



SEN. NATHAN LIBBY, SENATE CHAIR
REP. HOLLY STOVER, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM
SEN. DONNA BAILEY
SEN. RICHARD BENNETT
SEN. SUSAN DESCHAMBAULT
SEN. JEFFREY TIMBERLAKE
REP. H. SAWIN MILLETT, JR.
REP. AMY ARATA
REP. MARK BLIER
REP. JESSICA FAY
REP. MARGARET O'NEIL

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
May 18, 2022

Call to Order

The Chair, Sen. Libby, called the Government Oversight Committee to order at 10:00 a.m.

ATTENDANCE

Senators: Sen. Bailey, Sen. Libby, Sen. Deschambault, Sen. Keim, Sen. Timberlake
Absent: Sen. Bennett

Representatives: Rep. Millett, Rep. Stover, Rep. Arata, Rep. Fay, Rep. Blier
Absent: Rep. O'Neil

Legislative Officers and Staff: Matt Kruk, Principal Analyst, OPEGA
Amy Gagne, Senior Analyst, OPEGA
Scott Farwell, Senior Analyst, OPEGA
Jennifer Henderson, Senior Analyst, OPEGA
Joel Lee, Analyst, OPEGA
Sabrina Carey, Secretary, OPEGA, GOC Committee Clerk

Others: Chris Taub, Chief Deputy Attorney General
Bobbi Johnson, Associate Director, OCFS
Molly Bogart, Government Relations Director, OCFS

Introduction of Committee Members

The members of the Committee introduced themselves. Sen. Libby reminded everyone of the electronic meeting conduct and procedures.

New Business

- **Research Expense Tax Credit (R & D Credit) continued work session**

Sen. Libby reminded the committee that they had the presentation of the RETC OPEGA Report and the Public Comment Period and they had delayed taking action on the report. He stated that OPEGA had provided an Executive Summary of the report and that it is up for discussion on what to do for next steps. Sen. Libby added that the GOC has tended to not opt to draft legislation for submission to a committee, and have tended to defer and give committees of jurisdictions that ability to introduce legislation based on our findings. In the past there has been communication via letter about the findings and recommending that a policy committee take action. He suggested that the committee carry this forward to the 131st Taxation committee and try to ensure that the findings get incorporated into some piece of legislation next year.

Motion: To transmit a letter to the 131st Taxation Committee regarding the OPEGA Report that reviews the Research Expense Tax Credit.

(Motion by Sen. Deschambault seconded by Rep. Stover, passed by unanimous vote)

- **Child Protective Services – Conversation with AAG Chris Taub**

Sen. Libby moved the conversation to a discussion with the Chief Deputy Attorney General Chris Taub. Sen. Libby asked if Mr. Taub could speak to what ability the GOC has to meet in executive session to discuss otherwise confidential matters or documents that are not presently available to the committee as public elected officials. Mr. Taub stated that under the freedom of access act, there is a provision that allows government entities including legislative committee to go into executive session for certain purposes. He directed the committee to look at Title 1, Section 405, The Freedom of Access Act, which related to Executive Sessions. He stated that Paragraph F authorizes executive sessions for discussions on information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute. So, if the committee came into the possession of confidential documents, it could then go into executive session to consider those documents. Assuming the committee does have possession of these documents, it could review them in executive session. He stated that his understanding was that there was an interest of the committee to directly review certain child protective records that are confidential by statute. That is somewhat challenging because the way the statutes are structured, OPEGA is designed to be the investigating arm of the committee. The statutes that govern OPEGA directly address OPEGA's ability to obtain confidential documents. There is a specific provision that says that agencies must provide, to OPEGA, documents that otherwise would be confidential. There is a process that regards how OPEGA gets those documents. There have to be certain findings as to why the documents are necessary, and there has to be agreement to treat the documents the same way the agency would, and arrangements for what to do with the documents when the work is over. The statutes state that OPEGA is going to be the entity that has access to confidential documents. It is an uncertain process for the committee to see if the documents they are interested in would be available to them.

Mr. Taub then directed the committee to look at Title 22, Section 408, which is the primary statute that governs the confidentiality of child protective records. It essentially declares that almost all child protective

records are confidential, but then has a series of provisions for the conditions when the department can make optionally disclosed documents to certain types of entities or individuals. It also has a separate set of provisions for the conditions when the department must disclose the records. For the committee, instead of OPEGA, to receive the records, the committee would need to fit within one of the statutory exceptions under which an entity can get access to records that are otherwise confidential by statute. Mr. Taub explained that there would maybe be one provision that could be argued to apply. He pointed the committee to look at the section of the provisions about mandatory disclosure. Those are the provisions that require DHHS to provide the records, it states that an appropriate state executive or legislative official with responsibility for child protection services, provided that no personally identifying information may be made available unless necessary to that official's functions. However, he was not aware that this provision had ever been interpreted as there was not anything out there that sheds light on what the intent of this provision is. It is not clear what type of legislative official with responsibility for child protection services would be. He stated that he believed there may be an argument that the GOC is a body of legislative officials that have responsibility for child protection services, because among their many duties or responsibilities is the oversight of state agencies, which includes the Child Protective Services Agency. One option for the committee would be to make a request to the department citing this provision, explaining the context of it, that the committee as a legislative body has responsibility for the oversight of child protection services, and request whatever documents the committee is interested in reviewing.

Mr. Taub paused for questions.

Sen. Deschambault asked if there were any other states or any case law especially around confidentiality.

Mr. Taub answered that the language in that statute has never been litigated before, he did not know of any court decisions, so there were no opinions from the Attorney Generals office.

Sen. Deschambault then asked if a child had a case here in Maine, and the family moved to another state, would that state's Child Protective Agency be able to access the Maine documents?

Mr. Taub answered that he believed that there were provisions that when a child moves out of Maine, that it would allow or maybe even require DHHS to transfer those records to that new state.

Rep. Stover asked if legislative official was defined further in the statutes.

Mr. Taub answered that no, it is not defined further. Rep. Stover asked if that meant that it could be the committee of jurisdiction, the HHS Committee, or if it could mean the GOC. Mr. Taub responded that he believed it could be argued either way because it is not clear in the statute what legislative official is supposed to refer to.

Sen. Libby wanted to know, if the committee submitted a request for some documents, how would they logistically view those documents?

Mr. Taub answered that the committee would have to view the documents in an executive session. The records would be present during this session, and could be reviewed and discussed. Once the executive session is over, the committee would have to either destroy or return all of the records. He suggested that the committee could, once agreed upon by the department to provide the records, have the executive session with a department official invited to present the records to the committee, where they could be reviewed for as long as needed, returning the documents to the department official at the end of the process.

Sen. Keim stated that she would want to make sure they have enough time to fully review the documents so that they could do the job well. She stated that she wanted to make sure that the parameters for meeting would be practical. She asked if the idea of including the department in this executive session was his personal opinion or where the legal boundary would be for that.

Mr. Taub clarified Sen. Keim's questions as, is it really necessary for the committee to review the records in executive session, or is there some more feasible or practical way for the committee to look at the records.

Mr. Taub answered that under the joint rules of the legislature, rule 3.13, says that the committee shall protect confidential records including those records excluded from the definition of public records, which

would require the GOC to go into Executive Session to review those documents. Ultimately it would be up to the department to decide whether they would provide the committee with those records. If the department was very confident that the confidentiality of the records would be strictly maintained, he felt they would be more comfortable providing the committee with access to the documents. He reminded that the way that the statutes are written, it was contemplated that it would be OPEGA that would be going through the documents and analyzing and synthesizing the information in a way that is helpful to the committee. It was not designed to have the committee doing the deep look into the documents.

Sen. Deschambault stated that the committee would need to decide what kind of documents and information they want from the department. The committee might not understand some of the terminology in the documents without some explanation. She stated that she did not have a clear idea of what kind of documents are needed or what information the committee is looking for out of those documents. She believed that OPEGA should still go through them and create a synopsis, but that the committee would need to tell OPEGA what to look for. She believed the committee would maybe need someone from DHHS to be there for terminology.

Sen. Libby asked if Mr. Taub could speak to the statute that governs conduct in executive session and after executive session. Sen. Libby asked about the penalties with violating the terms of conducting the executive session.

Mr. Taub answered that there are penalties for violating the freedom of access act, and there are penalties for violating the DHHS Confidentiality Statute. He directed the committee to title 22; 4008, Unlawful Dissemination.

Sen. Bailey asked if Mr. Taub was aware that there were other panels or agencies that routinely look at confidential information. How does the process of seeing confidential information compare to the panels and agencies that routinely receive confidential information and how they handle that information?

Mr. Taub answered that there would be specific statutes that authorize those kinds of panels and agencies to get access to those documents. The GOC does not have a specific statute that authorizes the committee to access confidential documents.

Rep. Millett asked if Mr. Taub could outline and describe the steps the committee would need to take, while following statute, to look at personal records requested from the department in an executive session.

Mr. Taub answered that he had chatted with OPEGA about the potential steps and suggested to start with a letter from the chairs or the committee to the department, specifying the precise records that the committee wants to review, and explain how the committee is going to treat the records. He offered to help OPEGA craft that letter, making sure to use the right legal language and cite the correct statutes. He suggested that the committee consider using OPEGA to review the records because they already have the authority. The committee would not need to do a letter because OPEGA can directly request the records. OPEGA would be able to synthesize the findings from those records in a way that does not disclose the specific information in those records.

Rep. Millett stated that he would much prefer if the review of any of these documents to be done with the scope of the OPEGA Staff review process.

Mr. Taub suggested that it may be more helpful to allow OPEGA to do a comprehensive review where they can summarize the information that the committee is looking for out of the documents requested.

Rep. Stover summarized the work they had done as a committee (on the topic of Child Protective Services) since 2021, and what they had learned about some of the child deaths that happened in that time frame and whether or not those children had any contact with DHHS. She believed that the committee really wanted to look at the levels of transparency and to look at what exists in a record. DHHS had voluntarily provided a lot of data. She stated that what the committee really needs to know about is the involvement (of the department with the child).

Rep. Arata asked about the structured decision-making tool, and whether they would be able to examine that tool or not.

Mr. Taub responded that he did not know anything about the tool, but stated that the committee could request to look at it and see whether the department would be willing to provide it.

Rep. Arata thought that it would be helpful to be able to examine that tool and see how the decisions were made with the placements that didn't go so well.

Mr. Taub answered that if they wanted to get a copy of the document, the committee would make a formal request to the department and once a response has been given back he offered to review that response if negative and see if there were another argument that could be made. The first step would be to get a formal request to the department and see the response.

Sen. Deschambault stated that the tool is not developed within the department of health and human services, it is a nationwide, validated tool. The department must purchase an agreement to use the tool with the owner of the tool. She stated that the questions should be confidential as they would not want the person being interviewed or assessed to know the questions before hand. She also stated that there should be an option for the caseworkers to be able to override the tool. She wanted to know who owned the tool. She stated that she agreed with having a demo of the tool, in an executive session.

Sen. Libby stated that the department had provided several pages of information on the tool.

Rep. Arata also remembered receiving another document previously about the tool.

Sen. Libby asked about the possibility of getting the case files of children who have died who interacted with OCFS. He asked if there were any challenges involved with the committee reviewing that case in a room together.

Mr. Taub stated that his experience with case files is that they can be very lengthy. He believed it would be very cumbersome for the committee, especially within a set timeframe of an executive session, to sort through the document.

Sen. Libby asked if there would be an option of a summarized document. He noted remembering an internal investigation document within the department that summarizes what went on internally in connection to that child. He stated it is not tied to the criminal case, but has that internal view that the committee is looking for.

Mr. Taub answered that his understanding is that the department produces a child death and serious injury internal case review, which has some sort of summary of information. He stated that a summary document would be much better to ask for than for the whole case file.

Sen. Libby asked if Mr. Taub was aware of any other documents that would fall in that realm.

Mr. Taub answered that he does not do child protective work, but suggested that the department may be able to answer to what kind of summary documents they prepare in different cases.

Sen. Keim recalled receiving a memorandum from Commissioner Lambrew about Marissa Kennedy, and she was wondering if that document was part of the child death and serious injury review file.

Mr. Taub recommended asking the department staff for clarification.

Rep. Arata stated that she was looking through the information about Marissa Kennedy and noted that she had been to the emergency room multiple times, but there was never a report of the injuries they found after her death. She asked Mr. Taub what authority would the committee have with regard to medical records. She stated that it was interesting that there was no note about injury in the child protective record. A doctor would have to tell the caseworker and it does not look like that happened.

Mr. Taub answered that there could be separate confidentiality provisions that apply to medical records, even beyond the child protective. There are federal HIPAA and state confidentiality laws.

Sen. Libby summarized the suggestions that had been made. The GOC could make a request of the department to have a presentation of the Structured Decision-Making Tool. The GOC could request child death and serious injury internal case review documents for the cases the committee is interested in. Sen. Libby asked the committee whether they wanted to plan on making a request or if they want to hear from the department first.

Rep. Arata stated that when looking at the child deaths, she would like to review more than just those deemed homicide, because there were some accidental deaths and it would be interesting to see how they (the department) made the decision to let those children stay. She stated that the difficult communication between the medical professional and the office of child and family services could be something that the committee dives into with a future report.

Rep. Fay stated that she had never seen a case file, so she does not know how cumbersome it is to look at. She wondered if there was any information as to what it actually looks like. It would be helpful to understand what the caseworkers deal with in the files. She asked about the possibility to see examples of the types of information and documents that are in the files.

Sen. Bailey shared that in her experience she had seen hundreds of casefiles, all of which vary in size. She stated that they are electronic now, instead of having a thick folder. A lot of the information is repeated numerous times so it takes a while to read through and figure out what is important and what is not. She explained that in her experience when needing confidential records, they have to request to see those confidential records. The court has the department bring the confidential records to the courthouse and a judge actually reads them to determine if they are relevant, and what, if any, information needed to be redacted before the files can be viewed by the lawyer. She suggested having OPEGA do an initial review and determine whether the committee actually needs to see the file or is the review sufficient. She stated she would defer deciding until they hear more from the department, as they may answer some of the questions.

Sen. Deschambault wanted to hear from whoever instructs new caseworkers, to find out more about the tools used to make decisions. She wanted to know what is important for the department and what they will tell the committee.

- **Child Protective Services – Conversation with DHHS Associate Director of Child Welfare Services Bobbi Johnson and DHHS Director of Government Relations Molly Bogart**

Sen. Libby welcomed the OCFS Staff to the conversation. He stated that the committee had sent the department a list of questions that were generated by the committee members and pulled together into a document by the OPEGA. The department provided responses to the committee in a memo. (OCFS Response Document to GOC's Questions can be found here: <https://legislature.maine.gov/doc/8598>)

(To watch/listen to the full question and answer section, please go to our GOC YouTube page, which can be found here: <https://www.youtube.com/watch?v=NynORGPaI6A>)

Sen. Libby ran through the questions by number, asking the department to elaborate and give additional information to the answers written in the department's response document (linked above).

1. What has OCFS done to engage or partner with law enforcement?

Ms. Johnson answered that there is a work group that the department joins in monthly with law enforcement, representatives from the medical field, the Assistant Attorney General's Office, where they look at some of the issues that were raised related to information sharing and collaborating on child abuse and neglect investigations.

Ms. Bogart stated that within the last month they had rolled out a new tool for mandated reporters to use, to allow them to submit those reports online. This is for folks who submit multiple reports and know the process well. The tool has created greater ease and accessibility for reporters to provide that information to the department.

Sen. Libby asked how the department is informing the public of the existence of this new tool.

Ms. Bogart answered that to the public there was a press release of information provided.

Ms. Johnson added that they disseminate information to stakeholders for the state, including school systems, medical and hospital and law enforcement.

Sen. Libby asked if there was still no follow-up or confirmation from the department sent back to the individual who made the report.

Ms. Johnson answered that through the mandated reporter portal, when a report is made, the reporter will get confirmation that the report has been received. The CPS staff may do a follow-up phone call to review the information and get any additional information if there is any. The reporters still always have the option of doing a call to the child protective hotline.

Sen. Libby stated that the committee has heard that many reporters make a report and then they don't know if anything has been done or if it was received.

Ms. Johnson clarified that they get an automated response first. Often times, the department staff is calling them back to clarify information, but they may not have the ability to share information about follow-up or finding from a report. The department acknowledged that they know that reporters may want to know what has happened following the report, but they cannot share that information.

Sen. Libby asked for an explanation of how OCFS engages with childcare providers outside of the licensing.

Ms. Johnson answered that they have the childcare subsidy program within the Office of Child and Family Services. The department also has direct contact with childcare providers when they are providing services to a child in care. Coordinating those services with resource parents, addressing payment issues, sharing information with them so they can provide care for the child.

Sen. Libby asked if that all occurred at the caseworker level.

Ms. Johnson confirmed, yes, at the caseworker level.

2. What plans does OCFS have to improve relationships with these community institutions and to enhance communication?

Sen. Libby brought up the departments written response to question 2 (can be found on page 2 of the department response documents). He asked if there was a way for a human being to confirm receipt of a report.

Ms. Johnson responded that there is confusion between a constituent inquiry and a mandated report.

Mandated reports come through the child protective intake with allegations of suspected abuse. The constituent inquiries, could also be allegations of abuse or neglect that are then routed to the child protective intake, but often they are individuals calling in questions concerns, feedback about a specific case process.

Sen. Libby asked for clarification on whether the 200 constituent inquiries got a call back.

Ms. Johnson answered that all of the constituent inquiries would have probably had a call. Some may get an email if that's the provided contact.

Rep. Stover asked for clarification on who exactly those 200 constituent inquiries are, are they mandated reporters or not?

Ms. Bogart explained that many of the constituent inquiries are follow-up on a mandated report or could be something else related to child welfare, and that mandated reporters can submit both a report through the child protective intake line and the constituent services.

Sen. Bailey asked what the policy is around follow up. She also asked what the confidentiality statute reads, because she read it as that the department can get back to someone, but can only mention not opening a case.

Ms. Bogart answered that the confidentiality piece is part of what prohibits the department from letting someone know what decisions have been made.

Ms. Johnson added that one of the expectations that is outlined in the policy is that when someone makes a report, they receive a call from the child protective caseworker that is assigned to see if they have any additional information that they want to share. She asked Sen. Bailey to further explain her question on follow-up.

Sen. Bailey stated that there is a provision that the department can make a disclosure to the reporter but they can only disclose that they did not open an investigation. If there was an investigation opened, that the department would call the original reporter to start the investigation.

3. How is OCFS working to improve information sharing among the above community institutions to ensure that concerning behavior is brought to CPS's attention early?

Sen. Libby asked if the department could expand on their written answer and explain what the department is doing to engage with the community organizations.

Ms. Johnson answered that OCFS is responsible for the mandated report training that is delivered to those individuals. They provide both an online training version and an in-person trainer going to organizations to provide the training. The department will also train the organizations "trainer" who is a staff member of that organization that can go and train others. She reminded of the new online portal which allows workers to go into the portal to make a report instead of sitting on the phone and making calls.

Rep. Stover stated that she thinks of this information sharing as community engagement. She asked what the department thought they had done over the past few years on information sharing with community institutions. How is the department engaging with those providers and community institutions?

Ms. Johnson answered that it happens most at the local level with the staff who are directly interacting with the individuals who are making reports or providing services to families. At the statewide level the citizen review panels and the work groups are ways the department hears feedback.

4. What can the legislature do to assist in ensuring that this communication can occur in a time effective manner? (See departments response document pg. 2 - no further information was given)

5. How is OCFS working to improve outcomes for children and families?

Ms. Bogart answered that the department is working on implementing the family first prevention services act. She believed that Maine is the first state in New England to have that plan approved by the federal government, which is augmenting a number of prevention programs that the department already engaged in or bringing new programs to the state such as parents as partners. The department also outlined a strategic plan for the child welfare in 2019 that has been updated annually in the OCFS Child Welfare Annual Report.

Ms. Johnson answered that the department has updated their training curriculum for both new caseworkers and for resource parents. They have implemented clinical supports for the caseworkers in each district office for clinical consultation on difficult cases and to address the trauma and impact of doing this type of work. Ms. Johnson stated that all the work has been to improve the information, internal sharing or

reporting, improving the policies, refreshing the training curriculum so it is aimed at making sure to provide a better service and the supports needed for families and children to have better outcomes.

Sen. Keim asked if the department staff could elaborate more on the Families First program as it doesn't seem to have shown improvements yet. She also asked about the metrics around reporting back to the federal government that could impact funding.

Ms. Bogart answered that the challenge of the Families First is that a lot of that work is still in the implementation phase. The supplemental budget had some of the funding needed to start up some of the programs. She explained that there haven't been distinct benefits from that programing because much of it has not started yet.

Ms. Johnson added that there will be federal reporting required as part of the program.

Sen. Libby asked if there are any federal block grants tied precisely to Families First.

Ms. Johnson answered that its is the next phase of title 40 funds. The state will have to put up seed money, the federal government will provide significant match to support that program.

Sen. Libby asked if the grant fund is tied to performance metrics or just based on population?

Ms. Johnson answered that she believed it was tied to implementation, but that some of the metrics would include the number of individuals served through the services, the cost of providing services in the community. There is a requirement that the services are evidence based or promising practices or that there is an evaluation component tied to any services that states are going to roll out.

Ms. Bogart believed that the amount of funds that are received from the federal government is directly tied to what the state puts up as the seed.

6. What is OCFS doing to improve internal systems to ensure that children are not being lost in the system or swept up in overwhelming caseloads?

(See departments response document pg. 2 - no further information was given)

7. What is OCFS doing to improve information sharing to make sure that caseworkers have all of the information that they need to ensure that children are safe and cared for?

Sen. Libby asked if there was anything they wanted to highlight out of their written response to this question.

Ms. Johnson stated she would highlight the work they have been doing since receiving the recommendations from the Collaborative Safety and Casey Family Programs reports, which were focused on systemic factors. Their partnership with behavioral health and mental health providers and information sharing and building partnerships. They worked with the office of Behavioral Health to disseminate a guidance document with ways that they can collaborate with the department and make a better experience for families. The work group (with law enforcement and hospitals) had met monthly since those recommendations and really focused on understanding the different systems and how the organizations operate and how to share information, what the barriers are. The group has looked at what restrictions and laws might be an issue, how HIPAA may play a factor in information sharing. They have also looked as what needs to happen to improve the collaboration of law enforcement and child protective when jointly investigating a case. They have looked at what potential legislation may assist with some of those issues. She stated that the department has also been working with the university to implement family engagement specialist positions within the agreement they have there. Those positions would be to help guide training, bring the parent perspective to policies and practices, help to densify and research evidence-based parent mentor programs that exist throughout the country as well as leverage the voices of other parents.

Ms. Bogart added that they are trying to improve information sharing so that caseworkers have the data necessary to decide whether reunification or placement is best for the child. She thought it was important that the committee knows that these decisions are not made just by OCFS as the decision for both removal and reunification involve a court order and a decision by the court.

Rep. Stover asked if there was anything else the department wanted to add.

Ms. Johnson added that the information sharing becomes so critical in putting together the statement of facts that goes to the court either in support of removal or support in reunification.

Sen. Timberlake asked if the department could give a break down between the caseworker and the supervisor and up the system, of what percentage of input they think the caseworker has for the recommendation of whether the reunification should take place or the child should be taken away. How much weight does the caseworker have in the decisions.

Ms. Bogart answered that they would be able to get him the information on how often the court disagrees with the recommendations from OCFS. She stated that the staff at OCFS recognize that not every decision is going to be supported by every party in the case.

Ms. Johnson answered to give an actual percentage they would need to figure that out and bring it back. She stated that the decisions are not independently made by one person within OCFS. The caseworker is responsible for gathering all of the information which is a critical role in the process. Then the caseworker would work with their supervisor to determining what other information, where does the information read for what OCFS can do legally per the policies to determine whether a child needs to be removed from a home or not due to child abuse and neglect and ensure that child's safety.

Sen. Deschambault asked about the potential about termination of parental rights in congruence with the decision of reunification or foster placement.

Ms. Johnson answered that foster placement means removal from the home which is not an alternative permanency plan. She stated that there are other pathways to permanency for children which may include termination of parental rights and adoption, or permanency guardianship.

The Chair Rep. Stover took over asking the questions while Sen. Libby stepped out of the meeting.

Rep. Stover asked if the department would speak to what factors are most relevant in deciding for reunification or foster placement.

Ms. Johnson answered that the department looks at whether the parent has made sustainable behavioral changes to address the circumstances of jeopardy. The department looks at the progress or lack of progress, the participation in services and the status of visitation. The department looks at reports of unsafe behavior and progress in recovery and whether the parent is testing clean from substances.

Rep. Stover asked if there was any data regarding how that decision is made to place a child.

Ms. Johnson answered that the department has the highest percentage of children placed with relatives. The first and primary placement is to keep the child connected to their family system whenever possible.

8. An examination of the Child Fatalities list shows that most had past referrals for mental health and/or substance use services. How was it determined that the services were successful and therefore those children were returned to a safe home? Will there be any changes to how it is determined that a home is safe?

Ms. Bogart answered that the bottom line from what was just discussed (in the last question) was that each case has its own challenges and dynamics. Is the parent meeting their goals, are they able to take care of their child or children? If not, then the decision to remove was made.

Ms. Johnson answered that the department uses the structured decision-making tools to help guide those decisions. It looks at safety and risk and reevaluates that throughout the time of involvement with that family to see if there has been changes in those determinations. The department relies on partners and stakeholders to help gather information to determine whether there are issues or further concerns related to putting a child back in a home. The department is providing training to their staff on how to use the tools, but also how to understand substance use disorder and the recovery process. There is an upcoming training

for staff so that they can understand how that information fits into the analysis of progress for a parent. There is also partnering with community providers, families, and resource parents or caregivers to be able to have a comprehensive picture of the functioning of that family in order to inform those decisions.

Sen. Timberlake asked if there was a policy that explains how often the caseworkers are supposed to be visiting with each of the parents or foster parents. What are the expectations and how often are those being met?

Ms. Bogart answered that they could provide the written policy at a later date.

Ms. Johnson added that they expect the caseworkers to do monthly casework contacts with parents, children and resource parents.

Sen. Timberlake asked if that meant a telephone call or an actual visit.

Ms. Johnson answered that it would be an in-person contact. The department would also expect that they are convening family team meetings at least quarterly, which would bring together all of the individuals that are connected to that case including support and providing services to that family.

Sen. Deschambault asked if there was a tool or assessment that does aid the caseworker that would tell them that they need to call the family every other day or every week. Is there something that would help the objectives of the caseworker? If there is a tool would a manager be able to see if the caseworker is following exactly what the recommendation is?

Ms. Johnson answered that they do not have a tool for that. The structured decision-making tools help to identify what is high, moderate or low safety concerns.

Sen. Deschambault asked if the tool will tell the caseworker what services are needed.

Ms. Johnson confirmed that the tools would help to guide those decisions and which would be made in consultation with the supervisor. The supervisor and caseworker would have to prioritize workload, review information. The decisions are made on a case by case basis.

Sen. Deschambault stated that the people who are incarcerated, who are parents, DHS is working with them, and they are often successful because it is a confined environment.

Ms. Johnson stated that the collaboration between the jail systems holding incarcerated parents with children involved with child welfare is an important source of information.

Rep. Arata brought up the Child Fatalities list. She asked if it is determined that substance abuse services are necessary, does that lead to a recommendation that the court removed the child until the parent has successfully completed substance use treatment.

Ms. Johnson answered that it depends on the level of substance use issue and the impact on the child. There are multiple factors that add to that decision to whether the child can remain in that home safely or not.

Rep. Arata stated that she could not think of a way that it would be possible for a newborn to be safe in an environment where their caregiver is using substances. She does not see how they could possibly be determined to be safe.

Ms. Johnson answered that reports where substance use is a factor need to determine when the parent is using, how it is impacting their behavior, how it is impacting their child. There are certainly families where the department would not want them caring for an infant given the level of substances they are using. The other circumstance could be that there is another caregiver at home that isn't struggling with substance use disorder that is a safe person in the home. There are a lot of different factors when looking into the decision of whether a child is safe going into that home.

9. A working group was assembled to problem solve the issue that caseworkers have in getting medical records that are relevant to the cases that they are working. Is there an update on the status of this project?

Ms. Bogart answered that there is the working group between law enforcement, medical providers, the assistant attorney general and OCFS and it is possible that they will have legislation for next year that requests statutory changes to overcome some of the barriers that have been found.

10. What has been implemented from the recommendations from Casey Family Services?

Ms. Johnson stated all of the recommendations have either been implemented or are in process to be implemented. The work groups mentioned earlier are part of those recommendations. There was also a recommendation from the Ombudsman's office to implement the safety science model and has hired 3 employees to fill those roles. She stated they implemented the systems mapping and the full process review on those cases. There was also a presentation to the Child Death and Serious Injury Review Panel to talk about where they may be intersections between the work that the panel does and the work that the department does and enhancing that collaboration. There is a potential proposal for improving the after hours, children's emergency services system for the approved additional staff lines, and brought the department workers in to talk through what their vision is for the new positions. There is another work group that is looking at the investigations policies and timelines for completing an investigation as well as the activities that are required to complete an investigation. Reducing duplication of information is one thing the department is trying to avoid.

Ms. Bogart added that safety science has changed the way documentation is provided after a child fatality.

Ms. Johnson explained the safety science process. Through the process they do a technical review on all child fatalities, near fatalities and serious injuries and ingestion reports. Whenever central intake or child protective intake receives a report of that nature, the safety science team also gets that report and they do the technical review looking at family history, current circumstances and providing information to management so that next steps can be found. The model allows the workers to look at the cases through an internal and external lens.

Rep. Stover asked how the information will be given to the MDT (multi-disciplinary team). Will there be a press release or any public information? What happens after the completion of these in-depth reviews?

Ms. Johnson answered that the reviews are completed quarterly and put together in a trend report. There has not been talk of external use or public dissemination of that information, but it will be used internally to look at policies practices and to inform the work groups that the department is involved with.

Sen. Keim asked if there were any other criteria for a case to be chosen for review or is it only death, serious injury or ingestion, and if ingestion was the correct term.

Ms. Johnson answered that child fatalities, and near fatalities with history over the last three years. The technical review is done on those cases and then there would subsequently be a full review on the child fatalities or near fatalities.

Sen. Keim asked how often those reviews are done.

Ms. Johnson answered that the technical review occurs on any report that is received in a month that is a child fatality, near fatality, or serious injury. There are some serious injuries that are not near fatalities or ingestions. The smaller subsection of child fatalities and near fatalities that had prior child protective history within the last three years of receiving the report would go on for a broader review if it was selected by the multi-disciplinary team. Not all cases are sent forward for a full review. The multi-disciplinary team is made up of OCFS's medical director, regional associate director, policy manager, violence prevention program, quality assurance person.

Sen. Keim asked for clarification on what steps the safety science analysts do in the process.

Ms. Johnson answered that the safety analysts do all of the technical reviews on every single one of the cases. The supervisor, in consultation with Ms. Johnson and the medical director are determining which cases would meet the criterial for near fatality. The safety analysts are not screening out any of the cases, it is happening with the program manager and the medical director.

Sen Keim asked when these positions were hired.

Ms. Johnson answered that two of them were hired in January and one part-time person was hired in March. She explained that they started doing the technical reviews on cases in February. The safety science analysts have continued to receive training and coaching from Collaborative Safety.

Sen. Keim asked when the department expects to have the quarterly trend report.

Ms. Johnson answered June or July.

Sen. Bailey asked for clarification that there has been no outside review other than the Ombudsman's Office.

Ms. Johnson answered that the two external partners would be The Child Welfare Ombudsman's Office, and the coaches that train the department from Collaborative Safety.

Sen. Bailey asked about who pays the trainers.

Ms. Johnson answered that Casey family Programs is supporting the implementations and the it would be the department.

Sen. Bailey asked for clarification on why the department is keeping this process insular.

Ms. Johnson answered that the decision about the compensation of that team came from collaborations with the developers of the model, Collaborative Safety. The Child Welfare Ombudsman wanted to be a part of the process so they worked to integrate her in. When the system mapping is done, there may be learning points that include other stakeholders so those stakeholders are brought into the process. Law enforcement has participated. The department is working with Tribal Child Welfare to participate in the process.

Sen. Timberlake asked what is being done for prevention and monitoring.

Ms. Bogart answered that the new services that the department is working to develop to work directly with individual families. There is a lot of work that can be done as a community to make sure that there is cultures and support systems that help prevent. Making sure that caregivers have the tools they need to care for their children and provide them with basic needs and more. There are many programs in place to help the families at a community level.

Ms. Johnson added that at the family level the department makes sure that individuals are connected with those services that could benefit their family before it becomes a child welfare intervention issue. Prevention is going to work with families involved with child welfare before their child has been removed. The reunification is going to work with families where a child has been removed in order to strengthen them to be able to be reunified if that's successful. Where are the gaps and how can the department make sure that families can access services? One of the themes in stakeholder meetings was that families do not know what services exist or how to access them.

Sen. Timberlake asked for clarification on when the programs were going to be implemented and start working because he felt that the general public does not know these programs exist. He believed there should be deadlines for when things are going to happen and information on how the people are going to access it. He thought that there should be implementation of these programs to families before there is investigation on children overdosing or getting into drugs.

Rep. Stover stated that some of the things that were passed and recently funded in the most previous legislature, are the programs that Sen. Timberlake is referencing. She asked if the department would be able to highlight the initiatives that are coming and when these things would take place.

Ms. Bogart answered that the department can get an outline for the committee of an expected implementation timeline for each of the programs. She stated that the prevention may look like a community provider or caseworker involved with the family will identify that the parents are having a hard time with whatever aspect and in turn giving that parent the information for whatever tool may help that individual.

11. How is OCFS going to fix the communication between the caseworker, the caseworker's supervisor, the supervisor of the supervisor, and all the way up through till you get to Dr. Landry and Commissioner Lambrew?

Sen. Timberlake stated that the committee has read that caseworkers feel that when reporting to their supervisor it is not going up the chain of command. He asked if there was anything the department is doing differently after the Casey Report? He stated that the communication should be through individuals from the top down. He stated that there has to be personal relationships.

Ms. Johnson stated that engaging frontline staff in the work groups the department has been convening. The department has further developed the policy development process and working on the investigation policy. She stated that the largest representatives in the room during the work groups were caseworkers as they are the ones doing the front-line work. When a new cohort of caseworkers starts, Director Landry welcomes them to their first week, welcoming the new staff to the agency. There has been coaching of supervisors around building relationships and how to do that in the current climate of a pandemic and a large amount of staff working remotely. The department is trying to find strategies to connect the staff as they had been before the pandemic when they all had the benefit of being in office with their peers.

Sen. Timberlake asked when the workers would be returning back to the office and how often does Ms. Johnson follow-up with staff after they graduate.

Ms. Johnson stated that she opens the door for the workers to reach out to her and tries to make connections when in offices. There is a recruitment and retention specialist who is the first person in the organization that the workers have contact with, and is who follows up at regular intervals to get feedback from the new staff on how it is going.

Ms. Bogart stated that communication can always be improved internally. She answered that the department is working with the Bureau of Human Resources, who falls under DAFS, to create a return to work policy for the department for the fall, for complete in-person.

Rep. Fay asked what are the impacts of the communication when identifying a solution to a problem, and what is the pathway for getting problems solved once identified.

Ms. Johnson answered that caseworkers will bring concerns to supervisors and program administrations, or human resources or the union pathways that concerns are sometimes raised. There is also a suggestion box where they sometimes get concerns about practice or policy. The regional associate director who oversees those districts would do the follow up directly with the person with the concern.

Ms. Bogart added that there are multiple pathways to get an answer to a problem. She stated that for those involved in a specific case, reaching out to the caseworker, who can in turn go to their supervisor is often the most direct way. It would depend on the specifics of the case and resources available.

Sen. Bailey asked if the virtual suggestion box is anonymous or if the person has to identify themselves.

Ms. Johnson answered that the worker has to identify themselves in the district they work in and then identify if they want a response or not.

Sen. Bailey asked if there was any way for a caseworker to voice a concern anonymously.

Ms. Johnson stated that she had maybe gotten one in the mail.

12. As OPEGA's Reports from 2022 and 2018 highlight, there are some serious deficiencies in caseworker supervisor oversight. What is OCFS doing to improve oversight of caseworker supervisors?

Sen. Bailey asked about the oversight of the supervisors and what the department is doing in that specific area of oversight.

Ms. Johnson answered that the supervisors are supervised by the program administrators so they have regular supervision as do the caseworkers. There is also the quality assurance process which looks at the decision-making that occurs on cases, which is a team effort between the caseworker and the supervisor.

Rep. Fay asked when the department might implement this work.

Ms. Johnson answered that some of it has already been achieved and other parts are in process.

RECESS

The Chair, Rep. Stover, recessed the Government Oversight Committee at 11:57 a.m.

RECONVENED

The Chair, Sen. Libby, reconvened the Government Oversight Committee at 12:17 a.m.

13. What has OCFS done to ensure that caseworkers are protected when raising concerns about supervisors overriding concerns about child safety?

Ms. Johnson added that decisions are made in a team process with the supervisor and there are times outlined in the team decision-making protocol that require a program administrator or regional or assistant regional associate directors to be a part of that decision-making process. There are pathways that staff can take in order to share that they may disagree with a decision.

Ms. Bogart shared that the virtual suggestion box is not anonymous but the staff can provide anonymous feedback through human resources or the union.

Sen. Libby asked what the process is when a complaint is received through HR or the union. How does the OCFS leadership operate once that complaint is received?

Ms. Johnson answered that HR will determine what to bring to the agency for a follow-up. The process is guided by HR depending on what the complaint is. If it is policy or practice related that can be addressed, the supervisor or program administrator would figure out what the resolution is.

Rep. Stover asked if the department participates in labor management meetings?

Ms. Johnson answered she would have to get back to the committee with that information.

14. How often does OCFS evaluate the screening questions used by caseworkers?

Sen. Libby asked if Ms. Johnson had any comments on the potential of the committee members receiving a presentation and being able to observe the tool and process under an executive session.

Ms. Johnson answered that she had done demonstrations of the tool before to the Child Death and Serious Injuries Review Panel.

Sen. Libby asked if the committee sent a letter to OCFS requesting one of those presentations of the tool in executive session how would the department respond.

Ms. Bogart answered that they would have to look at the contract with Evident Change and see what specifics can be shared.

Rep. Stover suggested that if the department was restricted from doing it, maybe Evident Change would present slides showing the committee how the process works.

Ms. Bogart answered that the department will be looking into how they can make the presentation happen for the committee.

The Chair, Sen. Libby skipped to question 20.

20. What data can OCFS provide on the tool conclusions that are overridden by supervisors (from assessment to closing)?

Rep. Fay stated she was curious to know if the 3.6% override rate is comparable to what happens in other states. Ms. Johnson answered that this is one of the metrics that states measure and Maine is within the range for override that Evidence Change would expect it to be.

Sen. Libby asked for an estimate on where the number of overrides has been in the last 3 years. Ms. Johnson answered she would get that information to the committee.

Sen. Keim asked what the other SDM tools are.

Ms. Johnson answered that there is a suite of structured decision-making tools. The intake screening tool, a safety tool, a risk tool, a risk reassessment tool, a reunification tool and a case planning tool.

Sen. Deschambault asked if the supervisor was the one who can make an override.

Ms. Johnson answered that the supervisor would be the one to make a final decision.

Sen. Deschambault asked if a caseworker could request an override.

Ms. Johnson answered that a caseworker could recommend an override and it would need to be shared with a supervisor. A program administrator could also be involved in that decision if there were questions.

15. How does OCFS engage with families, foster parents and mandated reporters to get feedback on the CPS process?

(See departments response document pg. 6 - no further information was given)

16. How does OCFS gather feedback from caseworkers about issues with the CPS structure or with supervisors?

(See departments response document pg. 6 - no further information was given)

17. When caseworkers go outside the office to report to the Ombudsman's Office, it seems that they frequently experience retaliation both internally and in the larger professional community. What is OCFS doing to end this culture of retribution and encourage transparency when cases are not being adequately followed up on?

Sen. Libby asked what happens in a situation where a caseworker who is making a complaint to the Ombudsman regarding a supervisor's decision. Sen. Libby asked how the upper staff such as Ms. Johnson make sure that the supervisors are not exerting retribution on a caseworker who may have made a complaint.

Ms. Johnson stated that the department would make sure that the caseworker has a pathway to continue to express concerns that would come directly to the program administrator or the regional associate director. She would make sure there is follow-up check-ins with that individual to make sure that there isn't a division between the case worker and the supervisor.

Sen. Keim asked how often a caseworker disagrees with a supervisor and reporting that outside or inside of the agency.

Ms. Johnson answered that she has never received a worker's complaint through the Ombudsman's Office. She added that internal complaints are brought forward and resolved.

Ms. Bogart added that she imagines many of the conversations during the beginning of an investigation process may have divergent opinions but there is often agreement made through the processes to move forward.

18. What is OCFS doing to address the changes recommended by the Ombudsman's Office and state oversight panels?

Ms. Johnson added that one of the pieces highlighted in the Ombudsman's report was training for staff. The department has been working with the university around the training for new caseworkers and then also for supervisors.

19. What is OCFS doing to build on its existing Quality Assurance system to identify practice concerns in a timely manner and create opportunities for feedback, mentoring, and training?

Sen. Libby asked how the GOC know that things are moving in the right direction when looking at the quality review process.

Ms. Johnson stated that this would be shown through this ongoing data reports. Is the department accomplishing the activated that had been outlined in the plan? There is an ongoing period of time to measure the outcomes related to the implementation of those strategies.

Sen. Libby asked if the department could show a summary of the report that they are receiving so that it can be compared to the data that was captured in the OPEGA Report.

Ms. Johnson answered yes.

Sen. Keim asked about the random sample of cases and whether they are picked by district.

Ms. Johnson answered that the quality assurance team did a random sample of cases by each district.

Sen. Keim asked if they are seeing differences by district.

Ms. Johnson answered that she has not seen one of these reports yet as they go to the regional associate director. The report that Director Landy and Ms. Johnson receive is about the Child and Family Services Program Improvement Plan which includes some trend data but is not broken down by district.

Sen. Keim asked if Ms. Johnson had not seen any of the quality assurance team reports because it is another new program that's being implementer.

Ms. Johnson answered that the quality assurance reviews are incorporated into that data. The quality improvement team that is doing the district by supervisors' reviews starting doing the reviews in December.

Sen. Libby asked if Ms. Johnson had more data on the vacancy rate of caseworkers and how many have been hired since the last time the committee asked that question.

Ms. Johnson answered that she would get that information to the committee. She mentioned that there were five previous employees who have reached out wanting to come back in one way or another.

- **Work Session**

Sen. Bailey wanted to request an SDM demonstration from the department.

Sen. Keim would like further information on the technical reviews. She stated that she would want a presentation from some one who does not work for the department.

Rep. Stover suggested that the committee get an update on the pieces of legislation that are in various stages of implementation. She would like a timetable for when those programs would be ready.

Sen. Keim wondered if someone from Collaborative Safety that the committee could come and answer questions of the committee.

Sen. Bailey stated that she would like to know how many technical reviews there are and would like to request to review them if that is available.

Sen. Keim suggested they may want to wait for a longer timeframe to review the technical reviews as they are still newer.

Mr. Kruk answered that the OPEGA office would be able to do some of this work in reviewing the information Sen. Keim is looking to receive.

Sen. Keim asked if OPEGA would be able to compare the case file and tell the committee how things are different.

Mr. Kruk answered that they could capture all of the memos that are generated from the Child Death and Serious Injury Review Tool, and let the committee know how many have been done. It would be a good starting point for the committee to determine what they want to do.

Sen. Libby stated that the committee will send a letter to the department requesting the SDM tool presentation in executive session and have that for June 15th.

Motion: The chairs send a letter to OCFS to request the GOC to be given a review of the SDM tool.

(Motion by Sen. Keim, second by Rep. Fay, passed by unanimous vote)

Planning for upcoming meetings

Next GOC meeting date

Sen. Libby noted that the next GOC meeting is scheduled for Friday, April 8, 2022 at 10:00 a.m. and will be held electronically.

Adjourn

The Chair, Sen. Libby, adjourned the Government Oversight Committee meeting at 1:17 p.m. on a motion by Rep. Blier, seconded by Rep. Arata.