

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 14, 2016

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Nonini, Senators Johnson, Souza, Lee, Anthon, Burgoyne and Jordan

ABSENT/ EXCUSED: Senator Davis

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** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:00 p.m.

MINUTES APPROVAL: **Senator Lee** moved to approve the Minutes of February 26, 2016. **Senator Nonini** seconded the motion. The motion carried by **voice vote**.

JUDICIAL APPOINTMENT VOTE: **Senator Anthon** moved to send the Judicial Appointment of Reed W. Larsen to the Judicial Board to the floor with recommendation that he be confirmed by the Senate.

H 558 **Michael Henderson**, Counsel for the Idaho Supreme Court, stated that **H 558** has been proposed by the Supreme Court's Guardianship and Conservatorship Committee. It addresses situations where a minor has a claim and a settlement of that claim is being proposed. **Mr. Henderson** pointed out that Idaho Code § 15-5-409a provides that the minor's parents can submit a compromise of the claim to the court for approval. Because there are times when there are no parents, or the parents may not be the appropriate persons to submit the claim, this bill amends the code to allow other persons with responsibility for the child, e.g. a conservator, guardian or other legal representative of the child, to submit the compromise to the court for approval. **Mr. Henderson** explained that it also establishes a priority for these persons to submit the compromise and sets forth detailed information that would have to be submitted so the court can determine what is in the best interest of the minor.

Senator Anthon asked Mr. Henderson what information needs to be disclosed, or not disclosed, so that the case isn't weakened. A brief discussion followed regarding the details of disclosure.

Senator Souza asked why parents are listed third in the order of priority. **Mr. Henderson** responded that if this situation exists, it is because there is some kind of problem with the parents (absent, incapacitated, abusive), so the conservator is responsible for the protection of the child. The court can find the parents to be capable, in which case they can do some compromising.

MOTION: **Senator Lee** moved to send **H 558** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

Roy Eiguren, Eiguren Ellis Public Policy Firm, stated that **H 508** was prepared at the request of Representative Richard Wills. **Mr. Eiguren** disclosed that he represents the Idaho Bail Coalition, Two Jinn Corporation, which is the holding company for Aladdin Bail Bonds and the Idaho Chiefs of Police Association. Additional contributors to the bill represented other law enforcement and bail agents organizations.

Mr. Eiguren advised that **H 508** provides a set of statutory requirements that bail enforcement agents (agents), also known as bounty hunters, must follow in making an arrest in Idaho. Currently there is only one requirement regulating agents operating in Idaho. The Idaho Bail Act provides that any person may arrest a fleeing defendant provided that the person has an affidavit from a court authorizing that person to make an arrest.

Mr. Eiguren pointed out that the foci of the bill are to

1. prohibit agents from representing in any way that they are law enforcement officers, and they may be charged with a misdemeanor if there is such representation inferred;
2. require they be identified during the course of an arrest by wearing an outer garment that identifies them as agents; and
3. require that they complete a background check.

Mr. Eiguren indicated that agents must:

1. be 21 years of age or older,
2. be a citizen or legal resident of the United States and
3. possess a valid Idaho enhanced license to carry concealed weapons (license) or possess such a license from another state that is recognized by the Idaho Attorney General even if the agent does not carry a concealed weapon when making an arrest.

Some of the requirements for the license are a complete background check by the Idaho State Police and a qualified handgun course. There are also a number of prohibitions, including being a felon.

Senator Burgoyne inquired if there is any opposition from the Idaho bail bond people. **Mr. Eiguren** replied that he did know of any.

Senator Nonini, in reference to Beth Chapman's written testimony (see attachment 1), pointed out that the bill does not require an agent to carry a weapon, as opposed to her contention that it does. **Mr. Eiguren** replied that the Senator is correct. There is no requirement for an agent to carry a weapon.

Senator Souza asked what additional restrictions are listed for the license. **Mr. Eiguren** enumerated the requirements as listed in Idaho Code § 18-3302. In reply to Senator Souza's question about the purpose of requiring the license, **Mr. Eiguren** related that it was to ensure that a background check would be completed for potential agents.

TESTIMONY: **Michael Kane**, Sheriffs' Association (Association), informed the Committee that the Association supports this bill. Bail enforcement is very dangerous as the agents are lay people who are apprehending fugitives. There are two reasons why the license is important. First, it ensures a certain level of training. Second, it requires a background check, eliminating individuals who fall into one of the restrictions listed in Idaho Code § 18-3302.

Senator Burgoyne asked, if the permitless carry bill passes, if the State will be able to allow these licenses. **Mr. Kane** explained the licenses could still be issued because there are people who want enhanced licenses and there are zones where you can't carry even if the permitless law passes.

Senator Souza inquired why, if a felon has served time, can't the individual carry a weapon. **Mr. Kane** advised that felons who have completed their sentence can open carry if the felony was not on the list of crimes in Idaho Code § 18-310, which includes murder, kidnapping and rape. Those felons cannot get a concealed carry license.

John M. Robles, Bail Enforcement Agent, remarked that there needs to be some kind of regulation for agents, but this bill doesn't address the actual training they need in order to perform the duties required of an agent. He explained that his own training was through a Peace Officers Standards and Training (POST) trainer from Idaho. This training earned Mr. Robles the traditional badge he carries, and he was concerned that the proposed badge will not be adequate identification. **Mr. Robles** observed that Idaho has no models, so Aladdin Bail Bonds followed Washington's model. Washington is heavily regulated and agents are required to have training on how to properly apprehend people, how to transport them and other issues regarding arresting people and putting them back in custody. Washington also has regulations for identification of agents, including wearing a ballistic vest with labeling stating they are agents. Having taught the concealed carry class, **Mr. Robles** declared that this training is not sufficient for agents' training.

Senator Lee asked if he was proposing more requirements for training. **Mr. Robles** answered that he was proposing more training, along with a more uniform badge than the one that is now proposed. He added that **H 508** also prohibits the wearing of the badge as agents may be mistaken for law enforcement, but it is more difficult to identify agents if they are not wearing a badge that is visible. **Senator Lee** asked if Mr. Robles felt there was anything in the bill that would preclude anyone from being able to take enhanced training for personal development or to better their own skills. **Mr. Robles** answered that there was not.

Senator Anthon inquired if it is typical, when an arrest is made, that the agent would be wearing identifiable apparel. **Mr. Robles** answered yes. **Senator Anthon** asked if it is ever not the case. **Mr. Robles** stated yes. **Senator Anthon** asked why an agent would not wear identifiable apparel. **Mr. Robles** replied that in highly dangerous situations they work more undercover. **Senator Anthon** inquired if Mr. Robles has worked with agents who were convicted felons. **Mr. Robles** answered that he has not.

Additional discussion ensued regarding the use of badges, the type of badges and why they are needed. Included in the discussion were issues regarding the use of a badge as it relates to being mistaken for a law enforcement officer.

Sean Scogran, Regional Supervisor for Northwest Surety Investigations, related that he has six investigators who work in bail enforcement. He advised that the agents seldom encounter any problems. He supported the bill, stating that it is a good first step for Idaho. He asserted that it needed to go further.

Senator Souza mentioned that Mr. Scogran was in a supervisory capacity over the team that was involved in a shooting in Idaho Falls. She asked if this situation is typical. **Mr. Scogran** replied that this is not typical, and there are instances where it goes the other way, with unarmed agents being gunned down. **Senator Souza** asked for further clarification, from cases in Idaho, where there were injuries or deaths because of agents not identifying themselves correctly and/or carrying or not carrying a weapon. **Mr. Scogran** answered that it is very rare that these types of incidents occur.

Representative Richard Wills, District 23, pointed out that the badge is similar to a city badge. He stated that he felt there is definitely some misconception about the badge being that of a law enforcement officer. If people see the different appearance of the badge, they look more closely to read what the badge says. **Representative Wills** stated that there will still be a safety concern, but this bill gives more requirements than Idaho has right now. He pointed out that wearing the identifiable apparel or not is optional based on the agent's perception of the level of danger in any given situation. He spoke of his respect for the professional agents who want to do the right thing for the right reasons.

Senator Johnson asked if there is any reason to have a license other than to obtain a background check. **Representative Wills** specified that it also requires additional training. He felt there was more to it than just to provide a means to obtain a background check. **Senator Johnson** referred to a letter from reality television personality Dog the Bounty Hunter, aka Duane Chapman (see attachment 2) and asked if this law would stop him from operating in the State of Idaho or if it could be made optional. **Representative Wills** replied that for the safety of the public, it would be unwise to arm an individual with a felony on his/her record.

Discussion continued regarding background checks, enhanced concealed carry permits and ways for the agent to be safer if a dangerous situation arises.

Mr. Eiguren explained that 14 different agencies from law enforcement and the commercial bail industry helped to draft this legislation. He pointed out that according to Idaho code at this time, there are basically no requirements for someone to operate as a bail agent. He expressed that the question is how much you want to regulate. He also related that the background check reveals much more than if an individual has a felony on his/her record. This bill is a simple process and can provide the background check without establishing a new agency.

MOTION:

Senator Burgoyne moved to send **H 508** to the floor with a **do pass** recommendation. **Senator Nonini** seconded the motion.

Senator Anthon commented that Mr. Eiguren has done an excellent job in touching lightly when proposing new legislation. He believes there is a need for this regulation but he needs to see more and may not support the legislation.

Senator Souza stated that she agrees with a lot in the bill but that she feels it may still be too heavy-handed for those who do the non-fugitive kind of work. She explained that she would like to see an alternative for getting a background check for those who do not need to carry a weapon. She also may not be supporting the bill.

Senator Burgoyne commented that if an agent is trying to arrest a fugitive, the fugitive may have a weapon and the agent will have to take that weapon. He indicated that people need to be knowledgeable about weapons, even if they are not carrying them. He does not think felons should be doing this type of work. **Senator Burgoyne** stated that he sees this bill as a modest step in the right direction.

Senator Lee said that she will support the bill. She said she felt it is a first step. She emphasized that a concealed carry permit is a very low standard of training. She feels that this legislation will lend credibility without adding licensure.

Chairman Lodge observed that anyone in this dangerous occupation should have a knowledge and understanding of firearms and what they can do to protect themselves if someone else has a firearm and they don't. She feels that it is important for them to have the enhanced carry permit.

**ROLL CALL
VOTE:**

Chairman Lodge called for a roll call vote. The motion carried by roll call vote, with **Senators Nonini, Johnson, Lee, Burgoyne** and **Jordan** voting aye. **Senators Souza** and **Anthon** voted nay.

ADJOURNED: **Chairman Lodge** adjourned the meeting at 2:30 p.m.

Senator Lodge
Chair

Carol Cornwall
Secretary