

SUMMARY *of* PROCEEDINGS



JOINT JUDICIARY COMMITTEE

COMMITTEE MEETING INFORMATION

June 4, 2020 | 8:15 a.m.

Online Only

The meeting was held remotely due to the COVID-19 health emergency.
Cheyenne, Wyoming

COMMITTEE MEMBERS PRESENT

Senator Tara Nethercott, Co-Chairman
Representative Dan Kirkbride, Co-Chairman
Senator Liisa Anselmi-Dalton
Senator Brian Boner
Senator R. J. Kost
Senator Michael Von Flatern
Representative Sara Burlingame
Representative Chuck Gray
Representative Mark Jennings
Representative Charles Pelkey
Representative Bill Pownall
Representative Tim Salazar
Representative Clark Stith
Representative Art Washut

LEGISLATIVE SERVICE OFFICE STAFF

Brian Fuller, Staff Attorney
David Hopkinson, Staff Attorney
Danielle Creech, Associate Research Analyst
MaryBeth Oatsvall, Legislative Editor

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EXECUTIVE SUMMARY

The Joint Judiciary Interim Committee (Committee) met for one day online to discuss topics related to the COVID-19 pandemic. The Committee received public comment regarding telehealth for correctional populations; civil immunity and liability issues; a review of mortgages, evictions, and forbearance impacts; and criminal justice system operations.

CALL TO ORDER (THURSDAY, JUNE 4, 2020)

Co-Chairman Nethercott called the meeting to order at 8:15 a.m. The following sections summarize the Committee proceedings by topic. Please refer to [Appendix 1-01](#) to review the Committee Meeting Agenda and to [Appendix 1-03](#) to review public comment requests.

TELEHEALTH FOR CORRECTIONAL POPULATIONS

Robert O. Lampert, Director, Wyoming Department of Corrections (WDOC), discussed correctional populations and telemedicine. Director Lampert provided statistics on total telemedicine visits for 2017, 2018, 2019, and 2020. He discussed the positives as a reduced security risk to the public, less staff time away from the facility, and potential cost savings. Director Lampert further discussed telehealth, issues with the existing system, and provided the Committee with cost options for an updated system.

Hon. Brian Christensen, Circuit Court Judge, Seventh Judicial District, described how the circuit courts are operating during the pandemic with required hearings, including arraignments and matters that require in-person attendance. He discussed county jails, different audio-visual systems, accommodating attorney-client communications, and the efficiency of proceedings. Judge Christensen also discussed issues with jury rooms for 12-person juries while complying with distancing guidelines.

Byron Oedekoven, Executive Director, Wyoming Association of Sheriffs and Chiefs of Police, provided comments on county jail telemedicine. Mr. Oedekoven discussed possible cost and time savings. He also touched on hearings through technology, continuing this practice, and the need for enhanced or additional equipment.

Lily Sharpe, State Court Administrator, and Julie Goyen, Chief Information Officer, Wyoming Supreme Court, described the systems used by the Supreme Court and compatibility. Ms. Goyen provided additional comments on the review of the audio/video system used by the courts and expressed concerns regarding security and bandwidth.

Paul Demple, CEO, Northern Wyoming Mental Health Center (NWMHC), provided an overview of total clients served in Sheridan, Johnson, Weston, and Crook counties. Mr. Demple further discussed WDOC-involved clients and programs ([Appendix 3-01](#)). He stated NWMHC responded very quickly to the COVID-19 pandemic by implementing procedures to keep clients and colleagues safe and noted that the ability to expand telehealth is critical.

Andrea Summerville, Wyoming Association of Mental Health and Substance Abuse Centers (WAMHSAC), stated that WAMHSAC serves all 23 Wyoming counties and services vary from center to center. Ms. Summerville expressed support for the continued use of telehealth going forward but expressed the need for (1) patient acceptance, (2) provider acceptance, and (3) payer acceptance.

Public Comment

JOINT JUDICIARY COMMITTEE *Summary of Proceedings*

Richard Berry, Psy.D., Youth Alternatives, provided comments regarding telehealth and his initial reluctance to use it and his and his colleagues' successes using technology during the COVID-19 pandemic. He expressed concerns with safety and connectivity issues.

Committee Action

Representative Gray moved to have LSO draft a bill appropriating \$95,000 based on WDOC's recommendations for updated telehealth equipment with a commensurate reduction of \$250,000 from their budget. The motion failed by a show of hands.

Senator Anselmi-Dalton moved to have LSO draft a bill appropriating \$95,000 based on WDOC's recommendations by WDOC for updated telehealth equipment. The motion passed by a show of hands.

CIVIL IMMUNITY AND LIABILITY ISSUES

Brian Fuller, Staff Attorney, provided an overview of liability and immunity issues related to COVID-19. The memorandum described the elements for establishing a tort, current liability and immunity statutes during a public health emergency, a review of 2020 Special Session Laws, Chapter 2, and relevant provisions (**Appendix 4-01**).

Brad Cave, Attorney, Holland and Hart, LLP, discussed proposed amendments to W.S. 35-4-114 (an immunity provision during public health emergencies) and offered suggestions for expanding immunity to businesses throughout the state (**Appendix 4-02**).

Cindy DeLancey, Wyoming Business Alliance, noted support for increased immunity for Wyoming businesses. Ms. DeLancey expressed support for the proposed language changes expanding immunity provisions.

Eric Boley, Wyoming Hospital Association, provided comments regarding healthcare and how guidance for public-health measures changed rapidly and expressed support for the proposed language in Appendix 4-02.

Marcia Shanor, Wyoming Trial Lawyers Association, expressed opposition to the proposed language in Appendix 4-02. Ms. Shanor discussed challenges with a higher evidentiary burden for plaintiffs.

Professor Michael Duff, University of Wyoming College of Law, expressed opposition to the proposed language in Appendix 4-02. Professor Duff noted the need to make any immunity time limited. He spoke about the tradition of law and stated blanket immunity for torts makes it very unlikely for a plaintiff to be successful.

Committee Action

Representative Stith moved to have LSO draft a bill amending W.S. 35-4-114 to include additional immunity provisions listed in **Appendix 4-02** and additional changes noted by Representative Stith. The motion passed by a show of hands.

Representative Stith moved to have LSO draft a bill amending W.S. 35-4-109 to change the criminal intent necessary for the crime of spreading contagious disease and other conforming changes. The motion passed by a show of hands.

JOINT JUDICIARY COMMITTEE Summary of Proceedings

Co-Chairman Nethercott requested a working group be created to further research and consider the immunity issues. The working group will include Representatives Burlingame, Pelkey, and Pownall; Senator Anselmi-Dalton, and Co-Chairman Nethercott were appointed to work with stakeholders.

REVIEW OF MORTGAGES, EVICTION AND FORBEARANCE IMPACTS

David Hopinkson, Staff Attorney, provided the overview of mortgages, evictions, and 2020 Special Session Laws Chapter 2, ([Appendix 6-01](#)).

Julie Gliem, President, The Cheyenne Landlord Association (Association), provided discussion regarding the Association and issues surrounding rents/rentals. Ms. Gliem discussed a moratorium on evictions, no collection of rents, and issues with serving an eviction order. Ms. Gliem requested the Committee to consider sponsoring 19LSO-0339, Municipal services recovery actions ([Appendices 6-03](#), [6-04](#) and [6-05](#)).

Scott Hoversland, Executive Director, Wyoming Community Development Authority, provided information to the Committee about the Wyoming Emergency Housing Assistance Program established during the May 2020 Special Session and forbearances in Wyoming. He also explained qualifying factors for the program.

Representative Shelly Duncan, House District 05, provided an overview of mortgages, evictions, and rents and statistics for Wyoming ([Appendix 6-02](#)). She also discussed issues with mortgages, evictions, and relief during the COVID-19 pandemic.

Committee Action

Representative Washut moved to have LSO draft a bill based on 19LSO-0339, Municipal services recovery actions ([Appendix 6-02](#)). The motion passed by a show of hands.

Representative Pownall moved to have LSO draft a bill to amend 2020 Wyoming Special Session Laws, Chapter 2 to allow landlords to apply for payment assistance through the Wyoming Emergency Housing Assistance Program. The motion passed by a show of hands.

REVIEW OF CRIMINAL JUSTICE SYSTEM OPERATIONS

Director Lampert provided a summary of WDOC operations and discussed what the WDOC did early on to reduce the spread of COVID-19 within Wyoming correctional facilities. Director Lampert discussed associated costs to the agency due to COVID-19 as additional costs for protective equipment and cleaning supplies and restrictions delaying inmate transfers. He also provided comments on early release for inmates with elevated health risks and proposed language to amend W.S. 7-13-424 ([Appendix 7-01](#)).

Mike Causey, Executive Director, and Eric Stewart, Deputy Director, Board of Parole, discussed technology, video hearings, and alternative means to work with parolees. Director Causey expressed opposition to early release and the proposed language provided in [Appendix 7-01](#).

Jerimiah Rieman, Executive Director, Wyoming County Commissioners Association, provided information regarding counties, courts, and personnel. Mr. Rieman provided concerns regarding early release and discussed additional costs associated with the COVID-19 pandemic.

Mr. Oedekoven addressed additional costs associated with personal protection equipment (PPE) on the county level and discussed concerns with early release.

Public Comment

Peggy Trent, Albany County & Prosecuting Attorney, outlined criminal justice reforms, step-down sentences, pretrial release programming/diversion and expressed opposition with early release.

Representative Pelkey moved to have LSO coordinate with county commissioners and the association of sheriffs and chiefs of police to get comprehensive county data for numbers for testing of COVID-19 numbers. No vote was taken on the motion; the Committee requested further information from Mr. Rieman and Mr. Oedekoven for consideration at a future meeting.

Representation Pownall requested a breakdown of cost savings on telehearings by county.

Representative Washut moved to have LSO draft a bill allocating CARES Act funding for jail/court video systems. The motion passed by a show of hands.

MEETING ADJOURNMENT

There being no further business, Co-Chairman Kirkbride adjourned the meeting 5:15 p.m.

Respectfully submitted,

Senator Tara Nethercott, Co-Chairman

Committee Meeting Materials Index

Index Number	Agenda Item	Document Description	Document Provider
1-01		Agenda	LSO
1-03	Announcements	Public Comment	LSO
3-01	Telehealth for correctional populations	Presentation	Paul E. Demple M.A., LPC, Northern Wyoming Mental Health Center
4-01	Civil immunity and liability issues	Topic Summary-Liability and immunity issues related to COVID-19	LSO
4-02	Civil immunity and liability issues	Proposed Amendment Language	Cindy DeLancey, Wyoming Business Alliance
6-01	Review of mortgages, eviction and forbearance impacts	Topic summary-Review of mortgages, eviction and forbearance impact on landlords	LSO
6-02	Review of mortgages, eviction and forbearance impacts	Mortgages, Eviction & Rents Presentation	Representative Shelly Duncan
6-03	Review of mortgages, eviction and forbearance impacts	19LSO-0339 Municipal services recovery actions	Julie Gliem, President, The Cheyenne Landlord Association
6-04	Review of mortgages, eviction and forbearance impacts	Three Day NTQ (Covid-19)	Julie Gliem, President, The Cheyenne Landlord Association
6-05	Review of mortgages, eviction and forbearance impacts	Temporary Lease Addendum (Covid-19)	Julie Gliem, President, The Cheyenne Landlord Association
7-01	Review of criminal justice system operations	Proposed Amendments-Medical parole; conditions.	Robert O. Lampert, Director, Wyoming Department of Corrections