

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 02, 2022

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Ricks, Senators Lodge, Anthon, Thayn, Zito, Burgoyne, and Wintrow

ABSENT/ EXCUSED: Senator Lee

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 to order at 1:30 p.m.

VOTE ON GUBERNATORIAL REAPPOINTMENT: **Vice Chairman Ricks** moved to send the Gubernatorial Reappointment of Anna "Janie" Dressen to the Commission of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

INTRODUCTION: **Judge Juneal Kerrick**, Senior District Judge, and Administrator of the Courts, introduced the district judges who would present. She stated that Judge Steven Hippler, Administrative District Judge in the Fourth District in Ada County, had been a judge since 2013. The second presenter was Administrative District Judge, Judge Dane Watkins, Jr. from the Seventh Judicial District. Judge Watkins had been on the bench since 2011. The third presenter was Judge Jeff Brudie who retired after 20 years on the bench from the Second District in Lewiston. Judge Brudie also serves on the Idaho Judicial Council.

PRESENTATION: **Judge Steven Hippler**, Administrative District Judge, Fourth Judicial District, stated that his presentation topic was "The Need for Additional Judicial Resources in the Fourth District." **Judge Hippler** explained the request made was for one additional district judge to be chambered in Elmore County, a court reporter and two additional magistrate judges for Ada County. Their request was a result of three main factors including population growth, increasing caseloads and backlogs, and the impact on services to the citizens. These additions made it possible to continue to provide innovations that result in better services within the judiciary in the Fourth District. **Judge Hippler** explained the background and needs related to these requests. He described the heavy workload and increasing demands placed on the current judges. The specialty treatment courts had been very successful with their programs, but additional resources were needed to keep them functioning. The Fourth District had organized and used several innovations that were very helpful with areas such as civil protection orders, warrants court, domestic violence court, family interdisciplinary settlement courts and others. These programs reduced the number of people tried and incarcerated. There was a growing concern with burnout as the judges tried to keep up with the current and growing case loads (see Attachment 1).

DISCUSSION:

Vice Chairman Ricks asked if Judge Hippler had any recommendations that would help with the family court scenarios. **Judge Hippler** stated that adding a magistrate to be assigned to family law courts would reduce the docket numbers. In addition, their request allowed the Fourth District to continue having integrated settlement conferences. Those conferences included professionals who would give guidance to the parties with resolutions often reached. **Senator Lodge** asked if there was physical space for the new judges. **Judge Hippler** said that there was ongoing planning for office space and there would be space available. **Chairman Lakey** asked if there was a plan to deal with the backlog of cases. **Judge Hippler** responded that the individual districts came up with their own plans. He explained that with Covid the courts had not been on a regular schedule, but when they were in session, scheduling was arranged to accommodate as many trials as possible.

PRESENTATION:

Judge Dane Watkins, Jr., Administrative District Judge, Seventh Judicial District, said he would be presenting on "The Work of the Trial Court Administrators." **Judge Watkins** stated he believes the Trial Court Administrators (TCA) are some of the most dedicated, hardworking officials in the State. The TCA is the hub of all the activities related to the Judicial district in which they are employed. They are the connection between the courts and every independent county in dozens of ways. Whenever there was a question to be answered, the first response was to go to the TCA. Some of their responsibilities include, but are not limited to, recording every proceeding from every courthouse, managing a complex budget that requires interaction with elected officials, clerks and designees, and judicial retirements and selections. The TCAs manage assignments for retired judges, are the contact person for media, provide training, education, and assistance for elected clerks. **Judge Watkins** added that in addition to these responsibilities, they are often asked to travel across the district to conduct various meetings. He reiterated that the request being made would help lighten the load of the Trial Court Administrators and give them a chance to do things they have been unable to accomplish.

DISCUSSION:

Vice Chairman Ricks asked if there was a backlog of cases in eastern Idaho. **Judge Watkins** indicated that there was. He said that the judges in the Seventh Judicial district were working together with the parties' counsel on both sides, private lawyers, and public lawyers to work through as many cases as possible when the facilities were available. **Judge Watkins** explained that the use of Zoom during the pandemic had been very efficient and would probably continue to be used as needed. **Chairman Lakey** asked how the technology used was implemented and funded. **Judge Watkins** responded that for case management the Odyssey program had been a great time saver for the judges. Some court reporters from other parts of the State had transcribed remotely. The subscription fees that allowed the technology used were not prohibitive.

PRESENTATION: **Judge Jeff Brudie**, Retired Senior District Judge, Executive Director, Idaho Judicial Council, stated that he would discuss "The Challenges of District Judge Recruitment." **Judge Brudie** explained it had become a challenge to assist the Governor in appointing replacements for vacancies in the district courts. He stated the applicant numbers since 2018 had shown a decline and indicated there were three factors contributing to the decrease. They included compensation, the possibility of a contested election, and the selection process of going through the Judicial Council to the Governor for appointment. Attorneys who were in private practice would most likely have to take a salary decrease and most of them want to keep their judgeship until retirement. Taking a salary cut is not attractive when one is looking toward retirement. There were many election aspects that came into play for magistrate judges applying for a district judge position. **Judge Brudie** commented that it may be wise to do a survey to measure attitudes regarding the District Judge recruitment concerns.

DISCUSSION: **Senator Wintrow** stated she hoped that judges are nonpartisan, fair and impartial and asked how to ensure that was happening. **Judge Brudie** stated that a judge was not supposed to be taking the bench with an agenda. **Senator Burgoyne** asked how important the partisan factor was in people not applying for the positions. **Judge Brudie** responded that the two top reasons depended on who they were. Private practice attorneys said compensation. Magistrates said it was the election process. **Senator Burgoyne** commented that he understood having gone before the Judicial Council once, possibly two or three times, seemed like an impediment to the application process. **Judge Brudie** added that it was difficult and it became a very competitive process.

S 1240 **Senator Wintrow** presented **S 1240** relating to restrictive covenants. **Senator Wintrow** said **S 1240** would add to existing law to provide for the prohibition and removal of racially restrictive covenants for real property. People would no longer be denied the opportunity to use or occupy real property with the limitations of race, color, ethnicity or national origin. The legislation was being kept in historic context of something that actually happened in our country. A homeowner may voluntarily amend their own documents and **S 1240** provided a path for people who want to take the language out of their covenant or deed. A form would be available in every county to enable owners to make the necessary change. A placeholder would be in the title chain indicating that the language had been outlawed and would not be enforced.

TESTIMONY: The following testimonies were given **in favor** of passing **S 1240** (see Attachment 2):

McKay Cunningham, Professor, The College of Idaho

Zoe Olson (Virtual)

Ed Labinski, Home Owner in Warm Springs Mesa, Boise, Idaho

Linda Ipaye, Realtor, Boise, Idaho

MOTION: **Senator Thayn** moved to send **S 1240** to the Senate floor. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:55 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary