

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 19, 2018

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Lee and Senator Hagedorn

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 Judiciary and Rules Committee (Committee) meeting to order at 1:31 P.M.

INTRODUCTION: **Chairman Lodge** introduced Committee page Isaac Meyer. **Mr. Meyer** described his interests, family, background, hobbies and school accomplishments along with his future goals. He also remarked on what he hoped to learn from helping on the Committee.

GUBERNATORIAL APPOINTMENT HEARING: **Chairman Lodge** introduced **Ms. Cortney Dennis**, appointee to the Commission on Pardons and Parole (CPP). **Ms. Dennis** described her background with Ada County Sheriff's Office. She noted her educational accomplishments including a master's degree in national security with a concentration in terrorism completed in 2010. She elaborated on her previous experience with the CPP noting the extensive work and challenges placed before the commission. She remarked on working with inmates and the current mental health population problems. **Ms. Dennis** explained the importance of working and managing this segment of the inmates outside of the prison system. She also remarked on the war on drugs and residential treatment centers to address these issues. She made closing remarks regarding her fellow commissioners commending their service with honor and humility, as well as, their willingness to work countless hours to conduct hearings.

Chairman Lodge commended Ms. Dennis for her commitment and dedication.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Burgoyne** moved to send the gubernatorial appointment of Lisa Bostaph to the Commission on Pardons and Parole to the floor with the recommendation that she be confirmed by the Senate. **Senator Anthon** seconded. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Burgoyne** moved to send the gubernatorial appointment of Paige Nolta, Esq. to the Commission on Pardons and Parole to the floor with the recommendation that she be confirmed by the Senate. **Senator Lakey** seconded. The motion carried by **voice vote**.

RS 26138

Relating to Attorney's Fees, Witness Fees, and Expenses in Certain Instances Regarding Licensing Authority for Professional and Occupational Licensing. This Routing Slip (RS) was presented by Senator Den Hartog. **Senator Den Hartog** explained the intention of the RS is to set forth a procedure in administrative hearings with regards to a licensee and a licensing authority award of attorney's fees to the prevailing party. She noted the legislation will impact the self-governing licensing authorities which are funded through dedicated fees.

MOTION:

Senator Potts moved to send **RS 26138** to print. **Senator Anthon** seconded. The motion passed by **voice vote**.

S 1269

Relating to Crime of Sexual Battery presented by Paul Panther, Deputy Attorney General. **Mr. Panther** explained **S 1269** and what the current statute limits are regarding the definitions of the crime of sexual battery. He noted the specific bodily areas affected in this crime. He elaborated how the sentencing component would change in this legislation. He also remarked how accidental touching outside of the crime's scope requires the state to prove certain elements beyond a reasonable doubt. He noted the importance of this statute because of the comparable statute in the Idaho Code and the penalty that it should carry.

DISCUSSION:

Senator Anthon asked if prosecutors encountered difficulty in charging similar behavior under battery. **Mr. Panther** said under the current statute it does not rise to the level of aggravated battery. **Senator Anthon** inquired if this is charged as a felony. **Mr. Panther** responded that there is a perception that this crime should carry an enhanced penalty.

Senator Lakey asked if this crime's scope requiring the intent to degrade and demean arose from legislation in other states. **Mr. Panther** responded this may be addressed in Idaho Code in some other statutes.

Senator Lakey inquired if this new language came from application in other states. **Mr. Panther** responded the research to see how other courts interpreted this statute in other states has not been done. **Senator Lakey** asked regarding sexual offender registration. **Mr. Panther** answered that sexual registration on the misdemeanor part would not be required. **Senator Lakey** inquired regarding the fiscal impact on counties. **Mr. Panther** noted county sheriffs were not able to calculate and admitted unknowns for the fiscal impact component. He noted it could reach between \$100 to \$200 per registered offender.

Senator Burgoyne asked for clarification if the perpetrator was touching the victims intimate parts or using their own intimate parts to touch the victim. **Mr. Panther** responded in either scenario the behavior would fall within the scope of the crime.

Senator Nye asked regarding definition of battery since it was non-consensual touching; he wondered if this legislation proposed these new sexual boundaries and the only difference was the sentencing component. **Mr. Panther** responded that the nature of the crime was more invasive than another kind of battery.

MOTION:

Senator Burgoyne moved to send **S 1269** to the floor with a **do pass** recommendation. **Senator Anthon** seconded. The motion passed by **voice vote**.

S1270

Relating to Forcible Penetration by a Foreign Object. This bill was presented by Paul Panther, Deputy Attorney General. **Mr. Panther** commented this legislation pertains to a sexual act with a motive. He commented on the act of hazing where forcible penetration occurred and when the state would be unable to prove the sexual element caused a permanent injury.

Mr. Panther explained the sentencing component for the various invasive elements of this crime. He also elaborated on the element of harm when physical pain or mental suffering is inflicted on the victim; he noted if the state is not able to prove the sexual intent element of the felony than the sentence carries only a six-month term in prison as opposed to possible life in prison. **Mr. Panther** noted this offense would require registration with the sexual offender management board.

DISCUSSION:

Senator Potts inquired regarding clarification on the intent element; he remarked on how taking the temperature of young children via rectal thermometer could be perceived. He noted a similar circumstance in rendering care to a disabled adult. **Mr. Panther** responded Idaho Code makes exemption to parents in the medical consent statute. He noted the clarification could be added to the bill. **Senator Burgoyne** noted a troubling issue with the example provided by Senator Potts and how that could be alleviated if re-written. **Mr. Panther** noted that would be addressed.

MOTION:

Senator Potts moved to send **S 1270** to the **14th Order**. **Senator Burgoyne** seconded. The motion passed by **voice vote**.

S 1277

Relating to Civil Actions Revising the Provision for Claims for Damages presented by Barbara Jorden, Executive Director of Idaho Trial Lawyers Association (ITLA). **Ms. Jorden** noted this legislation changes the amount of damages from maximum for small lawsuit criteria of \$25,000 to \$35,000. She explained this change is another mechanism for personal injury cases to proceed. She noted, that since the Small Lawsuit Resolution Act has not been amended in several decades, this would bring the dollar cap up-to-date. (Attachment 1)

MOTION:

Senator Nye moved to send **S 1277** to the floor with a **do pass** recommendation. **Senator Lakey** seconded. The motion passed with a **voice vote**.

ADJOURNED:

There being no other business, **Chairman Lodge** adjourned the Committee meeting at 2:24 p.m.

Senator Lodge
Chair

Anna Wroblewski-Jones
Secretary