

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 31, 2024

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Foreman, Senators Lee, Ricks, Hart, Hartgen, Wintrow

ABSENT/ EXCUSED: Senators Anthon, Ruchti

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 & Rules Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL REAPPOINTMENT VOTE: **Vote on the Gubernatorial Reappointment of Michael Ross of Meridian, Idaho to the Commission of Pardon and Parole** to serve a term commencing January 1, 2024 and expiring January 1, 2027.

MOTION: **Senator Wintrow** moved to send the Gubernatorial Reappointment of Michael Ross to the floor with a recommendation he be confirmed by the Senate. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Vote on the Gubernatorial Reappointment of Patrick McDonald of Boise, Idaho to the Commission of Pardons and Parole** to serve a term commencing January 1, 2024 and expiring January 1, 2027.

MOTION: **Senator Hartgen** moved to send the Gubernatorial Reappointment of Patrick McDonald to the floor with a recommendation that he be confirmed by the Senate. **Senator Wintrow** seconded the motion and recognized Mr. McDonald for his service to the State of Idaho. The motion carried by **voice vote**.

INTRODUCTION: **The Honorable Juneal Kerrick, Senior District Judge, Fifth Judicial District**, introduced Judge Wildman (Fifth District), Judge Carnaroli (Sixth District), and Judge Whitney (Third District). **Judge Kerrick** spoke about the requirements to serve as a District Judge, and clarified the jurisdiction of the district court which included felony criminal cases, civil matters over \$10,000, and agency appeals. She spoke about the Idaho Court's values which were integrity, fairness, independence, respect, excellence and innovation. Judge Whitney was assisted by Emily Carroll, a Senior Data and Evaluation Manager for the court. **Judge Kerrick** also recognized Jennifer Carr, the Executive Assistant for the Legal Division of the court for her work.

PRESENTATION: **Principles of Statutory Interpretation. Honorable Eric Wildman, District Judge, Fifth Judicial District,** cited Justice Scalia and Justice John Marshall, and emphasized that judicial power was a tool of the law. Courts lacked personal will and must operate within legal boundaries to implement the legislature's or the law's will. **Judge Wildman** highlighted Idaho Code Section 73-113, or the "plain meaning rule," in which the literal words of a statute best guide legislative intent. **Judge Wildman** gave an example of a case he had years ago that showed how the court had to apply canons of construction to resolve the ambiguity. Judge Wildman went on to address more examples of widely-used canons. **Judge Wildman** stated that when two statutes could be read to apply to the same subject matter and appeared to conflict, the court applied the more recent specific statute. In addition to canons of construction, courts looked to legislative history to resolve ambiguity.

DISCUSSION: **Senator Wintrow** asked Judge Wildman what would happen if something obviously wrong was put into legislation. **Judge Wildman** replied that there would be an ambiguity, and the court would apply a canon. **Senator Hart** questioned the importance of counties maintaining public law libraries. **Judge Wildman** stated by statute counties were required to do so, and that they were important for individuals to have the ability to access legal materials. **Judge Wildman** said many law libraries were switching to electronic. **Senator Hart** followed up and asked if it was typical for a county law library to have a research system. **Judge Wildman** responded that it was not common.

PRESENTATION: **Complex Civil Cases in District Court. The Honorable Rick Carnaroli, Administrative District Judge, Sixth Judicial District,** emphasized how large his current case load was, and how staff attorneys assisted with criminal research, trial preparation, and select issues on complex civil cases. **Judge Carnaroli** said his district had two dozen jury trials in the last two years, but only one was civil. He stated complex civil cases involved a lot of money, time, multiple expert witnesses and parties, court hearings, and more. He shared a few examples of civil cases to show how complex they could be. **Judge Carnaroli** expressed the importance of making prompt decisions, and how this caused him to often work beyond a normal 40 hour week.

DISCUSSION: **Chairman Lakey** asked Judge Carnaroli how many of his cases were civil and criminal. **Judge Carnaroli** responded and said 85% criminal and 15% civil. Felony case filings had spiked. **Senator Hart** questioned if it was abuse of the courts to file a case for political resolve. **Judge Carnaroli** answered and said there were rules and sanctions available to properly take care of cases like that, but he had not personally seen any.

PRESENTATION: **The Idaho Court Data Website. The Honorable Thomas Whitney, District Judge, Third Judicial District,** was assisted in this presentation by Senior Data and Evaluation Manager, Emily Carroll. **Judge Whitney** addressed Chairman Lakey's earlier question of the breakdown of civil and criminal cases, and stated the Idaho Court Data Website can show these statistics. The site compiles data and is open and live to the public. **Judge Whitney** walked through examples of how to use the site.

DISCUSSION: **Chairman Lakey** asked Judge Whitney if anybody could look up the criminal charges of a certain individual on the site. **Judge Whitney** responded and said one could not look up individual people, but that there were other sites with that information.

- RS 30987** **Trent Wright**, President/CEO, Idaho Bankers Association, presented **RS 30987**. This legislation amended Idaho Code 45-108 to rectify a decision made by the Idaho Supreme Court, which highlighted a legal gap with deeds of trust. The goal of **RS 30987** was to provide equal treatment for all types of property security agreements across Idaho.
- DISCUSSION:** **Senator Lee** asked Mr. Wright if the legislature or the court was responsible for the legal gap. **Mr. Wright** responded and said the legislation originally was correct, but due to the extension of the Park West decision in 2016, it was interpreted differently.
- MOTION:** **Senator Lee** moved to send **RS 30987** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.
- RS 30994** **Senator Nichols** introduced **RS 30994**, which amended Idaho Code 18-6710 to update the use of telecommunications that could be used for harassment.
- MOTION:** **Senator Hart** moved to send **RS 30994** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.
- S 1244** **Senator Hartgen** introduced **S 1244**, which amended existing law regarding electioneering activities near polling places. This legislation expanded penalties for violations which included increased fines of \$300 and a misdemeanor conviction for repeat offenders. **Senator Hartgen** confirmed no jail time was included. It also increased the distance from the polling location to 250 feet from the main entrance. Additional restrictions included one could not advocate for or against candidates, one could not solicit votes, and one could not give money or gifts. This legislation does not apply to private property. The purpose of it was to reduce harassment of voters. **Senator Hartgen** turned the remainder of her time over to the Secretary of State, Phil McGrane.
- Mr. McGrane** commended the Committee's work and thanked Senator Hartgen for her support. He added that he had worked in the election space for nearly 20 years, and had seen harassment at polling places on the rise. **Mr. McGrane** went over a few recent examples of electioneering near polling places. This legislation provided clarity to law enforcement as well.
- DISCUSSION:** **Senator Foreman** stated he had not seen this issue in his district, and asked Mr. McGrane how moving it from 100 feet to 250 feet was going to help. **Mr. McGrane** responded and said he believed it would help and that voting was a constitutional right. He emphasized the importance of protecting that constitutional right.
- Senator Foreman** followed up and asked about the time frame for repeat offenses. **Mr. McGrane** said the odds of accumulating violations would be difficult given the limited voting periods.
- Senator Wintrow** stated she appreciated the legislation, and questioned if a truck with campaign advertisement were to park right outside a polling entrance, if that would be in violation. **Mr. McGrane** confirmed it would be in violation.
- Senator Ricks** brought up a concern that churches were private property, but often used as polling locations, and how this legislation would work in that scenario. **Mr. McGrane** responded that during the period of time it was used as a polling location, the legislation would apply. **Senator Ricks** followed up and questioned how the 250 feet was decided upon. **Mr. McGrane** said 250 feet was similar to other states.

TESTIMONY: **Shelley Essl**, Elmore County Clerk, explained her experience on election day for the City of Mountain Home mayor. She stated there was a large vehicle with a campaign advertisement parked near a polling location, and she started receiving calls about it. **Ms. Essl** had to explain that the vehicle was 100 feet away from the polling location, so there was no violation. Another incident she had to handle was a group of people at the entrances to the parking lot gathering signatures and harassing voters. She said incidents like these impeded a person's right to cast their vote, and asked for a change to be made.

TESTIMONY: **Blake Youde** with the Idaho Association of County Recorders and Clerks (IAC), stated the IAC was in full support and that every voter deserved the right to vote efficiently and without interruption.

DISCUSSION: **Senator Hartgen** closed the discussion by showing appreciation for the county clerks, and stated that dealing with harassment was beyond their pay grade. **Senator Hartgen** asked for a vote to send **S 1244** to the floor.

MOTION: **Senator Lee** moved to send **S 1244** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion.

DISCUSSION: **Senator Lee** expressed appreciation and noted the county clerks supported the bill. She also said it provided clarity and helped the public and candidates. **Senator Foreman** stated he supported the county clerks, but in his opinion this bill would not help and was government overreach. **Senator Wintrow** showed support for setting restrictions to help voters get to the polls in a peaceful way. **Chairman Lakey** stated it was a balance between the first amendment right, but also respecting polling locations. **Chairman Lakey** also said it provided more clarity.

VOTE: The motion carried by **voice vote**. **Senator Foreman** voted nay.

ADJOURNED: There being no further business to come before the Committee, **Chairman Lakey** adjourned the meeting at 3:00 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Victoria Fitzpatrick
Assistant Secretary