cases someone they trust. The child may really like the abuser except for the icky stuff, so does not tell anyone. Most perpetrators are sophisticated and know how to keep the child from telling anyone. The perpetrator does this for sexual gratification not harm.

A child will often tell if there is an injury; sometimes they tell because they think it is just a game and don't know what they are saying. Sometimes the abuse is ongoing and the victim decides they are not going to put up with it anymore or worry that someone else may be abused, like a sibling or friend, and will then tell someone. Oftentimes, when they do tell, their worst fears are recognized and the family breaks up or people don't believe them. The parents may say that there is no way this could have happened or they would have known. Sometimes the victim is made to feel guilty.

Dr. Free continued by saying that the task force needs to look at finding ways to help colleagues, neighbors, and communities understand that how they react to a child disclosing sexual abuse can have a huge impact on how the victim moves forward. Adults need to listen to the child and ask age appropriate questions that will best help them get the information needed. People need to understand that a medical exam will often not show any signs of sexual abuse, because most child sexual abuse does not injure tissues, or injuries quickly heal.

Dr. Free said that most physical injuries from abuse heal completely but the mental damage cannot be healed. Adverse childhood experiences affect so many things in that stress changes our brain structure. Bodies can react in so many different ways even after the victim has reached adulthood. They can suffer increased illnesses such as stomach aches, headaches, and such. They are also more susceptible to addiction. More immediate affects can be pregnancy, contracting STDs, teenagers may become more promiscuous seeking approval through sexual relationships, and increased drug and alcohol use. Some victims have no visual effects and may go on to excel in every arena of their life.

In looking at the long-term impact of child sexual abuse, once the child reaches adulthood there is an increased risk of mental health issues, pregnancies, substance abuse, and being involved with the criminal justice system. There is also higher risk of heart disease, diabetes, cancer and other chronic diseases. All of these things can be costly to the taxpayer, reaching about \$10 billion a year.

Dr. Free concluded her presentation by saying that if we do not protect our children we will have chaos, as dysfunction breeds dysfunction.

Senator Soholt commented that charts and graphs illustrating some of the information from Dr. Free are available through the Harvard Center for the Developing Child, <http://developingchild.harvard.edu/>.

Child Sexual Abuse in South Dakota Statutes

Ms. Amanda Reiss, Senior Legislative Attorney, Legislative Research Council (LRC), distributed a document giving a summary overview of current statutes regarding sexual abuse of children in South Dakota (**Document #2**). Ms. Reiss also distributed a document listing the full wording of these laws as found in statute (**Document #3**). In regard to child sexual abuse, child is defined as anyone under the age of 18. Sex offense laws are found in Chapter 22 of the South Dakota Codified Laws and protection of children from abuse and neglect laws are found in Chapter 26 of the South Dakota Codified Laws.

The task force asked that the LRC staff do more research on laws that have been enacted in other states regarding child sexual abuse. The members also asked for more statistics from additional sources. Ms. Strand asked about the National Incident-Based Reporting System (NIBRS) and requested that the information be made available.

NIBRS is an incident-based reporting system in which agencies collect data on each single crime occurrence. NIBRS data is received from participating local, state, and federal law enforcement agencies having automated records systems. Mr. Corey said that he would check into what information is available from NIBRS and report back to the task force.

Ms. Lisburg shared that the National Children's Alliance (NCA) does case tracking and case review and that she would get information from them for the next meeting. "National Children's Alliance is a professional membership organization dedicated to helping local communities respond to allegations of child abuse in ways that are effective and efficient – and put the needs of child victims first." The National Children's Alliance web address is <http://www.nationalchildrensalliance.org/>.

Ms. Reiss added that the US Department of Health and Human Services issues an annual report based on state and national information. She will work on getting that report to share with the task force at the next meeting.

Department of Social Services Perspective

Ms. Virgena Wieseler, Division Director of Child Protection Services, distributed the handout, "Child Protection Services Overview" ([Document #4](#)). Ms. Wieseler explained how the Child Protection Services Division is set up and the work that they do. The Division has a budget of \$67 million and 245.8 FTEs.

It is the Child Protection Services office that receives any reports of suspected child abuse or neglect. Usually, the reports come from schools, the medical community, or family members. In FY2014, there were 16,129 abuse and neglect reports filed with DSS. Of those reports, 2,581 (16%) were assigned for an assessment to determine:

- If there is an immediate safety concern (present danger) for the child;
- Whether there are any safety concerns that if not addressed will result in the child being unsafe in the future (impending danger);
- Can child safety be managed in the home or are further safety interventions required;
- Outcome of initial family assessment determines next steps.

Of those assigned for an assessment (2,581), 75.8% were for neglect – 20% of those were substantiated; 15.74% were for physical abuse – 12% of those were substantiated; 5.6% were for emotional maltreatment – 4% of those were substantiated; and 2.79% were for sexual abuse – 28% of those were substantiated. Ms. Wieseler pointed out that just because a report was unsubstantiated does not mean the abuse did not happen.

Ms. Loetscher asked that if being unsubstantiated does not necessarily mean the abuse did not happen, how does Child Protective Services follow-up. Ms. Wieseler explained that all reports, even the unsubstantiated are kept for three years and then they can look back at the reports and see if a pattern develops. If the report is unsubstantiated and there is no further activity, the reports are destroyed after three years. If there is any additional activity, the report is never destroyed.

When a report is filed regarding sexual abuse in the family, the suspected perpetrator is removed from the home and the child is not removed unless there is no other adult there to protect him or her. Only law enforcement officers or judges have the legal authority to remove a child from the home. The courts then decide if the child will remain in custody or return home.

Senator Solano asked if they know how many of the sexual abuse cases involved drugs or alcohol. Ms. Wieseler said that they do not have an exact number but that drugs and/or alcohol is a factor in many of the cases in which Child Protective Services is involved.

Ms. Strand asked if the information included in the Child Protective Services report includes incidents regarding children that occur outside the home. Ms. Wieseler said that their numbers only include incidents occurring within the home.

Senator Soholt asked if there is any breakdown of information regarding socioeconomic demographics. Ms. Wieseler said that DSS does not collect that type of data when doing reports, but it may be something of which they could get some type of sense. Dr. Free said that on a national level, poverty is a significant factor in child sexual abuse cases. She said this may partly be due to a higher risk of unrelated adults living in the home, and possible lack of appropriate child care.

Senator Soholt asked Ms. Wieseler for information regarding possible funding sources for education and prevention of child sexual abuse to be presented at the next task force meeting.

Department of Education Perspective

Ms. Ann Larsen, Pierre, Director of Educational Services and Support, Department of Education, distributed a handout illustrating her presentation ([Document #5](#)). The Department of Education's main focus is to make sure all students graduate college, career, and life ready. Ms. Larsen pointed out that South Dakota is a proponent of local control for education with school boards setting each school's policies.

School nurses are required by statute, SDCL 13-33A-1, "*A public school system shall provide school health services coordinated by a registered nurse, whose services may be shared by one or more school systems. The services shall include assessment and implementation of services for students with special needs, administration of medications, and performance of specialized health care procedures.*" Currently, there are 108 FTEs for school nurses. There are 151 school districts and 700 schools. Obviously, there are several school districts that do not have a school nurse.

Schools are not required to have a school counselor, but starting in 2016, if they do employ a school counselor, that counselor must be certified. Currently there are 294 certified counselors, 5.5 non-authorized counselors (have certificates but not in counseling), and 18 non-certified counselors.

Ms. Larsen explained that the state has implemented requirements in past, one example is in the case of bullying, SDCL 13-32. This law requires that each school have a bullying policy in order to receive state accreditation. The district may create its own policy, however, if the district fails to implement a policy, the model policy outlined in SDCL 13-32 is in effect.

Additionally, there have been health education standards since 1996 with the most recent version being adopted in 2010. Students must have at least a half unit of health education to graduate.

School health profiles are conducted at randomly selected secondary schools biennially. These profiles help assess how the schools are doing to increase student knowledge in the areas of emotional and mental health, and violence prevention (bullying, fighting, dating).

The Youth Risk Behavior Survey is a questionnaire consisting of items that assess health-risk behaviors of youth. The survey is given to a random sample of approximately 1800 students in grades 9-12 and is completed every two years. Administration of the Youth Risk Behavior Survey is now being conducted by the Department of Health.

Senator Soholt asked if a question/s could be added to the Youth Risk Behavior Survey regarding child sexual abuse. Ms. Winter said that they are just finalizing the questions for the next survey and that they would find an appropriate question and propose having it added to the survey. She said that other states do ask this type of question and they will look at the language they use.

Unified Judicial System Perspective

Mr. Greg Sattizahn, State Court Administrator, Unified Judicial System, Pierre, presented information on laws regarding sexual abuse of minors and how those laws work together ([Document #6](#)).

When working with sex offenses, the age of the victim is important in determining charges and penalties, as is the relationship between the perpetrator and the victim. Age of the victim is also a factor in determining the years for the statute of limitations.

The most common sexual offense cases heard in the courts today are SDCL 22-22-1 – Rape, and 22-22-7 – Sexual contact with a child under sixteen.

There is a separate part of the law regarding abuse and neglect found in SDCL Chapter 26. There are eleven ways a child is considered abused or neglected under South Dakota law. There are about 425 cases per year regarding child abuse or neglect, but Mr. Sattizahn was not sure how many of those cases are sexual abuse of a child.

SDCL 26-8A-3 is the mandatory reporting law. This law states that the people we count on to protect our children are required to report any suspicion of abuse or neglect and will be penalized if they fail to do so.

Mr. Sattizahn distributed two documents giving the breakdown of child sexual abuse cases by numbers and type of crime ([Document #7](#)) ([Document #8](#)).

Mr. Sattizahn explained that sentencing of these crimes can be so convoluted that it is difficult to break the sentencing down in a clear data program. It is difficult to paint a clear picture with numbers and statistics because there are so many varying factors to these crimes. The numbers in these charts and graphs merely show the incidents which the prosecutor decided to go forward with in court.

Senator Soholt asked Mr. Sattizahn to break the numbers down by number of actual people involved. One person may represent several charges and she would like to get a sense of the number of actual perpetrators we are looking at in South Dakota.

Public Testimony

Ms. Georgina Schaff, representing herself, Lemmon, said that she is the state coordinator for Dakota RSOL (Reformed Sex Offender Lobby) Family Solutions and that they are looking for solutions in the Dakotas. She added that there is a need to identify and help those children who are abused. Ms. Schaff's testimony demonstrated how treatment for and reaction to child sexual abuse has changed over the years.

Future Meetings

The next three meetings of the Jolene's Law Task Force will be Monday, September 15, Tuesday, October 14, and Monday, November 17, all in room LCR 1 on the third floor of the State Capitol in Pierre. A final meeting in early December will be held if needed.

Adjourn

REPRESENTATIVE GIBSON MOVED, SECONDED BY REPRESENTATIVE JENNA HAGGAR, THAT THE JOLENE'S LAW TASK FORCE BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The Committee adjourned at 3:30 p.m.

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