

# MINUTES

## Study Committee on Juvenile Justice



Representative Caleb Finck, Chair  
Senator Erin Tobin, Vice Chair

First Meeting, 2022 Interim  
Thursday, June 16, 2022

Room 362 – State Capitol  
Pierre, South Dakota

Representative Finck called the meeting to order at 9:00 a.m. in Room 362 of the State Capitol, Pierre.

A quorum was determined with the following members answering the roll call: Representatives Fred Deutsch, Caleb Finck, Erin Healy (remote), Rhonda Milstead, Ernie Otten, Tim Reed, Taylor Rehfeldt (remote), and Mike Stevens; Senators Red Dawn Foster (remote), Kyle Schoenfish (remote), VJ Smith, Erin Tobin, and David Wheeler. Excused: Senators Lee Schoenbeck and Wayne Steinhauer.

Staff members present included Amanda Marsh, Principal Research Analyst; Bill Douglas, Fiscal Analyst; and Cindy Tryon, Administrative Specialist.

**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. This meeting was webcast live. The archived webcast is available at the LRC website at [sdlegislature.gov](http://sdlegislature.gov).

### Opening Comments

Representative Finck welcomed everyone to the meeting and thanked the committee members for taking the time to be a part of the study. Representative Finck said juvenile justice is a broad topic and the issues will not be fixed with one summer study. The committee will listen to today's presenters and then establish 3 to 4 workgroups that will each be assigned a topic to research further. The full committee will then meet to discuss the findings of the workgroups.

### Speakers/Presentations

**Mr. Greg Sattizahn, State Court Administrator, Unified Judicial System (UJS)**, distributed a list of definitions and terms for the committee members to reference ([Document #1](#)). Mr. Sattizahn gave a brief overview of South Dakota's juvenile justice system ([Document #2](#)). South Dakota was the second highest for juvenile commitments in the nation in 2011 and 2013. Of the juvenile commitments to the Department of Corrections (DOC), 75% were for misdemeanors, CHINS (child in need of supervision), and probation violations. 45% of the juveniles released from DOC returned to custody within three years. These are the main reasons the Juvenile Justice Reform Bill (SB73) was passed in 2015.

Mr. Sattizahn went through the three goals of 2015 SB73 and how those goals are being addressed. The three goals are 1) Increase public safety by improving outcomes and reducing recidivism; 2) Effectively hold offenders more accountable; and 3) reduce juvenile justice costs by investing in proven community-based practices and preserving residential facilities for serious offenders.

Mr. Sattizahn said some changes have worked well and others have not worked so well. The diversion program has mostly worked well. The diversion programs for eligible juveniles has resulted in thousands of successful diversions since FY16. There is an assumption that low level cases will go to diversion, which is outside the judicial system meaning there is no court file. Without a court file, these cases cannot be tracked. There are some counties that do not have the resources to provide diversion programs. When providing diversion programs, the county decides if

the program has been successful. If the youth has not successfully completed the diversion program, they can proceed to the court system, which takes time. When consequences are delayed for a youth, the connection between the offense and the penalty is not there.

In addressing the second goal of effectively holding the juvenile offenders more accountable, sanctioning grids have been developed to standardize how youth are treated across the state. Court service officers developed the grid. The grid can be overridden in certain cases. UJS reviews the grid annually to make needed adjustments.

When all the alternatives for accountability have been exhausted, the DOC commitment criteria is used. This is a pipeline to the DOC. This is reserved for the most serious and violent offenders; youth who have been adjudicated for intentional damage to property exceeding \$5,000 or who have been adjudicated for a drug distribution offense. The catch-all term for using this criteria is youth who are at risk to others.

CHINS does not have a minimum age, and there are children as young as five in the system. CHINS are violation cases who are not necessarily committing dangerous crimes but continually do not go to school, are disruptive, and frequently run away or have no supervision. A CHINS case is only committed to DOC with a written decree if no viable alternative exists, DOC is the least restrictive alternative, and the youth presents a significant risk of physical harm to another person. Mr. Sattizahn said this is the most frustrating group of juveniles to work with and, at times, providers just wait until the offender ages out and then the adult system can deal with them.

Mr. Sattizahn said SB73 defined a juvenile probation term as four months. This amount of time was not enough to engage the youth, and the term was revised to six months with the ability to extend the term for up to 18 months. Probation can only be extended to complete evidence-based treatment.

Another program developed to address the goal to hold juvenile offenders more accountable is the Community Response Teams (CRT). A CRT includes community-based partners brought together to assist judges by recommending viable community-based interventions. By the time CRTs are implemented, all options for that juvenile have been exhausted. Mr. Sattizahn said the most common recommendation from a CRT is to send the juvenile to DOC. The CRT program has only been used in the four counties found in the First Circuit. In other areas this program has not worked as intended. There has been some discussion about using CRTs earlier in the process.

Representative Milstead said risky behaviors often are a result of the environment. How do the courts address returning the juveniles to their environments? Mr. Sattizahn said this is a big question. SB73 did try to address engaging the families. When a juvenile is on probation, the whole family is on probation. How to engage the family is an area that needs a lot of work. There is a project underway now to determine how services for these youth can be better coordinated.

Mr. Sattizahn said another juvenile area in which South Dakota involves law enforcement is truancy. Many states do not use the criminal justice system as a response for truancy, but see it more as an issue for the Department of Social Services. In South Dakota, truancy is a citable offense through the juvenile citations process. A juvenile citation is a ticket that must be paid. Juvenile citations are used in cases of truancy, intentional damage, alcohol offenses, and petty theft. Citations for truancy have not been as successful as for other offenses. The state responds with citations for truancy twice. Mr. Sattizahn said Pennington County seems to be the most successful in dealing with truancy. They have a truancy court to determine the reasons for the truancy, and find the best way to address the issue for that youth.

Mr. Sattizahn said SB73 was the largest investment in state history for juveniles. It has been a challenge for the state to implement all of the areas successfully. The COVID pandemic added additional challenges to the programs. Juvenile officers are reporting more need for mental health services for juveniles. The availability of in-person

services for mental health issues have significantly decreased across the state. Telehealth has become vital in offering these services.

Senator Wheeler asked about funding for SB73 and if those funds were tracked. Mr. Sattizahn said UJS received no FTE or additional money to go with juvenile justice reform. The Department of Social Services (DSS) did receive \$2.8 million for juvenile justice and administers the budget for juvenile services in the state. DSS has tracked the funds over the years. Mr. Sattizahn said the courts have moved away from intensive probation for juveniles. There were 1400 juveniles on probation prior to SB73 and now there are about 600 youth on probation.

Senator Wheeler asked Mr. Bill Douglas, Fiscal Analyst, to research the funding for juvenile justice reform, and report back to the committee.

**Ms. Staci Ackerman, Executive Director, South Dakota Sheriff's Association**, gave her background. Ms. Ackerman was at one time a school resource officer and said the experience was eye-opening. Ms. Ackerman said officers really do care and want our youth to succeed. Some youth have no fear of the consequences for their actions and the question is how do we help them. Ms. Ackerman said one sheriff told her about a mother who had to drive 100 miles one way to take her child for treatment. Finding community service projects can be a problem.

Ms. Ackerman introduced Sgt. Aaron Bartscher with the Lincoln County Sheriff's Office to talk about some of the frustrations law enforcement faces when working with juveniles.

**Sgt. Aaron Bartscher, Lincoln County Sheriff's Office, Canton**, said he was asked to speak to the committee about some of his department's frustrations with the juvenile justice system. Sgt. Bartscher described what happens when the department gets a call regarding a youth involved situation. After the youth is detained, the officer calls the Juvenile Detention Center (JDC), JDC goes through the criteria found in the RAI (risk assessment instrument) and determines the juvenile does not meet the criteria. There is the option of Lutheran Social Services (LSS) where the youth can go for a two-hour cooling down period, but that has to be cleared through JDC. There are times it may take hours to hear back from JDC and the officer has to figure out what to do with the youth. The officer can take the juvenile to the city jail, but then it becomes a problem for the Sioux Falls Police Department. These are just a few of the frustrations.

In response to a question from Representative Finck, Sgt. Bartscher said LSS has been a saving grace, especially at night. LSS will take a juvenile until we can find another solution, but law enforcement has to wait for JDC approval before going to LSS. It would be helpful if the process could be streamlined, and the officer could contact the community resource directly.

Representative Milstead asked for the most common behaviors in juveniles that law enforcement faces. Sgt. Bartscher said there is an increase in drug use, truancy is an issue, as are family social issues. There are times when the parents will ask that the juvenile be taken to JDC, but JDC does not work that way.

Senator Wheeler asked if the risk assessment is too strict. Sgt. Bartscher said he believes it is. There are situations where there are extenuating circumstances, such as the juveniles first offense may be an extremely violent offense. The violence should override the fact it is a first offense. There is not a lot of room to budge with the RAI. Most times the situation does not meet the criteria, creating frustration for everyone involved.

In response to questions from Representative Finck and Representative Milstead, Sgt. Bartscher said law enforcement responds to a call and then decides if the juvenile should be arrested. The officer calls JDC to see if they will house the juvenile and they then go through the RAI protocol. If JDC says no, the officer has to figure out what to do with the child. The officer may try to go to the parents. The youth cannot ride around with law enforcement all night. Sgt. Bartscher said there have been a few situations where he has called the States Attorney.

Committee members asked Mr. Sattizahn about the RAI. Mr. Sattizahn said when making the initial arrest the RAI is used to find the validated risk score to determine if the youth should be detained. The RAI is intended to help the judge make the decision on what should be done. The RAI is used nationwide and is modified from time to time. Mr. Sattizahn will find more information regarding the RAI and share the additional information with the committee.

**Mr. Tom Culver, Superintendent, Avon School District**, provided a written statement in addition to his testimony ([Document #3](#)). Mr. Culver said the school is responsible for dealing with juveniles in truancy and disruption. The kids and their parents know nothing will be done. The school does not have the kids locked up, but we want to help. We want them to be successful in school, but many of these kids are falling through the cracks.

Mr. Culver served as a principal before becoming a superintendent in 2008. During his time as a principal, Mr. Culver said he filed no cases of truancy. There were a few kids who were involved in vandalism and such, and one did go to the Star Academy. The Court Service Officers (CSO) worked hard to develop relationships with these kids, and the kids knew there were consequences.

About ten years ago, as a superintendent, Mr. Culver said he noticed the elementary attendance was worse than high school attendance. Avon is one of three school districts without school buses, so the parent is responsible for getting the kids to school. In the last three years, the principal has referred 14 kids to truancy. There would have been 20 truanancies, but the school policy allows students to make up time missed. I student can miss up to 30 days. One student missed 57 days in one semester. When the school checked on the student, the parents did not answer the phone or the door. Most of these students are under the age of 16. There are far fewer consequences today for these students. Mr. Culver said some of the services found in the juvenile justice reform legislation have not happened.

Representative Milstead asked why truancy is now worse in the elementary school than in the high school. Mr. Culver said some parents will decide to go on a vacation for a few weeks. Some parents have to work out of town and the student has to find a way to get to school. In some cases the parent sleeps in. Parenting has changed over the years. Parents now make excuses for the kids.

Senator Schoenfish asked about placement of students with behavioral problems. Mr. Culver said there are issues with kids who have behavioral problems and getting them into a facility. It can take several months. Once placed, the facility may call a week later and say the student does not need a high enough level of care to be there, and they send the child back to the school. Some of the facilities are located out-of-state. Placing students with behavioral problems is very frustrating. If the facility sends them back, they are placed back into their regular class.

In response to a question from Senator Tobin, Mr. Culver said one student was sent to a facility but then sent right back to the school district. The parents decided to withdraw the student from school and homeschool the child. The student has not been seen in the school building for two years, and Mr. Culver said he is not sure how the situation was resolved.

Representative Deutsch asked about alternative education programs. Mr. Culver said there was an alternative education program in Wagner and area schools could pay for seats for students to attend the program. That program no longer exists. Mr. Culver said alternative education programs could be an important part to addressing some of these students.

Representative Otten asked Mr. Culver to send to the committee a list of promises made in SB73 regarding juvenile justice reform that have not been met.

**Mr. Matt Yost, Superintendent, Wagner Community School District**, said the Wagner schools see the same issues as the Avon schools. Three discussion points common at superintendent meetings are truancy, diversion, and resources. Mr. Yost said he has heard about the success of diversion programs in Brookings and Yankton. In rural South Dakota, however, the resources are limited. The States Attorneys are too busy to be of help and the Community Response Teams (CRT) have not come into fruition. Mr. Yost said the Wagner Schools have a great relationship with Lewis & Clark Behavioral Health Services out of Yankton and the facility sends three counselors to Wagner schools to work with the students.

Mr. Yost said he would like this committee to look at diversion first, and find a way to support these students initially rather than throwing them into the system.

Representative Finck asked about chronically truant students and what happens when the student does not return to school the next year. Mr. Yost said these youth are considered lost students. It is frustrating. The schools do not have the staffing to track down the families. If a student does not attend school within the first 15 days, he or she is dropped. Mr. Yost said some type of statewide program for addressing truants would be helpful.

Senator Tobin asked for more information regarding the school's relationship with Lewis & Clark Behavioral Services. Mr. Yost said the Lewis & Clark facility has partnered with the Wagner schools for many years. Finding mental health support is difficult and schools have had to branch out and partner with private businesses. There are 900 students in the Wagner schools, with three full-time counselors and three counselors from Lewis & Clark. Funding for the services is based on income. There are federal dollars and tribal dollars that assist with funding these counselors.

Representative Otten asked Mr. Yost to send to the committee a list of promises made in SB73 regarding juvenile justice reform that have not been met.

**Mr. Dan Nelson, State's Attorney, Brookings**, said when it comes to juvenile justice the Office of the State's Attorney takes on more of a role of behavioral specialist. The system is constantly evolving as we try to find what is best for the parent and for the student.

The State's Attorney has full discretion on what comes into the courts. It is important to distinguish between a violent and nonviolent offense which affects the decision as to what youth are brought into the court system. One thing the juvenile justice reform did was establish that if there is no violent offense then diversion is assumed. Mr. Nelson said Brookings is unique because there are resources available for an effective diversion program. The rural setting is much more challenging.

Mr. Nelson said diversion becomes complicated when a juvenile refuses to take part in the diversion program and will not comply with what is being asked. We need to find a way to make sure juveniles follow through on the treatment services; what leverage can be used to make sure they complete the program.

Mr. Nelson said the diversion program in his area is run through the Brookings Boys and Girls Club, who work with two behavioral health providers. The juvenile has to undergo an evaluation and pass it successfully. There are pro-social activities the student must take part in over a four to six month period. If the youth refuses to do the diversion program or does not respond or take it seriously, he or she will be taken to court, and the judge will hold him or her accountable. Restitution is required if it is a property crime, and Brookings has collected over \$10,000 in restitution this past year. Violent youth are still prosecuted, and detained at JDC when needed.

Regarding the schools, Mr. Nelson said truancy and classroom disruptions are the most common offenses. Disturbance at school is a class 2 misdemeanor and is usually due to an underlying mental health issue. Even if new laws are passed, there will still be these types of challenges.

Brookings has developed an alternative school called the Teen Center which has morning and afternoon sessions and currently includes 23 students and two teachers. These students were falling way behind in their classwork, but many are now completing their credit hours. The administrator wants to grow the alternative school to 40 students. These kids continue working on their mental health while attending the alternative school. The need for funding is always there but this is an important resource. Rural communities do not have the resources available as in the larger communities.

Representative Deutsch said the committee has heard how busy the State's Attorneys are and asked how the state can help. Mr. Nelson said every State's Attorney thinks of juvenile justice differently. Mr. Nelson said he is looking into the future trying to be preventative, believing the best option is to find a better outcome for a youth outside the courtroom.

Representative Reed said the Brookings community has focused on providing the services that are needed for helping the families. In many counties, the services are not available.

**Mr. Christian Sigel, Lieutenant, Rapid City Police Department (RCPD)**, supervises the seven school liaisons in the Rapid City School District. Lt. Sigel said he does not have a lot of history with juveniles but has seen the reports of crimes being committed by juveniles over the years. There are a lot of factors that come into play. There is a lack of fear and respect from the juveniles regarding authority. When working with runaways, many times it is the decision of the juvenile and there may not always be another factor as to why they ran away. The juvenile may just want to go out and do drugs or play with friends. There are few consequences for those who live in the runaway world, and runaways are getting younger and younger. At this time, the department is dealing with a nine-year old who continues to run away.

Lt. Sigel said juvenile offenders get caught and put on probation, but there is no teeth behind probation. There needs to be a way the youth can be forced to get help. Just recently, two 15-year olds and a 12-year old stole a car, crashed into a building, and the carnage was terrible. They were injured but are still alive. The driver had a long list of charges and is on probation. Since the accident the driver has been involved in other stolen vehicle incidents, she fights with the police, and her criminal record is very long. Recidivism is high in the juvenile justice world.

**Mr. Tim Doyle, Lieutenant, RCPD**, said he has worked with juveniles for over ten years. In 2007, if a juvenile stole a pack of gum they went to JDC. Today the pendulum has swung too far the other way and juveniles now know there are few consequences for their actions. Lt. Doyle said he loves working with youth and wants to help them. Juvenile delinquency usually starts with running away and the youth are exposed to other things that pull them in. The system is slow to act, waiting so long that it becomes difficult to help. When the system fails to hold one accountable, they drag several more down with them. The system has taken control out of the hands of those who can help. The power needs to be given back to the people who know these kids and can work with them. The oversight committees for juvenile justice reform need to include law enforcement officers.

Lt. Doyle said they found a runaway staying with a sex offender. One youth ran away 25 times in six months. These kids are snatched up by drug dealers who get them running drugs. The kids look up to criminals wanting to recruit them. Rapid City has officers and one non-sworn person who go to the families of the runaways to see how they can help. The best services may be available but if the parents are not trusting of the system, they will not use the services. There was a family who had four kids on the runaway list. One of the officers started working with the family, created trust, and two of the younger kids now do not runaway as often as before. Sometimes it is as easy as getting them into a Boys and Girls Club or a sports club, but other times there is a lot more to it. Diversion is doing great things, but the number of kids going through the programs makes it difficult to build relationships.

Lt. Doyle said Journey On is a nonprofit street outreach program in Rapid City that works with the homeless. The organization takes calls directly from the RCPD dispatch and have handled almost 3700 calls since last December to

work with the homeless in the area. RCPD is looking to see if this program can work with juveniles in crisis. Journey On is privately funded but the city has put several hundred thousand dollars toward the program, including providing two vans.

Representative Milstead asked if there are things the schools can be doing to catch these behaviors earlier. Lt. Doyle said more responsibility should not be put on the schools, as they are doing what they need to do. Lt. Sigel said the liaisons in the schools work very hard. A lot of the problems are outside the schools. The juveniles stealing cars do not go to school.

Lt. Doyle said the police officers have nothing more to offer. They try to hook the kids and the families up with services. They rely on the community resources to help. Lt. Doyle said he would like the outreach team program expanded, as they can spend time with the families and the kids. There is a lot of trauma in these homes and results do not come from one visit. There must be follow-up. Right now, the system does not have the people available to spend the time needed.

**Dr. Jane Stavem, Superintendent, Sioux Falls School District**, said the schools work closely with law enforcement in addressing behavioral issues. The school focuses on process, people, places, payment, policies, and proximity.

Dr. Stavem said the current system has an incentive component which affects funding reaching the resources needed. There needs to be a discussion on what components are functional and what components may not be functioning as originally intended. For example, the staffing of one diversion officer overseeing hundreds of students is most likely not adequate.

Dr. Stavem suggested the state look at a Restorative Justice program. There is a high degree of training needed to make this work well. This program does include some diversion but there is also a restorative component. The Sioux Falls schools have done some intentional listening programs with families and have found some of the hardships facing the families regarding the diversion program is communication. The parents feel helpless in knowing what to do to support their child.

Dr. Stavem said she does not advocate truancy being treated the same as criminal offenses. The number of referrals for trancies was at an all-time high this year. Last year there were 306 referrals, and this year there were 1,208 referrals. In February, the school was told no more referrals for truancy would be accepted. Even middle-schoolers are dropping out of the school system through no attendance. In addressing these concerns it is important to be mindful of preserving the teachers.

In response to a question from Representative Deutsch, Dr. Stavem said most school districts will do anything to get a student back in the door. They try to reach the family, phone numbers will have changed or no one answers the door; a family may move within the city and cannot be found. Current law says the student is dropped from the rolls after a certain amount of time. It is difficult when a student cannot be found.

Representative Milstead asked about alternative schools. Dr. Stavem said there are many things that can be done when there are alternatives for working with the students. Alternative schools help students stay on track. Not every school district has access to alternative programs. Dr. Stavem suggested the committee look at what can be done with students who are expelled.

Representative Milstead asked if it seems a lot of issues have been dumped on the schools. Dr. Stavem said the schools have noticed a difference in the students' behaviors. There is an increase in juvenile behavior issues. The teachers and staff deal with many things throughout the day. Students are bolder in their behaviors. Behavior issues are not new but are becoming the norm. The Sioux Falls School District is lucky in that they have the luxury of having Avera and Sanford there for referrals. Smaller communities do not have those resources.

Senator Smith asked if the schools have adequate staff for working with mental health issues. Dr. Stavem said even with all of the resources available in Sioux Falls, there is still a need. There are not enough mental healthcare providers. This need is even worse in the rural areas of the state.

Representative Stevens asked for suggestions on how to address truancy. Dr. Stavem said there needs to be community and state-wide focus on truancy. The state needs to be consistent with truancy notifications. Community partners can step up and help the schools. No one wants to have a student become part of the juvenile justice system. The state comes up short in the accountability factor regarding truancy.

Representative Schoenfish asked if more access to preschool would help prepare students. Dr. Stavem answered absolutely, as brain development, familiarity with school, and getting to know peers are all vitally important to the child. Many students do not have the opportunities for early childhood education. Early childhood education is a component the legislature should consider.

### **Public Testimony**

**Mr. Mitch Richter, South Dakota United School Association, Rapid City**, suggested the committee bring in providers, such as McCrossans Boys Ranch, Lutheran Social Services, Aurora Plains, who offer programs for troubled youth, so they can explain the programs and provide information on what the programs cost. There are out-of-state placements available to students and it might be interesting to learn more about those. Some of these facilities will not accept South Dakota students because the state does not pay enough.

Mr. Richter said the committee may also want to look more closely at alternative schools. Small communities do not have access to these types of programs and perhaps the education co-ops could help meet this need. The funding for alternative schools would have to be addressed.

**Mr. Jamie Gravett, Director, Minnehaha County Juvenile Detention Center, Sioux Falls**, believes the JDC does a good job evaluating youth and putting them in the right place at the right time. In response to a question regarding changes with JDC over the past 15 years, Mr. Gravett said in the past there could be over 50 kids in the detention center at one time. He said when he was a probation officer, he often abused the use of JDC rather than finding alternative resources. Today at JDC we do the best we can for the youth at the time of arrest. In 2011, JDC entered into the Juvenile Detention Alternatives Initiative (JDAI) and now uses the RAI to assess the youth. JDC used the money saved through fewer detentions by putting it into other services such as the Evening Report Center. The Evening Report Center picks kids up from school, helps them with schoolwork, helps them find jobs, and refers them when needed.

When youth are out of control or miss court, they are then secured in JDC. The kids held in detention now are far different from those who were there in 2011. Mr. Gravett said just the previous night a 14 and 15 year old came into JDC for armed robbery. Non-violent kids should not be sent to JDC to learn how to be violent from the other offenders in the center. When receiving a call about a young offender, JDC looks at the seriousness of the offense, criminal history, history of runaway and escape, if the parents are available, is the youth under the influence, and are they charged with more than one crime. The JDC intake officer can override the RAI. Mr. Gravett said the intent is to make the right choice for the youth and the family at that time.

Mr. Gravett said one JDC staff member gathers information regarding the youth and the offense, and the report is sent to the judge. The staff member tries to make sense of what would be best for the youth while waiting to go through the court process. The case is reviewed every two weeks in order to keep the case moving along. The average length of stay at JDC is 25 days. JDC has had kids stay over two years.



Representative Deutsch asked Mr. Gravett to describe a day at JDC. Mr. Gravett said the youth have school during the day. Service providers come in after school to work with the youth. There is a gym. The kids get three meals a day. They shower and get clean uniforms every day. Some kids want to be there for the structure. The core issue for these kids is usually trauma and poverty.

Representative Finck asked if law enforcement officers are trained on the use of the RAI. Mr. Gravett said early on there was a lot of training, but we are failing in that area now.

In response to a question from Representative Finck, Mr. Gravett said the costs for the JDC keep going up. About 50% of the budget goes to staffing, and the center has a difficult time keeping staffed. All the JDC staff work hard to provide services needed.

Senator Tobin asked about medications for the juveniles housed at the JDC. Mr. Gravett said the number of kids who were on medications years ago was about a fourth of that number today. If the family is on Medicaid, the Medicaid stops as soon as the youth comes into the facility. If the parent cannot pay for the medications, then JDC pays for them. This is a need that has become a serious issue and is just one of the many factors involved in the delinquency of our youth.

Representative Reed and Senator Steinhauer toured the Minnehaha County JDC and Representative Reed said it is easy to understand not wanting low level offenders in the facility. Mr. Gravett said JDC gets kids no one else can take. A lot of the other juvenile facilities in the state are full. We all need to be concerned about what happens with these kids when they age out.

**Ms. Rebecca Kiesow, President, Lutheran Social Services (LSS), Sioux Falls,** offered to work with the committee as they study the juvenile justice process. The committee needs to talk to service providers, as juvenile justice reform changed how programs are administered. LSS is a statewide program. The rural communities have problems finding the services they need to support their juveniles. LSS has worked with the state in developing a telehealth program.

Senator Wheeler asked Ms. Kiesow to provide the committee with more information on the services LSS provides and suggestions regarding serving the rural communities.

**Mr. Terry Dosch, Executive Director, South Dakota Council of Behavioral Health,** said his organization represents 19 behavioral health providers and community health centers in the state. Mr. Dosch said the organizations are doing the best they can, and he will provide a roster of the providers and a map of areas they cover. The committee is invited to visit member providers in their area.

### **Speakers/Presentations Continued**

**Ms. Kristie Bunkers, Director of Juvenile Services, Department of Corrections (DOC),** shared an information sheet regarding DOC's juvenile population ([Document #4](#)). Ms. Bunkers said while DOC does not provide diversion programs, SB73 did charge DOC with creating a diversion incentive fund. DOC pays \$250 per successful diversion, or the payment is prorated if there are more participants than funds available. Over \$1.8 million has been paid out in the past six years. Funds spent on diversion started at \$250,000 a year and are now up to \$400,000 a year. The presiding judge decides what diversion program is to be used and the diversion program has to satisfy the court's criteria to get paid.

Ms. Bunkers said prior to juvenile justice reform, DOC would see about 200 juveniles committed to the facilities per year. Those numbers continue to go down. DOC projects 67 new commitments during this fiscal year.

Ms. Bunkers said, regarding recidivism, in 2005 over 50% of the kids were returning within three years. In 2018, the percentage was down to 25%. These numbers include revocations of aftercare, new adjudications, and adult prison admissions. DOC is also seeing fewer adults coming directly from juvenile admissions.

Senator Smith asked why Pennington County has received a much larger share of the diversion funds than any other county. Ms. Bunkers said Pennington County has been doing diversion for decades and is a great model for other counties regarding the use of diversion programs.

In response to a question from Representative Deutsch, Ms. Bunkers said juveniles committing the following offenses may be sent to DOC: violent offenses, sex offenses, and at risk of physical harm to another person. The number one offense of juveniles in DOC is grand theft and usually theft of autos; the second leading offense is misdemeanor physical assault and is usually family based; and the third is probation violations.

Senator Tobin asked about the available psychiatric beds. Ms. Bunkers said there are 14 contracts for bed, adding that she will get the list of facilities to the committee. Ms. Bunkers said all the instate psychiatric beds are full. There has not been a decrease in the need for beds.

The most recent study on recidivism shows the juveniles going into prison for controlled substance abuse often end up transferring into the system for the same reason as adults. Ms. Bunkers said DOC has found that kids and families who enroll in the Functional Family Therapy (FFT) have a lower rate of recidivism. There are challenges with the workforce turnover, and there needs to be a way to keep trained people on staff. The mental health acuity is so high with the juveniles coming into the prisons that DOC struggles with finding providers.

Ms. Bunkers was asked for her thoughts on some of the issues the committee should be considering. Ms. Bunkers said she believes diversions work and these programs could be expanded. Mental healthcare needs to be expanded in the state. Community-based services need to be examined and expanded, keeping in mind that it is smarter to intervene early. Ms. Bunkers added that these issues are not unique to South Dakota. Other states have invested heavily in prevention and have funded the schools to address these issues early on.

**Mr. Ole Oleson, Assistant Public Defender, Pennington County, SD Association of Criminal Defense Lawyers,** said his office helps young people avoid future delinquency with rehabilitation being the goal. Mr. Oleson said he primarily does juvenile defense because he was that kid.

Mr. Oleson said by the time the youth gets to their office, the youth is no longer in a diversion program. This means the youth is now in the criminal justice system and the main outcome is probation. Mr. Oleson tries to get the youth back into diversion, and said he is successful at times. Pennington County has been doing diversion for a long time. Mr. Oleson urged more money be put into supporting diversion.

Mr. Oleson said one problem with diversion is mandatory restitution. One of his clients took a slingshot and shot out windows in a school when he was 11 or 12. The youth had a single mother who could not afford to pay restitution. The youth did all the classes but ended up Mr. Oleson's client because of his inability to pay restitution, and he cannot go back into the diversion system until it is paid. A lien will remain against the youth until and beyond adulthood.

Mr. Oleson said he encourages the state to expand diversion to all low level offenses and CHINS offenses, making it mandatory for the offender to take part. Pennington County offers all the services available for diversion, but these services may not be available in other counties.

Representative Deutsch asked how diversion could work in the rural counties. Mr. Oleson said many of the services available can now be offered through technology.

Mr. Oleson said family involvement is critical when dealing with juveniles. Fixing the family unit is the only way to see some sort of change. One problem Mr. Oleson said his office encounters is a failure to appear. The offenders are too young to get themselves to court. Parents need to be held accountable. Resources for the parents need to be considered rather than just working with the juvenile. Mr. Oleson said his clients who come back several times are living in a constant state of trauma. A juvenile may do well while at DOC, but they get out of prison and are put back into the same situation with the same results.

Mr. Oleson said it would be good to have funding so these youth can be placed in other facilities such as Aurora Plains. Oftentimes it is not known that a youth is on an Individualized Educational Plan (IEP) in school. The IEP is intended to make sure the student receives specialized instruction and related services, and schools are responsible for the funding that goes with the IEP. Because of the expense of sending a student to another facility, the school district would rather the youth stay in school.

Mr. Oleson suggested the committee members visit the Blueprints for Healthy Youth Development website at [blueprintsprograms.org](https://blueprintsprograms.org).

### **Committee Discussion**

Representative Finck said, in response to Mr. Oleson's comments on schools and the IEPs, there is funding available from the state through the special education programs. The past several years, however, the programs have been maxed out. The facilities can charge what they want and one of the reasons they are so expensive is the problems with staffing.

Representative Finck said he would like to divide the committee into workgroups and asked for suggestions on possible areas of study for each workgroup.

Representative Milstead said she has visited some of the facilities for juveniles. The facilities would like to keep the youth in their program longer but there is a limit on how much can be spent.

Senator Smith said today's meeting has been about mental health. There have been many studies over several years regarding mental healthcare issues in South Dakota and nothing gets done. We hear the schools do not have enough counselors and, in addition to not enough funding, the pipeline of counselors is an issue. The state has to find more funding and that starts with the Governor's Office. Senator Smith said to offer more therapy the state needs more counselors. Perhaps the committee could look at a scholarship program with incentives for young people who go into counseling. The scholarship recipient would then remain in South Dakota for at least five years. The committee needs to put together ideas for some strong programs.

Representative Deutsch said one of the schools in his district asked why the smaller schools do not have access to diversionary programs. Representative Deutsch added that he would like to hear from Dr. Stavem again.

Representative Reed said another area of interest to hear more about is the Community Resource Teams (CRT).

Representative Milstead said the overall root is the family. We need to address the needs of the families.

Senator Wheeler said the state cannot legislate good parenting, but perhaps could find a way to offer parents the tools needed.

Representative Stevens said the committee should hear from the Yankton School District as they have several different successful programs in their school system.

Senator Wheeler pointed out several presenters and public testifiers referred to the RAI during today's meeting. This is the Risk Assessment Instrument (RAI) used by those working with juvenile offenders, and Senator Wheeler distributed copies of the RAI to committee members [\(Document #5\)](#).

### **Adjourn**

***Representative Stevens moved, seconded by Representative Milstead, the Study Committee on Juvenile Justice adjourn. Motion prevailed on a voice vote.***

The Study Committee on Juvenile Justice adjourned at 4:00 p.m.