

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 05, 2018

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Lee, Senators Hagedorn, Lakey, Anthon, Foreman, Potts, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lodge** called the meeting of the Senate Judiciary & Rules Committee (Committee) to order at 1:30 P.M.

MINUTES APPROVAL: **Senator Potts** moved to approve the Minutes from January 17th, 2018.

Senator Nye seconded the motion. The motion passed by **voice vote**.

PRESENTATION: **Sharon Harrigfeld**, Director for the Idaho Department of Juvenile Corrections (IDJC), presented her colleagues who were also present: Sandy Jones, Director of Commission of Pardons and Parole; Henry Atencio, Director of the Idaho Department of Correction; Lisa Bostaph, Graduate Program Coordinator, Department of Criminal Justice at Boise State University; Christina Iverson, Statewide Sentencing Alternatives Manager for the Idaho Supreme Court; Eric D. Fredericksen, State Appellate Public Defenders. **Director Harrigfeld** described the Idaho Criminal Justice Commission and its make-up, vision, mission, and values. She introduced the next speaker, Sandy Jones.

Sandy Jones, Director of Idaho Commission of Pardons and Parole, explained how the Commission interacts with the three branches of government, She highlighted the importance placed on communication by the Commission.

Henry Atencio, Director of the Idaho Department of Corrections (IDOC), discussed IDJC's strategic plan. **Director Atencio** narrowed the objectives as handed down from the Governor. He noted the following aspects are prioritized by the Department: combatting crime and protecting citizens; providing policy makers with accurate information; and promoting efficiency and effectiveness to the criminal justice system. He also noted the priorities and strategies of inter-agency data sharing.

Christina Iverson, Statewide Sentencing Alternatives Manager for the Idaho Supreme Court, detailed the pretrial criminal justice planning subcommittee, which was formed in 2014 to examine current pretrial practices in Idaho and to establish Statewide recommendations. The programs are designed to assess the risk as alternatives to incarceration and are in place to assure community safety. **Ms. Iverson** elaborated on the six recommendations made to the Idaho Criminal Justice Commission (ICJC).

Director Harrigfeld presented on the Mental Health and Substance Abuse subcommittee. This past year, the subcommittee reviewed the opioid epidemic. In September, approximately 100 individuals from across the State including representatives from State and local government met for ongoing, meaningful

conversations related to substance abuse and mental health issues in the State.

Senator Burgoyne noted his opinion that the opioid crisis is the result of negligent conduct by businesses and the medical profession that has prescribed these narcotics. He stated his belief that the federal level has been failing and the State level needs to become more aggressive. **Director Harrigfeld** commented on the topic and stated the ICJC is maintaining involvement.

Senator Hagedorn requested to see the numbers and statistics detailing the opioid crisis in Idaho. **Director Harrigfeld** stated the information will be provided to the committee at a later time.

Dr. Bostaph, University Graduate Program Coordinator, Department of Criminal Justice at Boise State, presented the ICJC dashboard regarding agencies. She also presented a biannual report on crime victims and crime victim services. Lack of consistent crime data has the ICJC working to create a single system for Statewide use across agencies. She noted The Center for Disease Control and Prevention (CDC) provided nationwide numbers for 2016 that put Idaho 36th out of 50 states and Washington D.C. in opioid-related deaths. In Bannock and Bonneville counties, the rate was significantly higher.

Eric D. Fredericksen, State Appellate Public Defender's Office, chairs the human trafficking subdivision and remarked on human trafficking in Idaho in relation to other states. The subcommittee is reviewing safe harbor provisions to aid victims held in the system. (Attachment 1)

PRESENTATION: **Idaho Department of Juvenile Corrections (IDJC). Lynn Viner**, Superintendent at IDJC, Nampa, presented on services provided by IDJC and the ways in which IDCJ assists juveniles and strives to continue to assist into the future. She explained the importance of family connection to the juveniles and highlighted the performance in achieving success with some juveniles. (Attachment 2)

RS 25691 **Relating to Amendments to Idaho Code §§ 18-924 and 925 Pertaining to Sexual Battery.** **Paul Panther**, Deputy Attorney General, noted the scope of the changes and definitions on the use of force. He discussed the psychological ramifications and the consequences of intentional touching of another person's intimate parts. He noted the creation of the new parts for the section in the Code needed and explained the new misdemeanor crime for which one would not have to register as a sex offender.

DISCUSSION: **Senator Potts** questioned the need for "inner thigh" to be mentioned when other parts of leg are already specified. **Mr. Panther** responded that the proximity of location made it important enough to include specifically.

Senator Potts followed up regarding touching and accidental brushing of inner thigh and whether there would need to be proof that a brushing was accidental. **Mr. Panther** explained that the State would have to prove the act was intentional and the actor had a specific intent.

Senator Lakey asked why the current felony is insufficient. **Mr. Panther** deferred to the subsequent presentation section. **Mr. Panther** referenced subsection 2 of the same bill, which would create an aggravated sexual battery statute and would be §§ Idaho Code 18-925. **Senator Lakey** followed up by noting instances where the sexual conduct is more serious. He asked about the misdemeanor with intent to gratify. **Mr. Panther** noted that crimes are not done for sexual arousal but have the intent for psychological harm to the victim.

MOTION: **Senator Hagedorn** moved to send **RS 25691** to print. **Senator Lee** seconded the motion. The motion passed by **voice vote**.

RS 25618 **Relating to Revision of Conditions for Committing the Crime of Forcible Penetration Amending Idaho Code §§ 18-6608.** **Mr. Panther** noted the State must prove that the perpetrator did the act for sexual arousal, gratification, or abuse. This change will take out the sexual intent language and replace it with the term "willfully." Under this statute, "willfully" means the act has to be done intentionally.

MOTION: **Senator Lakey** moved to send **RS 25618** to print. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.

S1246: **Relating to Correctional Facilities Amending Idaho Code §§ 20-237B Regarding Medical Costs of State Prisoners Housed in Correctional Facilities.** **Pat Donaldson**, Chief, Management Services Division, Idaho Department of Corrections, presented on the amendment of Idaho Code §§ 20-237B, which pertains to Medicaid rates for prisoners housed in correctional facilities. The statute currently states that the Board of Correction will pay medical providers for off-site services amounts no greater than Medicaid rates. The Idaho Supreme Court ruled that a provider under contract did not have authority to require off-site medical providers to accept Medicaid rates. This amendment would allow contractors under contract with the Idaho Department of Correction to access the Medicaid rate provision of this bill. This will have a financial impact on hospitals. He commented on the inquiry of Senator Burgoyne regarding some language in the bill regarding rates not listed and provided clarification.

Senator Potts asked what service the inmates will get if the provider is not allowed to bill the higher rate. **Mr. Donaldson** explained the provider will pay the Medicaid rates. Some rates may need to be re-negotiated.

MOTION: **Senator Hagedorn** moved to send **S1246** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion passed by **voice vote**.

ADJOURNED: There being no other business, **Chairman Lodge** adjourned the meeting at 2:42 P.M.

Chairman Patti Anne Lodge

Anna Wroblewski-Jones
Secretary

Samuel Griffin
Assistant Secretary