

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 03, 2020

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, 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 Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:32 p.m.

MINUTES APPROVAL: **Vice Chairman Lee** moved to approve the Minutes of January 15, 2020. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.
Senator Anthon moved to approve the Minutes of January 20, 2020. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

RS 27351C1 **Relating to Request for Waiver, Variance, or Amendment of an Existing Idaho Rule. Senator Jeff Agenbroad**, District 13, explained that **RS 27351C1** provides a standardized process for those governed by administrative rules (rules). He stated that there are more than 20 Idaho State agencies that use rule waiver provisions, but these rule waiver provisions are different from each other. He made it clear that this legislation will provide consistency on the rule waiver process in all Idaho State agencies, and will also be beneficial for those with unique circumstances. He added that this legislation will ensure that Idaho rules remain current with industry standards and technologies.

MOTION: **Senator Anthon** moved to send **RS 27351C1** to print. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

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

RS 27222C1 **Relating to Records of the Public Defense Commission. Chairman Lakey** stated that this legislation deals with confidential records that are kept by the Public Defense Commission (PDC). He emphasized that this bill will ensure confidentiality of communications between indigent defendants and attorneys by making this information exempt from disclosure under the Public Records Act.

DISCUSSION: **Senator Nye** asked Chairman Lakey about the extent to which this bill applies once it is passed. **Chairman Lakey** replied that this bill will cover anything within PDC possession at the time it has been passed. He pointed out that the bill contains an emergency clause making the amendment effective upon its passage and approval. He mentioned that the Idaho Attorney General's office agrees that the emergency clause is sufficient for this bill.

MOTION: **Senator Burgoyne** moved to send **RS 27222C1** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Lee passed the gavel back to Chairman Lakey.

S 1256

Relating to Bail Enforcement Agent's Affidavits. **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, explained that Idaho Code §§ 19-2914 and 19-2914A regulate the requirements and conduct of bail enforcement agents when making an arrest. He stated that these statutory sections require the agent, when making an arrest, to possess an affidavit approved by the Idaho Supreme Court (Court). He pointed out that the Court is not involved in filing nor issuing of the affidavit, and that the Court only regulates the relationship between parties. This bill eliminates the requirement that the Court approve the form of the affidavit from each section.

DISCUSSION:

Senator Burgoyne commented that removal of the language requiring the Court's approval from each section changes the aspect of the bill substantially. He added that there is sufficient risk in this amendment.

MOTION:

Senator Cheatham moved to send **S 1256** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Katherine Simpson, having been re-appointed to the Idaho Judicial Council (Council), briefly described her background, work experiences, and interests. She explained the reason her life and work experiences would make her a suitable member of the Council.

In response to a question from Senator Grow, **Ms. Simpson** discussed the role of the Council in the state. She indicated that the Council is responsible for vetting and interviewing candidates when there is a judicial vacancy. She added that the Council members deliberate and select two to four potential candidates, and send their applications to the Governor's Office for potential gubernatorial appointment.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Terry Kirkham, having been appointed to the Commission of Pardons and Parole (Commission), introduced himself and stated that he has been with Idaho Department of Correction (IDOC) since 1990. He expressed his eagerness to use his 31-year experience working in IDOC to aid and improve in the decision-making functions regarding parole, parole revocation, and pardon of the Commission.

In response to Committee inquiries, **Mr. Kirkham** enumerated some of the factors the Commission considers in deciding whether to grant or deny a parole to an offender. He also mentioned that more opportunities and available resources are needed to increase the success rate of parolees.

PRESENTATION:

Judge Barry Wood, Senior District Judge, Administrative Office of the Courts, introduced the panel of administrative judges who will be giving the presentations (see Attachment 1).

The Need for Additional Judges in the First District. **Judge Richard Christensen**, Administrative Judge, First Judicial District, started his presentation with a request to provide a new district judge in Bonner County, and two new magistrate judges in Kootenai County. He emphasized that the First Judicial District maximizes judicial resources and shares judges throughout the district, but a substantial increase in volume of cases has resulted in shortfall of judges. He stressed that a shortage of judges results in delayed justice for litigants, people accused of crimes, and victims of crimes. He added that having heavy dockets spread between judges would be beneficial.

Floating Court Reporter. Judge Melissa Moody, Administrative Judge, Fourth Judicial District, sought Committee approval to provide a full-time court reporter to be split between the Third and Fourth Judicial Districts. As mentioned by Judge Moody, there is a shortage of court reporters in both districts. The shortage of court reporters would result in an interruption of some court proceedings. She reiterated that the request is for one full-time court reporter to be split between two districts, not one court reporter for each district.

Odyssey Case Manager and Judge Edition Updates. Judge Darren Simpson, Administrative Judge, Seventh Judicial District, gave a quick overview of Odyssey Case Manager and Judge Edition (System). He emphasized that Case Manager is used primarily by the clerks to communicate with judges while Judge Edition is primarily used by judges to assist them with their court hearings. **Judge Simpson** assured the Committee that the money allocated for this System was well-spent. He presented all the benefits of the System, and stated that it enhances work effectivity, efficiency, and productivity.

Mental Health Courts in Idaho. Judge Gene Petty, Administrative Judge of The Third Judicial District and Canyon County Mental Health Court Judge, gave a brief history and introduction of Mental Health Courts (MHC) in Idaho. He specified that his presentation is mainly about adult mental health care. He stated that MHC is a specialty court for defendants with serious mental illness. He cited that MHC helps people with severe and persistent mental illness to achieve stable quality of life and promote meaningful community living. In his presentation, **Judge Petty** described the eligibility requirements, support team, and treatment process done in MHC programs. He characterized the programs as combinations of treatment, close supervision, and accountability.

Judge Petty reported the outcomes of MHC programs. He noted that the rates of felon and misdemeanor recidivism of MHC program participants had dropped significantly.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 3:00 p.m.

Senator Todd M. Lakey
Committee Chairman

Sharon Pennington
Committee Secretary

Rellie Wisdom
Majority Staff Assistant