
INTERIM STUDY COMMITTEE ON CORRECTIONS AND CRIMINAL CODE



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
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INTERIM STUDY COMMITTEE ON CORRECTIONS AND CRIMINAL CODE

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FINAL REPORT

Interim Study Committee on Corrections and Criminal Code

I. DIRECTIVES AND REASONS FOR STUDY

The Legislative Council charged the committee with studying the following topics:

- (A) The problems faced by offenders when the offenders are:
- (1) released from a penal facility; and
 - (2) attempting to find employment;
- including studying the possibility of establishing programs to encourage employers to hire these offenders. (Source: HR 83; HB 1612, as Introduced).
- (B) The following related to adult protective service laws:
- (1) Review and evaluate Indiana's adult protective services laws.
 - (2) Review and evaluate Indiana's statewide adult protective services units and programs.
 - (3) Identify and study the best practices for adult protective service programs.
 - (4) Consider a statewide program to assist with county level adult protective service programs.
 - (5) Review programs in other states regarding:
 - (a) elder abuse prevention;
 - (b) financial exploitation of the elderly; and
 - (c) physical and mental abuse of the elderly.
 - (6) Evaluate whether funding for adult protective services is sufficient. (Source: SB 182 as printed January 28, 2015).
- (C) Retrieving DNA samples from anyone arrested for a felony. (Source: Letter from Rep. Bauer)
- (D) The following:
- (1) Emerging technology, social media, and other electronic platforms and the impact they have on crime involving sexual assault, blackmail, bullying, etc.
 - (2) Curbing demand for prostitution through increasing the fines and penalties for those persons who purchase sex; further increasing the fines and penalties when purchasing sex from a child.
 - (3) Establishing an affirmative definition of consent, re: rape/sexual assault.
 - (4) Ensuring confidentiality for campus assault advocates.
 - (5) Providing safe harbor, ensuring that child victims of human trafficking are not charged with prostitution but are treated by the criminal justice system as victims.
 - (6) Funding for victim services.
 - (7) Providing a mechanism for groups that serve children to collect data dealing with human trafficking victims.
 - (8) Exploring the possibility of vacating convictions for prostitution or other crimes committed while the person was being trafficked.
 - (9) Reviewing statewide study of children, assault, and underreporting, to include the possible need for further study.
 - (10) Child molesters and the spread of sexually transmitted diseases to underage victims.
 - (11) Custody issues between rape victims, particularly underage victims, and rape perpetrators. (Source: HR 70).

II. SUMMARY OF WORK PROGRAM

The Committee met four times during the 2015 interim: on August 18, September 16, October 14, and October 27.

III. SUMMARY OF TESTIMONY

August 18, 2015

Offender Reentry

Pamela Ferguson of the Indiana Department of Correction (DOC) described vocational, treatment, and reentry programs available for offenders at the Rockville Correctional Facility. Doug Evans, DOC, testified that DOC's PEN Products program operates the largest US Department of Labor approved apprenticeship program, employing over 2,400 offenders. Mr. Evans stated that the recidivism rate for graduates of the apprenticeship program was 1/3 lower than for the DOC as a whole. Charles Bowen, DOC, described particular issues facing sex offenders upon release from incarceration.

Indiana Department of Workforce Development (DWD) representative Dennis Wimer made a presentation concerning DWD's statewide reentry initiative (Hoosier Initiative for Re-Entry (HIRE)).

David Powell, Executive Director of the Indiana Prosecuting Attorneys Council, testified that reentry was not just an issue for the DOC, but was a local issue because 95% of offenders returned to their local community, and many offenders placed in jail or on probation never went to the DOC.

Jim Gillam, representing Corrisoft, and Jake Hillgoth, representing Electronic Remote Accountability Monitoring (ERAM), described how remote monitoring programs offered by Corrisoft and ERAM can aid in the effective monitoring of offenders on community supervision.

DNA and Arrestees

Jayann Sepich, Co-Founder of DNA Saves, testified that 28 states take DNA samples whenever a person is arrested for a felony, and that these programs have resulted in thousands of DNA matches as well as the exoneration of some wrongfully convicted individuals. Ms. Sepich also testified that numerous serious crimes could have been prevented if these programs had been established earlier.

September 16, 2015

Adult Protective Services

Allen County Prosecuting Attorney Karen Richards, Monroe County Prosecuting Attorney Chris Gaal, Tippecanoe County Prosecuting Attorney Pat Harrington, and IPAC representative Suzanne O'Malley gave a joint presentation to the committee regarding the state of adult protective services (APS) in Indiana, noting that the legislature delegated the responsibility for APS to local prosecuting attorneys in 1985.

Yonda Snyder, director of FSSA's Division on Aging, gave a presentation describing the division's role in assisting endangered adults. Ms. Snyder noted that funding for temporary housing or assisted living was often an issue for endangered adults, and that while Medicaid funding is sometimes available, its complex administrative requirements prevent many potential beneficiaries from obtaining necessary funding.

Jessica Lindsay of Select Home Health Services described the provision of services to assist endangered adults to remain at home. Ms. Lindsey noted that many endangered adults are forced to rely on informal

support, which makes them more susceptible to financial abuse.

Dr. Lisa Patchner testified that her personal experience with the APS program was not satisfactory. Dr. Patchner stated that, in her experience, APS often provided poor service by nonlicensed providers.

Dennis Lanane, a Senior Volunteer Advocate affiliated with the United Senior Action of Indiana, stated that Indiana's APS infrastructure needs to better emphasize social work and social services.

Michael Sullivan, Director of Policy for the Alzheimer's Association, testified that Indiana's current adult protective services program does a poor job of securing placement and social services for endangered adults. Mr. Sullivan stated that the biggest issue facing Indiana's adult protective services program is the lack of emergency placement for qualifying individuals.

Human trafficking and prostitution

Deputy Attorney General Abby Kuzma made a presentation to the committee concerning sex work, human trafficking, and prostitution.

October 14, 2015

Re-entry program

Representative Macer introduced Michelle Jones and Vanessa Thompson, inmates in the Indiana Women's Prison who received an award for a reentry program they designed. Testifying on video from within the Women's Prison, Ms. Jones and Ms. Thompson presented their proposed reentry program to the committee.

Rape and child custody

After an introduction by Senator Charbonneau describing previous legislative attempts to address the issue of terminating the parental rights of a rapist with respect to a child conceived as a result of the rape, Rebecca Kiessling, co-founder of Hope After Rape, testified in support of this legislation.

Sherrie Eldridge testified that she was conceived as the result of a rape and also supported legislation to permit the termination of the parental rights of a rapist.

Monica Kelsey, founder of Living Exceptions, described the assistance that her organization provided to rape victims.

Ashley Green testified that she was raped at the age of thirteen, impregnated, and that she chose to give birth to her child. Ms. Green testified that she has not applied for state benefits because doing so might result in her rapist reentering her life or pursuing child custody or visitation rights.

Representative Slager noted that ten states have passed legislation to provide for the termination of parental rights in the case of rape.

Rape, sexual assault, and other crimes

Malea Crosby, representing the Forces and Voices project, stated that she is a victim of sexual assault and fully supports amending Indiana's rape laws to require affirmative consent.

Representative Hale reported the results of a study involving sexual assault and underreporting in Indiana.

David Miller, Office of the Indiana Attorney General, testified that human trafficking is a problem in Indiana and that the Attorney General supported increasing certain criminal penalties.

Suzanne O' Malley, IPAC, testified concerning adult protective services (APS) in Indiana, noting that additional funding was necessary. She also suggested creation of a study committee to review APS in detail.

Yonda Snyder testified concerning an ongoing caseload study being conducted by the division of aging.

Senator Young noted that no testimony was received on certain issues assigned to the committee and placed on the agenda.

October 27, 2015

Proposed Legislation

The committee considered proposed legislation and took the following actions:

PD 3344 (financial crimes against the elderly)

The committee adopted an amendment to remove a reference to the constitution in the section of the bill providing immunity to financial institutions and approved the amended PD 3344 by a vote of 13-1.

PD 3134 (termination of parental rights in instances of rape).

The committee adopted the following amendments: (1) child support obligations survive the termination of parental rights; (2) presiding judges "deny", rather than "dismiss", petitions that fail to meet the required evidentiary threshold; (3) establishment of a statute of limitations for minors involved in a termination of parental rights proceeding; and (4) a technical amendment related to the denial of a petition.

The committee approved the amended PD 3134 by a vote of 14 - 0.

PD 3218 (prohibition against certain inquiries regarding expunged offenses).

PD 3218 failed for lack of a sufficient number of affirmative votes 7– 6.

PD 3292 (technical changes to the DNA exception to the statute of limitations for rape).

The committee approved PD 3292 by a vote of 13-0.

PD 3178 (increased penalty for patronizing a prostitute if the prostitute is a minor).

The committee tabled PD 3178.

PD 3263 (penalty increases for various sex offenses involving minors).

The committee tabled PD 3263.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

The committee made the following findings and recommendations:

Reentry and employment

The committee recommends that the Indiana Department of Correction and local stakeholders study the implementation of a comprehensive education, training, and reentry program to permit high performing mid-to-long term inmates to obtain meaningful education, training, and real-world work experience. The program should be limited to those offenders who have shown exemplary conduct while in prison, are emotionally stable, and have completed significant rehabilitative programming. As part of its study, the department and local stakeholders should consider the feasibility of placing participants in a state or locally operated Independent Living Home, under the supervision of the department, a court, or a community corrections program. In addition, the department and local stakeholders should determine the extent to which the program can be made self-funding based on savings realized by the department as well as meaningful contributions from the participants' earnings.

Adult protective services

1. Adult protective services (APS) is presently underfunded and the issue of adequate state funding for APS should continue to be seriously studied by the General Assembly. The lack of such funding has led to instances of perceived non-responsiveness and lack of follow-up by those coming in contact with the system.

2. The General Assembly finds the current system lacks the meaningful involvement of a social work component. The overall protection of endangered adults should include a social work component as part of providing comprehensive services to endangered adults. Such an approach should include making sure APS has such resources and/or referral services, as well as the ability to provide follow-up services.

3. The current system lacks uniformity in standards and services throughout the state. Measures to create uniformity in the provision of standards and services should include the development of written standards by FSSA's Division of Aging, as well as the creation of a statewide hotline for the reporting of suspected abuse, fraud and neglect of endangered adults.

Crimes against children

The committee finds that HB 1006-2014 is generally working well, and that at this time it is still too early to make substantial changes to the penalties established by HB 1006-2014. However, the committee recommends that the legislative council assign to an appropriate study committee in the 2016 interim the topic of whether criminal penalties for crimes against children should be adjusted.

The Committee approved this final report by a vote of 13-0.

WITNESS LIST

John Ferguson, Indiana Department of Correction (DOC)
Pamela Ferguson, DOC
Doug Evans, DOC
Charles Bowen, DOC
Dennis Wimer, Indiana Department of Workforce Development
David Powell, Indiana Prosecuting Attorneys Council (IPAC)
Jim Gillam, Corrisoft
Jake Hillgoth, Electronic Remote Accountability Monitoring (ERAM)
Jayann Sepich, DNA Saves
Karen Richards, Allen County Prosecuting Attorney
Chris Gaal, Monroe County Prosecuting Attorney
Pat Harrington, Tippecanoe County Prosecuting Attorney
Suzanne O'Malley, IPAC
Yonda Snyder, FSSA Director of the Division on Aging
Jessica Lindsay, Select Home Health Services
Dr. Lisa Patchner
Dennis Lanane, Senior Volunteer Advocate affiliated with the United Senior Action of Indiana
Michael Sullivan, Director of Policy for the Alzheimer's Association
Stephanie McKinney
Peggy Barkus
Abby Kuzma, Office of the Attorney General
Michelle Jones
Vanessa Thompson
Rebecca Kiessling, Hope After Rape Conception
Sherrie Eldridge

Monica Kelsey, Living Exceptions
Ashley Green
Malea Crosby, Forces and Voices
David Miller, Office of the Attorney General