

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, March 14, 2018

TIME: 1:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Lakey

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** convened the Senate Judiciary and Rules Committee meeting (Committee) at 1:05 P.M.

RS 26380 **Senate Concurrent Resolution Endorsing The Limitation of Printing Idaho Session Laws.** This Routing Slip (RS) was presented by Jennifer Novak, Secretary of the Senate. **Secretary Novak** explained how Title 67 of the Idaho Code provides for publication and distribution of Idaho Session Laws. She noted the increased online access for the various historical Session Laws already accessible. She explained the importance of decreased financial expenditures occurring due to online accessibility of the session laws.

MOTION: **Senator Burgoyne** moved to send **RS 26380** to print and **10th Order**. **Vice Chairman Lee** seconded. The motion passed by **voice vote**.

COMMITTEE CONSIDERATION: The Joint Publishing Committee report was presented by **Jennifer Novak**, Secretary of the Senate, for the Committee's consideration. **Secretary Novak** explained the needed volumes of session laws to be printed and costs incurred. She elaborated on ongoing efforts to include historic session laws on the website of the Legislature.

MOTION: **Senator Burgoyne** moved to approve the Joint Publishing Committee Report. **Vice Chairman Lee** seconded. The motion passed by **voice vote**.

PASSED THE GAVEL: Chairman Lodge passed the gavel to Vice Chairman Lee.

DOCKET NO. 61-0106-1701 **Rules Governing Procedures for the Oversight, Implementation, Enforcement and Modification of Indigent Defense Standards.** This docket was presented by Kimberly Simmons, Executive Director, Idaho Public Defense Commission (IPDC).
Director Simmons explained IPDC's mandate to promulgate rules related to oversight, implementation, modification, and enforcement of indigent defense standards. She noted oversight and implementation was the focus of this year's rules. She described oversight compliance and what it was intended to achieve. **Director Simmons** noted the roles of counties, as well as defending attorneys in this process. She remarked on the essential role of the regional coordinators. She explained the various minimum standards and oversight management with respect to those standards, in particular, with focus on corrective actions and compliance verification. (Attachment 1)

DISCUSSION: **Senator Potts** inquired regarding local level compliance. **Director Simmons** responded that counties do not want to be responsible for attorney compliance. She noted the preferred way is for the State to oversee compliance.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 61-0106-1701**. **Senator Lodge** seconded. The motion passed by **voice vote**.

DOCKET NO. 61-0107-1701 **Rules Governing Standards for Defending Attorneys that Utilize Idaho's Principles of an Indigent Defense Delivery System.** This docket was presented by Kimberly Simmons, Executive Director, IPDC. **Director Simmons** acknowledged this rule was already in effect and the changes with respect to definitions have been moved. She noted the House of Representatives (House) rejected Paragraph 020.01.d on page 108 and adopted as House Concurrent Resolution 56. She stated the IPDC was neutral regarding that paragraph of the rule. (Attachment 1)

DISCUSSION: **Senator Burgoyne** inquired if there was concern in the House with respect to the attorney roster being published. **Director Simmons** responded that the roster may contain negative comments about attorneys and that was the concern. **Senator Burgoyne** asked if the negative comments maintained in the roster affected the exemption from providing that to the public. **Director Simmons** responded that IPDC has a duty to report any attorney who fails to comply with the standards.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 61-0107-1701**. The motion failed for lack of second.

SUBSTITUTE MOTION: **Senator Potts** moved to approve **Docket No. 61-0107-1701** with the exception of Paragraph 020.01.d. **Senator Burgoyne** seconded. The motion passed by **voice vote**.

DOCKET NO. 61-0108-1701 **Rules Governing the Administration of Idaho's Indigent Defense Delivery System - Rule Definitions.** This docket was presented by Kimberly Simmons, Executive Director, IPDC. **Director Simmons** explained there were no changes as this was taken out of statute with the exception of standard about investigators and experts. The definitions were consolidated to be accessible in one place. (Attachment 1)

MOTION: **Senator Nye** moved to approve **Docket No. 61-0108-1701**. **Senator Anthon** seconded. The motion passed by **voice vote**.

DOCKET NO. 61-0104-1701 **Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense.** This temporary rule docket was presented by Kimberly Simmons, Executive Director, IPDC. **Director Simmons** noted this was an application process for grants. She stated this requested an extension of the temporary rule because of an omission on the proposed rule timing.

MOTION: **Senator Hagedorn** moved to approve **Docket No. 61-0104-1701**. **Senator Anthon** seconded. The motion passed by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lee passed the gavel to Chairman Lodge.

**IDAHO STATE BAR
APPOINTMENT
HEARING:**

Committee consideration of Idaho State Bar Appointment of Bruce Owens, Esq. to the Idaho Judicial Council (IJC). Mr. Owens described his legal practice in Idaho and Washington. He noted his varied experience and desire to serve on the ICJ.

Senator Nye asked regarding diversity of appointments to the Idaho Judicial Council. **Mr. Owens** responded he would like to see the judicial branch embody the individuals it represents.

Vice Chairman Lee and **Senator Burgoyne** disclosed potential conflict of interest pursuant to Senate Rule 39 (H).

Chairman Lodge thanked Mr. Owens for his willingness to serve on the ICJ.

VOTE:

The appointment consideration passed unanimously by buck slip vote. **Senator Nye** will carry the appointment to the Senate Floor.

**IDAHO STATE BAR
APPOINTMENT
HEARING:**

Committee consideration of Idaho State Bar Appointment of Judge Jeff Brudie to the Idaho Judicial Council. Judge Brudie described his judicial experience. He elaborated on his willingness and desire to serve on the ICJ. He described his relevant education and background.

Senator Hagedorn inquired about Judge Brudie's civil engineering undergraduate degree. **Judge Brudie** responded that he obtained the degree but ultimately found law school held more interest.

Vice Chairman Lee and **Senator Burgoyne** disclosed potential conflict of interest pursuant to Senate Rule 39 (H).

VOTE:

The appointment consideration passed unanimously by buck slip vote. **Senator Johnson** will carry the appointment to the Senate Floor.

H 551

Relating to DUI; Ignition Interlock System. This bill was presented by Senator Burgoyne. **Senator Burgoyne** explained what this legislation was intended to realize with respect to first-time offenders, reduction of recidivism, and the provision negotiation for interlock ignition system.

DISCUSSION:

Senator Potts inquired if there is law that mandates for a judge to require ignition interlock system on conviction. **Senator Burgoyne** responded that nothing in law prevents a judge to require an ignition interlock system.

Senator Foreman requested an analysis of this proposed legislation; he wondered if the requirement was too restrictive for first-time offenders because of the cost. **Senator Burgoyne** responded that statistics indicate that most offenders driving while intoxicated do so many times before they are finally caught and often drive under the influence not knowing whether they are over the limit.

Vice Chairman Lee asked regarding an indigent designation; she wondered if counties have scarce funds and if there is other indigent criteria. **Senator Burgoyne** requested for **Mike Kane** with the Idaho Sheriff's Association, and Idaho Association of Counties, to respond.

Mr. Kane stated that vast majority of counties have adequate funds for a variety of monitoring tools including ankle bracelets. **Vice Chairman Lee** asked if individuals would have to pay out of pocket. **Mr. Kane** responded no indigent defendant would have to pay.

Senator Nye noted an issue on the right to counsel and expressed reservation.

Senator Potts stated if there is nothing to stop a judge from requiring ignition interlock system then it bares similarities to mandatory sentencing.

MOTION:

Vice Chairman Lee moved to send **H 551** with a **do pass** recommendation. **Senator Anthon** seconded. The motion passed by **voice vote**. **Senator Potts** and **Senator Foreman** voted **nay**.

H 665

Relating to Schools To Revise Provisions Threatening School Violence. This legislation was presented by Paul Jagosh of the Fraternal Order of Police (FOP). **Mr. Jagosh** noted it is illegal to make a threat on school grounds but is not illegal to make that same threat off of school grounds or by electronic means. He provided examples of this behavior. He explained the intent of this legislation.

DISCUSSION:

Senator Foreman expressed concern over the language specifically social media postings that often do not carry the seriousness. **Mr. Jagosh** responded violent behavior would have to be found threatening and serious in nature. **Senator Foreman** stated he thought phrases "furtherance in carrying out a threat" and "having in his possession a firearm" were unclear. A discussion ensued regarding the following topics:

- clarifications regarding language defining school violence and threats
- social media postings
- intent of the language

MOTION:

Vice Chairman Lee moved to send **H 665** to the floor with a **do pass** recommendation. **Senators Anthon** and **Burgoyne** seconded. The motion passed by **voice vote**. **Senator Foreman** voted **nay**.

ADJOURNED:

There being no further business, **Chairman Lodge** adjourned the meeting at 2:25 P.M.

Senator Lodge
Chair

Anna Wroblewski-Jones
Secretary