

MINUTES
of the
THIRD MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE

August 6-7, 2018
University of New Mexico
Domenici Center for Health Sciences Education
North Wing, Room 2720
1001 Stanford Drive NE
Albuquerque

The joint meeting of the interim Courts, Corrections and Justice Committee (CCJ) and Legislative Health and Human Services Committee (LHHS) was called to order on August 6, 2018 by Representative Gail Chasey, co-chair, CCJ, at 9:26 a.m. in the Domenici Center for Health Sciences Education of the University of New Mexico (UNM).

Present

Rep. Gail Chasey, Co-Chair
Sen. Richard C. Martinez, Co-Chair
Rep. Eliseo Lee Alcon
Sen. Gregory A. Baca (8/6)
Sen. Jacob R. Candelaria
Rep. Jim Dines (8/7)
Sen. Linda M. Lopez
Rep. Antonio Maestas
Rep. Sarah Maestas Barnes
Rep. Javier Martínez
Sen. Cisco McSorley
Sen. Sander Rue

Absent

Rep. Zachary J. Cook
Rep. William "Bill" R. Rehm
Rep. Angelica Rubio

Advisory Members

Rep. Deborah A. Armstrong
Sen. Daniel A. Ivey-Soto (8/7)
Sen. Bill B. O'Neill
Rep. Patricia Roybal Caballero
Sen. Mimi Stewart
Rep. Christine Trujillo
Sen. Peter Wirth (8/7)

Sen. William F. Burt
Rep. Brian Egolf
Rep. Doreen Y. Gallegos
Sen. William H. Payne
Sen. John Pinto

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Celia Ludi, Staff Attorney, Legislative Council Service (LCS)
Randall Cherry, Staff Attorney, LCS
Michael Hely, Staff Attorney, LCS
Chris Pommier, Bill Drafter, LCS
Erin Bond, Research Assistant, LCS
Karen Wells, Contract Staff, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, August 6**Call to Order and Introductions**

Representatives Chasey and Armstrong offered welcoming remarks. Members introduced themselves.

Update on Changes to Guardianship and Conservatorship Laws

The Honorable C. Shannon Bacon, district judge, Second Judicial District Court, and chair, Guardianship Reform Implementation Steering Committee (GRISC); and the Honorable Nancy J. Franchini, district judge, Second Judicial District Court, and vice chair, GRISC, addressed the committees.

Judge Bacon summarized Senate Bill (SB) 19, which began as a Uniform Law Commission (ULC) bill and was substantially amended during the 2018 legislative session before passing the legislature and being signed into law. The GRISC was formed to address implementation issues. Statutory changes include requiring all hearings regarding guardianship and conservatorship to be open, improving access to court records related to proceedings and inviting more people to participate in the hearings. Other changes involve financial aspects of guardianship and conservatorship, including requiring and setting parameters for bonding of guardians and conservators, as appropriate.

Judge Franchini addressed the issue of increased access for family members. Judge Bacon described modifications to annual required reporting forms, which provide significant additional information and allow for fewer hearings to obtain needed information.

The new law also contains auditor requirements that clarify who conducts, and the frequency of, audits. The court has established a memorandum of understanding with the Office of the State Auditor to accomplish this enhanced oversight.

Case review and cleanup are funded by a one-time appropriation, and these tasks have been a large part of the work the GRISC has been engaged in since the law's passage. Significant training has been necessary to educate judges and others on the new requirements of the law. The judges emphasized that the process has been under way for approximately one month, with many more months of work ahead.

Committee members had questions and comments in the following areas:

- clarification of elements of the ULC draft that were not adopted: the role of the guardian ad litem was eliminated in the ULC draft but was preserved in SB 19. Additionally, SB 19 added significant training for individuals (particularly family members) as guardians and conservators;
- whether more changes are anticipated in the future: only minimal changes are anticipated;
- whether both guardians and conservators are subject to audits: SB 19 deals with audits of conservators only; however, the electronic capability to review required reports allows auditing of guardians as well;
- whether any on-site oversight visits of guardianships will be conducted: yes, it is possible;
- clarification regarding the number of reviewed cases that have been closed in the Second Judicial District Court: at present, an estimated 120 cases have closed;
- clarification regarding the engagement of families in the process: input was actively sought and received during public hearings conducted by the GRISC;
- acknowledgment that many family members have concerns about the changes;
- clarification regarding the process for educating family members about compliance with new reporting requirements: letters will be sent notifying guardians about the reports and offering help;
- whether New Mexico's law will be difficult to comply with in other states because it amends the ULC draft: New Mexico is a leader in implementing this new law, so other states are looking to this state;
- recognition of regional differences within the state in the process of emergency appointments of guardianships and conservatorships: statewide training to ensure greater consistency will be critical;
- clarification regarding actions to mitigate harm to individuals that has already occurred: where identified, these cases are being referred to the Office of the Attorney General and law enforcement;
- clarification regarding improving the process of petitioning for guardianship: the court cannot initiate a petition; it can only respond to requests. However, the new law identifies more people who may participate in the petition process;
- whether there is any avenue to resolve differences between family members and professional guardians ad litem: yes, family members can send a letter to the judge, who will hold a hearing on the issue. Judges have greater latitude to call upon a larger number of participants in such a hearing;

- whether the Adult Protective Services Division (APS) of the Aging and Long-Term Services Department is contributing in a valuable way to identifying individuals in need of protection: currently, the APS is only conducting cursory reviews;
- recognition of the importance of incorporating language and cultural factors, especially in the process of appointing guardians ad litem;
- recognition of unique issues that arise with people in extreme poverty who are in need of guardianship; and
- acknowledgment of the myriad situations that can arise in making these crucial determinations.

Approval of Minutes

Representative Chasey requested a vote to approve the minutes of the July 16-17, 2018 CCJ meeting. A motion was made and seconded, and the motion passed without objection.

Public Comment

Jacquie Mader, director of guardianship, The Arc of New Mexico, told the committees that having the courts more involved will ensure more appropriate decisions.

Jim Jackson, Disability Rights New Mexico, presented four recommendations for further guardianship reforms: (1) authorizing alternatives to guardianship or conservatorships; (2) ensuring avenues for adequate legal representation, especially in the process of appointing guardians ad litem; (3) requiring "neutral" appointment of qualified court visitors; and (4) clarifying the scope of a guardian's authority. He said that there is a need for adequate funding going forward, especially to fund checks on whether guardians are functioning appropriately.

Ann Edenfield Sweet, executive director, Wings for LIFE International, requested consideration of funding for family day services for children of parents incarcerated in New Mexico prisons. She asserted that quarterly family visits to incarcerated persons have been shown to greatly reduce recidivism rates.

Child Protective Services: New Opportunities to Finance Programs for Prevention of Child Abuse and Neglect and Plans to Prevent Child Abuse Fatalities

The following panel of presenters addressed the committees: Nina Williams-Mbengue, director, Children and Families Program, National Conference of State Legislatures (NCSL); Susan Robison, director, state relations, Casey Family Programs; Charles Sallee, deputy director, Legislative Finance Committee (LFC); Annamarie Luna, deputy director, children's programs, Protective Services Division, Children, Youth and Families Department (CYFD); and Bryce Pittenger, director of behavioral health services, CYFD.

Ms. Robison, referring to her handout "Family First Prevention Services Act Summary", provided an overview of the federal Family First Prevention Services Act of 2017 (FFPSA), which is comprehensive federal legislation intended to guide states in tracking and preventing child abuse and in setting standards for foster care. Referring to her handout "Family First

Prevention Services Act Implementation Timeline", she emphasized that the FFPSA requires states to develop and submit plans to track and prevent child abuse by April 1, 2019. Referring to her handout "Safe, Strong, Supportive: The Families First Prevention Services Act", she highlighted several major provisions of the FFPSA, which include provisions for children in, or imminently at risk of entering, foster care and for those moving to adoption. New federal funding is available for prevention services for not only the child, but for the child's parents and caregivers. Income requirements for accessing the funding have been eliminated. Federal funding will be limited to those environments that meet safety standards and will require state matching funds. Programs must be evidence-based and include mental health services, substance abuse prevention and in-home parenting skills training. New requirements are established for determining who is a candidate for foster care, and states have flexibility in how they define this. "Group foster care" is defined as no more than six children, including foster children, in a home. Requirements for qualified residential treatment programs (QRTPs) are now specified in law. Additional provisions are intended to promote safety, permanency and well-being.

Janet Garcia, who is a Casey Family Programs consultant to New Mexico, addressed some of the work already under way in the state. She highlighted the issue of child fatalities and emphasized the multi-agency collaboration and responsibility to work on this issue. She has been working with the CYFD to meet deadlines and address concerns.

Ms. Williams-Mbengue, referring to her handout "The Family First Prevention Services Act: Opportunities for Legislatures", identified the support available to states through the NCSL. The NCSL has identified deadlines and actions that will be required of states to be in compliance with this new federal law. The role of legislators was highlighted, including planning, implementation and oversight in collaboration with state agencies charged with implementation of the act. The NCSL has convened a legislative work group to address policy, budget and communication needs related to implementation of the FFPSA.

Mr. Sallee, referring to his handout "Cost-Benefit Analysis of Child Welfare Programs", provided some current New Mexico statistics dealing with the effectiveness of child maltreatment prevention and early intervention programs. He noted that most children who come into contact with the state system of child protective services are already known to the state, having been previously reported. He believes that the FFPSA offers the state a new chance to emphasize prevention services, and he highlighted opportunities to provide child protective services through Medicaid and models in other states that could be implemented in New Mexico.

Ms. Luna assured the committees that the CYFD is in alignment with the goals of the FFPSA and that its strategic plan already includes many of the required elements of the act. She emphasized that the department strongly supports the goal of placing children in need in the least restrictive environment. She identified several requirements and described the ways in which the CYFD is implementing the FFPSA, as well as acknowledging the challenges of implementation. The CYFD has been looking very closely at the law and is working with its partners to ensure that they meet the statutory implementation time lines.

Ms. Pittenger described specific next steps to coordinate with Medicaid with regard to QRTPs and other opportunities.

Committee members made comments and asked questions in the following areas:

- clarification regarding the October 1 deadline: a plan will be submitted for tracking and preventing child abuse;
- clarification regarding the staff vacancy rate in the CYFD in child protective services: currently, it is 13%;
- clarification regarding the necessary state match needed to receive the 50% federal matching funds for implementation of the FFPSA: the state does not have a plan at this time that can predict that budget need. Mr. Sallee suggested greater involvement from the legislative body to address decision points;
- whether a task force is needed to identify this budget requirement: Mr. Sallee noted that the LFC is already working with the CYFD to develop this information;
- an observation by Ms. Williams-Mbengue that one option is to free up congregate care dollars and shift them to prevention programs;
- an observation that the effectiveness of some programs has not been researched yet to determine whether the program meets the standard of being evidence-based;
- whether a contingency fund could be established to give the CYFD the funds needed for the implementation work: yes, language can be put in the budget to do that;
- what percent of calls to the Sky Center of the New Mexico Suicide Intervention Project results in a referral to the CYFD's Protective Services Division: about 50%;
- clarification of why New Mexico is low in preventive spending for children: primarily, it is because the state has relied on federal funds that are capped;
- clarification regarding why 125 children were placed out of state for residential treatment: these were individual cases with special needs;
- a request for a publication, "Our Kids Aren't Safe", to be shared with both committees as it addresses many of the issues discussed;
- clarification regarding kinship navigator programs: they are evidence-based programs that help communities with all issues of kinship caregiving, including grandparents raising grandchildren; and
- whether the CYFD is tracking child deaths: yes, there is a committee that is meeting quarterly to look at this, but so far, no follow-up action has been taken.

By consensus, the committees requested the New Mexico Legislative Council to create a subcommittee of the LHHS and CCJ to work with the CYFD to meet the October 19, 2019 deadline for implementation of the FFPSA.

Notice

Senator Gerald Ortiz y Pino, vice chair, LHHS, announced that the early September LHHS meeting has been rescheduled for September 26 through 28.

Juvenile Justice Update

Nick Costales, deputy director of field services, CYFD; Gerri Bachicha, administrator, Juvenile Detention Alternatives Initiative (JDAI), Bernalillo County Youth Services Center; Tamera Marcantel, deputy director of juvenile justice facilities, CYFD; five members of the youth board of La Plazita Institute; and Ms. Pittenger addressed the committees.

Mr. Costales highlighted some approaches to juvenile justice in detention centers in New Mexico. The CYFD is focusing on support services rather than supervision. It is implementing wrap-around services using community providers rather than probation officers. Since the need for probation officers is declining, the CYFD is reclassifying those workers into new positions. The CYFD is working on implementing some best practices from Bernalillo County in other parts of the state.

Ms. Marcantel emphasized that the mission of the CYFD's Juvenile Justice Division is to keep youth safe and prepare them to reenter society. New programming has focused on preparation for a successful life in the community upon release from detention. Excellent results are being seen, with much lower rates of recidivism.

Ms. Pittenger described her role in the Juvenile Justice Division. She works on support services for those between the ages of 12 and 21 to prevent and treat substance abuse disorders. The program has been developed with youth input. Mental health issues are also addressed.

The youth from La Plazita introduced themselves: Davina, Chuy and Antonio were joined by Erik Rivera and Albino Garcia, who work at La Plazita. La Plazita offers a general equivalency diploma program, healthy food, young men's and women's groups and a weekly youth support group. All La Plazita youth addressing the committees said that they have been subjected to strip searches, and they advocate the use of less humiliating and traumatic alternatives. Mr. Rivera described his role and experience in working with the youth, affirming that the goal is to get them what they need to be successful once they are released from the center.

In response to a request for feedback from the youth and their leaders for suggestions on what is missing in the system, answers included better communication within and outside of the institution and elimination of stereotyping.

Ms. Bachicha reviewed her handout "NM Juvenile Crime Stats". She talked about the efforts of counties, beginning in 2007, to fight for funds to build best practices in juvenile justice. The Juvenile Continuum Grant Fund, created in 2007, was the result of their efforts and has had extraordinary results, with significant decreases in juvenile crime as well as the costs attached to that. Continuum boards support the Annie E. Casey Foundation's JDAI and described the JDAI as key to their success. She emphasized that many challenges remain, including rising substance abuse rates. The core principles of the JDAI are embedded in the Children's Code. The continuum boards ask for reinvestment of funds in rural areas, training to implement best

practice programs and consultation and involvement with board representatives regarding funding and legislative proposals.

Committee members had questions and comments in the following areas:

- clarification from the youth presenters regarding what they meant by communication as something that needed to change;
- whether screening devices could be installed in lieu of strip searches: this is being pursued through the capital outlay process;
- whether the CYFD has data on the percentage of children who have been released from a juvenile facility and later entered an adult correctional facility: the rate was 9% last year;
- whether the percentage of non-citizen youth who commit crimes in New Mexico is known and what percentage of them are MS-13 gang members: that information can be found;
- an observation that the primary gateway drug in America is alcohol;
- clarification regarding the number of psychiatrists employed by the CYFD for juveniles: there is one for prescribing; other mental health professionals are available for counseling;
- whether the youth present are satisfied with the proposed solution of electronic screening in lieu of strip searches: generally, yes;
- a suggestion that alternate approaches to strip searches be proposed as legislation;
- whether data regarding recidivism can be routinely collected and reported: the CYFD is working to identify the best way to collect and report this data;
- clarification regarding how the juvenile justice continuum is funded: it is funded primarily through the General Fund, with a small amount coming from federal funds;
- an observation that despite the decline in youth commitment, detention and referrals, constituents still report not feeling safe in their neighborhoods;
- clarification regarding the number of young people involved in the criminal justice system: the data is part of the CYFD annual report, and the department will provide it;
- whether it is known what percentage of youth involved in the criminal justice system are also parents;
- clarification regarding the concept of "race equity": race equity means treating everyone as an individual who is entitled to culturally appropriate services;
- recognition of the link between the lack of postnatal home-visiting services and involvement in the juvenile corrections system at a later age;
- clarification regarding the 10 counties that are not served by the juvenile justice continuum: it is difficult to serve some frontier counties, but the CYFD is hopeful that it can remedy that situation in the future. The difficulty in putting together a board is a factor; and
- an observation that disparate caseloads and challenges for juvenile probation officers in various settings are difficult problems to overcome.

Recess

The committees recessed at 5:38 p.m.

Tuesday, August 7

Reconvene and Introductions

The joint meeting of the CCJ and the LHHS was reconvened at 9:31 a.m. by Representative Chasey. New attending members introduced themselves.

Inmate Health Care

Theresa Edwards, fiscal analyst, LFC, reviewed her handout "Overview of Inmate Health Care Contracts", which compares budgeted costs to actual costs. She reviewed the frequency and tools used to audit continuous quality improvement and management, noting that the cost of treating hepatitis C has declined over the last three years. Some unique financial details were discussed, including fines assessed against Centurion, a prison health care provider, and a program to purchase HIV drugs using the 340B federal discount drug pricing program.

Committee members had questions and comments in the following areas:

- whether results are available regarding a prison health care contract with HealthInsight New Mexico: David Selvage, health services administrator, Corrections Department (CD), will provide the results;
- clarification regarding the status of 17 lawsuits against Centurion filed by inmates alleging neglect and lack of timely and appropriate care; and
- a suggestion to conduct a cost comparison using the 340B drug purchasing program to purchase drugs.

Jerry Roark, deputy secretary, CD, commented briefly on improvements seen in inmate health care management. Mr. Selvage highlighted accomplishments that include audits on diabetes, infection control and readiness. The department has hired a nurse practitioner and an infection control professional. Mr. Selvage highlighted partnerships with CHRISTUS St. Vincent Regional Medical Center, the Department of Health (DOH), Project ECHO and telehealth providers. The CD has purchased and is distributing Narcan to inmates with opioid addiction in overdose situations. The CD is cooperating with the DOH on a request for proposals to acquire a new electronic health record system.

Wendy Price, Psy.D., bureau chief, Behavioral Health Bureau, CD, highlighted the results of projects designed to address mental health and substance abuse issues. There are weekly meetings with psychiatrists to ensure appropriate administration of medications. She reported on program compliance improvements and improvements to women's health.

Grace Philips, general counsel, New Mexico Counties, presented information on county jails and facilities. This data reflects a reduction in the number of inmates and length of stay in facilities. The Bernalillo County Metropolitan Detention Center population alone accounted for 42% of the reductions. She noted that there are nine contracts with entities providing health care services to county inmates. The needs, as well as the ability to identify contractors, vary greatly from county to county. As with the state, contractors and jails have great difficulty hiring clinicians. Counties are distributing Narcan to inmates and also to family members of inmates. Counties are working with the Human Services Department (HSD) to facilitate enrollment in Medicaid upon release from jail.

Maria Martinez Sanchez, staff attorney, American Civil Liberties Union (ACLU) of New Mexico said that she primarily focuses on inmate rights, noting that about one-third of all inmate complaints are in reference to health care services. She provided several examples, including lack of timeliness of treatment, failure to transfer to other levels of care, lack of access to specialists and untreated conditions. The ACLU encourages pursuit of a different model for the provision of inmate health care, with close monitoring of delivery issues in the meantime. Accountability is critical.

Matthew Coyte, Esq., Coyte Law, P.C., described his history of working in New Mexico on inmate health care issues. He identified barriers to quality care that are inherent in privatized health care services for this population. Oversight tends to be based on contractor accountability rather than recognizing individual complaints or issues with inmates.

Committee members had questions and made comments in the following areas:

- clarification regarding payment to contractors with county providers: there is a flat rate to provide whatever health care needs arise;
- whether HIV is being prevented or merely treated: there is a very low incidence of HIV in the prisons. The contract with Centurion covers both preventive and treatment drugs;
- whether the state's constitutional obligation to provide health care services to incarcerated individuals is for treatment or health promotion: Ms. Sanchez believes the obligation is for medically adequate care;
- clarification regarding how long New Mexico prison health care has been privately provided: since 1991;
- an exhortation to treat incarcerated people with compassion and appropriate care, especially when they are terminally ill;
- clarification regarding the nature of the health assessment upon an inmate's entry into jail or prison;
- whether there is data regarding the number of inmates with terminal illnesses: the state system at present classifies chronic illnesses, many of which are terminal;
- whether sharing the hiring for providers for counties would be better than each jail acting independently: it is an idea worth exploring;

- whether there has been any thought to applying for a Medicaid waiver to cover incarcerated individuals: the CD is not aware of what would be required to do this. Research should probably be done to explore this potential;
- clarification regarding circumstances in which county jails are able to obtain Medicaid coverage for inmates: counties are working with the HSD to make this happen more consistently;
- clarification regarding efforts of the state to ensure that people released from prison are enrolled in Medicaid: state law requires that inmates obtain pre-release assessments and an opportunity to connect with managed care organizations prior to release;
- whether the budget for mental health care for male inmates is equal to that of females: no, increases for females reflect increases in facility costs;
- a suggestion that the state should actively pursue moving to a public versus a private delivery of inmate health care;
- clarification regarding what the CD has done to improve the system: progress was reviewed. Program enhancements are overshadowed by the massive opioid and addiction crisis;
- outrage that female inmates are asked to purchase feminine hygiene products: some are provided for free, but if inmates wish to purchase larger quantities or more expensive products, they are given this opportunity;
- clarification regarding the transition of Corizon to Centurion: some employees moved from one contractor to the other, but the full extent of this is not known;
- recognition regarding the special, and expensive, housing needs for geriatric inmates;
- encouragement for greater availability for compassionate release;
- clarification regarding conditions when inmates qualify for Medicaid coverage;
- acknowledgment that rural hospitals might be able to serve the hospital needs of some inmates;
- an observation that local law enforcement needs to be adequately funded for authorized transportation of inmates;
- clarification regarding the portion of mental health inmate services that are subject to the Audit Act: all of them;
- whether there has been a financial analysis in the last four years to compare the cost of operating a public versus a privately contracted prison system: no;
- an observation that a very specific plan, including costs, is necessary before the state can make an informed decision about public versus private provision of prison health care services;
- a request for the LFC to identify the cost and time to conduct such a study: the LFC will look into this. In the last session, \$200,000 was appropriated for the CD to develop a comprehensive plan. A memorial was also passed to look at this topic;
- clarification regarding details of contract requirements, terms and the certification status of Centurion;
- clarification regarding the extent and frequency of quality audits of clinical care: accreditation of all facilities by the American Correctional Association is in progress;

- whether the number of CD employees is adequate to ensure appropriate oversight of all contracts: no; however, it will become appropriate at such time as an electronic health record system is established;
- an observation that many of the facilities housing inmates are in terrible condition and need to be replaced;
- whether the amount budgeted for hepatitis C treatment is adequate: there has been a reduction in the cost for treatment, so the CD feels the current budgeted amount is enough;
- clarification regarding the number of private prisons in New Mexico: there are five;
- clarification regarding who provides the care in private prison facilities: various contractors are paid by the CD;
- whether county indigent funds can pay for health care in jail: this is not known; and
- clarification regarding the number of lawsuits against Centurion: there were 28 or 29 lawsuits since the beginning of the contract period. Nine have been closed.

Public Comment

Don Johnson, Health Ministries, stated that he was jailed for 14 years. He said that while incarcerated, he experienced many unnecessary health emergencies due to poor food preparation and other situations.

Maggie Kiel, National Association of Social Workers, said that the availability of feminine hygiene products is critical. She also provided a personal story of her brother, who has bipolar disorder but whose mental illness went unrecognized and untreated while he was incarcerated.

Following up on the discussion and recommendations regarding the FFPSA, it was moved and seconded, and the motion was adopted without objection, to send a letter from the CCJ and the LHHS to the New Mexico Legislative Council requesting the creation of a subcommittee to be composed of four LHHS members and four CCJ members to provide oversight of the state's implementation of the federal FFPSA program for the prevention of child abuse and neglect. It was proposed that the subcommittee would meet one day per month in September, October and November and would take testimony from personnel from the CYFD and the courts on the progress of planning for this program. The subcommittee would be tasked with providing the LHHS and CCJ with a report at each committee's final meeting.

Gun Violence as a Public Health Issue: Background Checks; Extreme Risk Orders of Protection; Domestic Violence

Senator Martinez presented a discussion draft of a bill, file number 211083.1, that he intends to introduce in the 2019 legislative session that would require a background check for the purchase of firearms. He identified a loophole in the current New Mexico statutes that permits online purchases of firearms without a background check. He introduced Harold Medina, deputy chief, Albuquerque Police Department; Emilie De Angelis, president, New Mexico Moms

Demand Action; and Michaela Ewing, member, March for Our Lives, all of whom spoke in support of the draft bill.

Deputy Chief Medina testified that the proposed legislation is geared toward ensuring community protection, and it does not interfere with the right to bear arms in New Mexico. It will protect the community and protect law enforcement officers.

Ms. De Angelis said that her organization works to establish evidence-based approaches to gun safety. She described an incident in which a person with unfettered access to purchasing firearms went on to engage in a mass murder with his collection of guns. Due to the loophole in New Mexico's laws, he was able to purchase guns in the state by purchasing from an unlicensed seller and avoiding a background check. She reviewed the elements of the proposed draft legislation.

Ms. Ewing provided personal testimony that, as a teenager, she fears for her life every day in school as a result of the loophole that allows teens to buy guns online. Additionally, easy access to guns increases the opportunity for teens to commit suicide. She noted that teens do not have fully developed brains, and they should not have such easy access to gun purchasing.

Committee members had questions and made comments as follows:

- clarification about how the law would be enforced, particularly in rural New Mexico and in counties where most of the population carries guns;
- clarification regarding pricing for the background check: the market should control that;
- whether opportunities exist for enforcement at the local level versus statewide: it would become too variable in its implementation;
- an observation that instant federal background checks are flawed in their effectiveness;
- a request that the bill be discussed at a later date for more thorough consideration; and
- a suggestion that future consideration be given to 3D-printed guns.

Representative Armstrong introduced Sheila Lewis, member, New Mexico Coalition Against Domestic Violence, and Jennifer Padgett, chief deputy, First Judicial District Attorney's Office. Representative Armstrong presented a draft bill, file number .211034.1, which provides that a person who is convicted of domestic violence loses the right to possess firearms. She referred to research showing that the presence of a gun in a domestic violence situation makes it five times more likely that the victim will die from a gunshot. This draft allows state judges to protect victims who are not covered by the federal law.

Ms. Lewis spoke of the importance of restricting guns in domestic violence situations. She compared the draft bill to previous iterations, asserting that the current draft is much stronger than previous versions. The bill establishes two ways of incurring a felony conviction, it

addresses enforcement and it provides a mechanism to allow a person to turn over a gun to law enforcement. This approach has been adopted in 27 other states.

Committee members had questions and made comments as follows:

- an observation that questions will arise in reference to states that have already passed this bill and whether they have seen results: there have been some studies showing results;
- whether threats to pets are or could be included as "threats to property of a household member": it is a good idea and should be added;
- whether this bill is considered a "red flag" bill: no, it is limited to firearms in situations of domestic violence;
- whether a document can be created to reflect the differences and similarities of this law in the 27 other states that have enacted it: yes; and
- clarification regarding issues in which the person wielding the gun is not the rightful owner of the gun.

Representative Daymon Ely presented a draft bill, file number .210975.1, which he described as a "red flag" bill that seeks to protect both gun owners and law enforcement. The bill institutes an "extreme risk protection order" (ERPO), which would allow law enforcement to remove a gun from someone who has already been identified as a potential threat. So far, 11 states have enacted similar bills. He introduced Hannah Shearer, staff attorney and Second Amendment litigation director, The Giffords Law Center to Prevent Gun Violence. Ms. Shearer briefly reviewed the other 11 versions of the bill and the due process safeguards contained in the bill.

Committee members had questions and made comments on this bill as follows:

- concern regarding where a petition will be filed for maximum impact and minimum confusion;
- a suggestion that notification to local law enforcement of rejected background checks be required;
- a statement of the importance of funding checks on gun sellers;
- a request for the names of the states that have already passed ERPO legislation: the 11 states were identified;
- whether the law allows parents who fear that their child is a suicide risk to petition the court to require the relinquishment of a gun in their child's possession: yes;
- whether this provision would also extend to guardians: the sponsors will consider adding this to the bill;
- clarification regarding documentation that is provided if someone has successfully undergone a background check: separate transactions require separate background checks; and
- clarification on whether the approval is gun-specific: yes.

Miranda Viscoli, New Mexicans to Prevent Gun Violence, introduced two young women interested in knowing more about gun laws in New Mexico.

Julia Mazal desires a bill to limit children's access to guns. She is motivated by such acts of violence as the mass shooting at Columbine High School. She described some other individual events in which youth obtained firearms to commit acts of violence. Referring to her handout, she said that guns in homes where there are children create a specific threat. Parents should be required to store their guns safely. A child access prevention (CAP) law makes it a crime to carelessly allow access to guns when there are children in the home. Ms. Mazal cited a particularly effective CAP law in Florida. Such laws, according to research, greatly reduce the incidence of youth suicide. She reminded the committees of incidents of gun violence by youth in New Mexico. She asserted that CAP laws do not prohibit lawful access to gun ownership; they simply require responsible ownership.

Sophia Lassiez provided statistics in New Mexico of gun violence and asserted that current laws in the state do not protect children sufficiently. In just one year, 85 children in New Mexico were killed through unintentional use or reckless storage of guns.

Committee members had questions and made comments as follows:

- an expressed appreciation for the testimony and advocacy expressed by the youth;
- whether the bills presented during the day address their concerns: there are some similarities; however, those bills do not specifically address responsible storage of guns;
- whether the youth are willing to work with a sponsor to create a bill: yes;
- recognition that the students have researched approaches to gun laws, and on their own, they chose the CAP law as the focus;
- whether it is known whether the legislation in other states passed in a bipartisan manner: this was not specifically known, but it is likely that the Florida legislation was bipartisan; and
- recognition that as a nation, the United States has safety standards for automobiles but not for handguns.

Public Comment

Mike Heal, chief, Aztec Police Department, recounted the shooting at Aztec High School in December 2017 that resulted in the death of two students. He is the vice president of the New Mexico Association of Chiefs of Police, which hopes to present a resolution concerning enhanced safety in public schools. He identified gun control issues that the association intends to support during the next legislative session, including ERPO. He also wants to make it a felony to bring a gun to school. The association is working hard to identify multiple ways to keep children safe. He hopes to gain the support of the legislature for these measures.

Dale Perkins, a concealed carry instructor, remarked that all of the day's presentations suggest an intention to take away his guns. He has been threatened with violence in many circumstances and would not feel safe if he did not have the ability to carry a weapon. He was the victim of a false 911 call alleging he was beating his wife, which resulted in him being arrested and placed in handcuffs. He believes that there are already adequate laws to protect society, but they are not being enforced. He worries about New Mexico becoming a police state.

James Frasier Page is a public information officer of Gun Owners of New Mexico. He was previously in law enforcement in California and also was a seller of guns. He asserts that the gun laws in California were followed, but they failed in accomplishing their goals. He is a strong supporter of the Second Amendment of the United States Constitution. He believes that passage of laws that are not enforced simply leads to the belief that laws do not matter.

Rosa Valencia, a member of Moms Demand Action, said that she is a grandmother and a strong supporter of gun control. She noted that the Second Amendment was passed in 1791, but the country is now in a different time. She believes that the United States Constitution is a living document and should reflect the challenges the country faces now. The Sandy Hook Elementary School shootings touched her heart deeply. She exhorted the committees to get ahead of this problem and think of all children, both now and in the future.

Herbert Hoffman, a clinical psychologist, advocated for smart triggers for all firearms. These are triggers that only respond to a particular fingerprint. He does not believe this would be an infringement on gun ownership.

Elizabeth Mullaney, a member of Moms Demand Action, shared a personal story about a home invasion by a man with a gun when she was three. As an emergency room nurse, she has cared for many children with gunshot wounds. Because of her experience with violence in her life, she is committed to protecting the lives of children from gun violence. She believes there is more agreement among people with opposing views than people often realize.

Adjournment

There being no further business before the committees, the third meeting of the CCJ for the 2018 interim adjourned at 5:30 p.m.