

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 11, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Brendan Floyd, IDT; Greg Hampikian, Rick Visser, BSU Idaho Innocence Project; Kathy Griesmeyer, ACLU Idaho; Eric Fredericksen, SAPD/ICJC; Melinda Merrill, Idaho Bail Coalition; Monty Prow, IDJC; Ashley Dowell, Commission Pardons & Parole; Kathleen Elliott, PDC; Chris Tapp, Charles Fain

Chairman Chaney called the meeting to order at 1:30 p.m.

MOTION: **Rep. McCrostie** made a motion to approve the minutes from January 27, 2020 (Joint Meeting With Senate), January 27, 2020, January 29, 2020 (Joint Meeting With Senate) and January 29, 2020 meetings. **Motion carried by voice vote.**

H 405: **Rep. Kerby** presented **H 405**. This bill clarifies commercial drivers are not eligible to participate in Idaho's new DUI diversion program, which was passed by the Legislature in 2019. He described it as a clean up bill. The Idaho Department of Transportation was notified by the Federal Government that the state couldn't allow drivers with commercial driver's licenses (CDL) to enter the program.

In answer to questions from the Committee, **Rep. Kerby** stated that individuals who no longer use a CDL but possess one could not participate in the diversion program.

Brendan Floyd, DMV Specialist, Idaho Department of Transportation, the Federal Motor Carrier Safety Administration notified the state explaining the DUI diversion program for CDL drivers was not in compliance and it could result in a reduction in highway funds. In answer to a question from the Committee, he did not know whether there needed to be an emergency clause in the bill, but he would assume the state would be out of compliance until the law goes into effect on July 1, 2020, if the bill passes.

Chairman Chaney turned the gavel over to **Vice Chairman Monks**.

H 427: **Chairman Chaney** presented **H 427** for the Commission of Pardons and Parole. He explained there is a list of eligible crimes that could go before the Governor and Parole Board for consideration for pardons and commutations. This list has not been updated as new criminal codes were added. This bill identifies the offenses the parole board can approve and those that require the Governor's approval.

Ashley Dowell, Executive Director, Commission on Pardons and Parole, explained the Governor would need to sign off on any crimes with a maximum punishment of life imprisonment or death with the exception of drug crimes and persistent violators. In answer to a question from the Committee, she explained the bill is written in a way that will allow it to be updated without requiring future amendments.

Vice Chairman Monks turned the gavel over to **Chairman Chaney**.

H 456: **Rep. Troy** presented **H 456**. She explained pardons are not recognized on a person's permanent court record. Only 20-40 pardons are granted each year and commutations and remissions of fines and forfeitures are even more rare. She explained the process of where all the notices are filed. This bill will codify the process. Additionally, this bill requires the Commission of Pardons and Parole to file an original copy of the petitioner's documents with the state courts..

Ashley Dowell, Executive Director, Commission on Pardons and Parole, spoke **in support of H 456**. She explained a person can be pardoned in Idaho and that information is filed on the Idaho State Police database, but it is not recognized nationally. This will allow a pardon to be on filed with the original court records and more easily found.

H 384: **Rep. Ricks** presented **H 384**, which provides compensation to individuals who have been wrongfully convicted. He stated he has faith in Idaho's judicial system, but when a person is exonerated, it is important for the state to take some responsibility. Idaho is one of 15 states without any restitution for those wrongfully convicted. He explained the financial compensation structure. **Rep. Ricks** explained that a person has two years to make a claim. The bill also provides for offsets to state compensation with any civil awards or settlements are awarded to exonerees. Currently, six people would qualify for the compensation.

In answer to questions from the Committee, **Rep. Ricks** stated the Innocence Project provided guidance on the amount of compensation based on an average of what other states are paying. In the event a person dies while incarcerated, there is an opportunity for restitution to the family as a claim from the estate.

Charles Fein, and **Christopher Tapp** spoke **in support of H 384**. Both shared their stories of being wrongfully incarcerated for nearly 20 years each. They explained the difficulty in making the transition to life outside of prison and finding jobs. Even though they were exonerated, the felony murder charges remain on their records. They stated it is important to have resources to help the wrongfully convicted rebuild their lives.

Greg Hampikian and **Rick Visser** Idaho Innocence Project and **Kathy Griesmeyer**, Policy Director, ACLU Idaho spoke **in support of H 384**. It was explained that inmates released from prison have access to more support and services than those who are wrongfully convicted. They spoke of the extreme injustice suffered by these individuals for the time lost while incarcerated, and for the lifelong impacts once released. Growing progress toward the use of DNA and the challenges with having records expunged was also discussed.

In answer to questions from the Committee, **Mr. Hampikian** explained the work of the Innocence Project focuses on individuals serving sentences for major crimes of 10 or more years. The organization is funded by Federal and private grants and private donations. He explained a \$600,070 grant from the Department of Justice is available to states but Idaho doesn't participate because it requires the Attorney General to sign a testament that Idaho takes reasonable measures to collect and preserve biological forensic evidence in murder and forcible rape. He explained Idaho has a statute that requires preservation of forensic evidence for rape cases, but there currently is not a statute that requires it for murder.

Kate Haas, Kestrel West on behalf of the Innocence Project, answered committee questions about the Fiscal Note. She explained the funding process was created with input from the Controller's office, LSO and JFAC and it will create a fund, which is the mechanism for the money to flow and the courts will administer process. The bill sets up a continuous appropriation that allows the Controller to pay claims made through the Board of Examiners. JFAC and the Legislature will then see and approve the claim as a supplemental appropriation. In the future, if there are an impending number of claims, JFAC will have the option to pre-fund, or continue operating it as a supplemental appropriation.

Chairman Chaney called for a recess at 2:40 p.m.

Chairman Chaney reconvened the meeting at 2:50 p.m.

H 432:

Rep. Troy presented **H 432**. She explained the bill is a priority in the Governor's budget and is designed to see what is working and not working well within Idaho's criminal justice system. Creation of the bill takes advantage of extra capacity within the Controller's data system by providing a legal framework to link the various criminal justice systems to that system. It allows for the creation of a data oversight council that would provide direction on how the data is used and the bill ensures the participating agencies maintain control of how their data is used. She yielded her time to Eric Fredericksen.

Eric Fredericksen, State Appellate Public Defender, presented additional detail about the bill and explained it was brought forward on behalf of the Idaho Criminal Justice Commission. Currently agencies can analyze their own data, but the state has no way of looking at Idaho's criminal justice system holistically. This bill would help the state compile and analyze cross agency criminal justice trends, which could identify possible solutions, efficiencies and save costs. Final reports created by the system will be available for public information requests, but requests for agency specific data would continue to be managed by the germane agency.

In answer to questions from the Committee **Jared Larsen**, Governor's Office, clarified that many of the public records request exemptions shown in the bill are already written in existing code. Subsection 19 is the new public records exemption that would be added to I.C. 74-105 if the bill passed.

Monty Prow, Director, Department of Juvenile Corrections, **Ashley Dowell**, Executive Director, Commission of Pardon's and Parole and **Kathleen Elliott**, Executive Director, Public Defense Commission, spoke **in support of H 432**. They each spoke of the value of having data that can help their agencies operate more efficiently and effectively and identify new solutions to complex problems with Idaho's criminal justice system.

Chairman Chaney stated he will present to JFAC regarding Legislative priorities for the Committee's germane agencies. He asked members to let him know about issues of importance to the Committee.

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 3:36 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary