

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 21, 2019

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

RS 26521 **Senator Dan G. Johnson**, State Senator for District 6, explained that **RS 26521** is a resolution pertaining to assault or battery upon employees of the Department of Parks and Recreation. This was a result of an incident where a misunderstanding of the law did not provide protection for an employee of the State.

MOTION: **Senator Anthon** moved to send **RS 26521** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Burgoyne** moved to send the Gubernatorial appointment of Dan Dinning to the State Public Defense Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL RE-APPOINTMENT VOTE: **Senator Lodge** moved to send the Gubernatorial re-appointment of Eric D. Fredericksen as State Appellate Public Defender to the floor with the recommendation that he be confirmed by the Senate. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Vice Chairman Lee** moved to send the Gubernatorial appointment of Brian D. Marx to the State Sexual Offender Management Board with the recommendation that he be confirmed by the Senate. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Burgoyne** moved to send the Gubernatorial appointment of Jonathan David Loschi to the State Public Defense Commission with the recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL RE-APPOINTMENT HEARING: **Anna Jane Dressen**, under consideration for her re-appointment to the Commission of Pardons and Parole (Commission), introduced herself to the Committee. She stated that she was born and raised in Idaho, as were her children and grandchildren. **Ms. Dressen** served on the Commission for almost 19 years.

DISCUSSION: **Vice Chairman Lee** asked what more the Senate body could do for the Commission. **Ms. Dressen** responded that they needed more resources within the communities which they serve. There has been an increasing number of parolees that need to be monitored. She also specified a great need for mental health services for parolees. **Senator Lakey** asked Ms. Dressen what she had seen change during her time at the Commission. **Ms. Dressen** indicated that now everything is done on computers; hearings are being done by teleconferencing and they are recorded. A major change has been the increase in case loads.

GUBERNATORIAL RE-APPOINTMENT HEARING: **Matthew Allen Thomas**, under consideration for his re-appointment to the State Sexual Offender Management Board (Board), introduced himself to the Committee and indicated that he was currently serving as the Washington County Sheriff. He explained that he had served two years on the Board and had an enjoyable experience and looked forward to continuing his service.

DISCUSSION: **Vice Chairman Lee** asked Sheriff Thomas what the Committee could either support or change to help him in his position. **Sheriff Thomas** responded by saying that the State needs to develop a "risk based" registry for sex offenders. The number of reoffenders is staggering, but there are people who have made one mistake and this registry follows them for the rest of their lives. **Senator Lakey** asked Mr. Thomas if there were any available models that would apply to Idaho. **Sheriff Thomas** responded that he believed Colorado had a program. They are currently focused on redoing the State's rules of treatment before getting to a "risk based" registry.

PRESENTATION: **Chairman Lakey** introduced Sara Thomas, Administrative Director of the Courts, Idaho Supreme Court. **Ms. Thomas** explained Idaho's Judicial Branch was established by the Idaho Constitution. She indicated that the first responsibility of the Judicial Branch is the set up of the court system beginning with the Supreme Court. She explained the physical make up of the courts. The Idaho Judicial Council is an independent body established by statute and is responsible for sanctioning judges and the appointment process for district and appellate court positions. The recommended names are sent to the Governor who makes the appointment. The Supreme Court Chief Justice is elected by the other justices. **Ms. Thomas** explained the types of cases heard and not heard by the Supreme Court.

Ms. Thomas spoke briefly about Idaho's 45 District Courts. The Court of Appeals is a statutory court and has four judges who sit in three judge panels, making it possible to handle more cases at a time. They are elected in a contested election every six years. Vacancies are filled by utilizing the Idaho Judicial Council process. The Supreme Court can decide to send a case to the Idaho Court of Appeals for consideration. Idaho's district courts are trial courts and there are seven judicial districts set in Idaho statute. Judges are elected during the primary elections for four year terms. Each district judge has a resident chamber and must be a resident of that county. **Ms. Thomas** continued to explain the necessary qualifications to be considered for a judge. She indicated which cases the districts courts would hear, including any cases assigned to the magistrate division. The Legislature will provide each county a magistrate division if they desire one. They are appointed by the district's magistrate commission. She discussed the qualifications and types of cases these judges would hear. The magistrate judges are those involved in the "problem solving courts." They focus on high risk, high need individuals. They function in a team model including a judge, a treatment provider, a coordinator, and a probation officer. These courts exist in 34 counties. Idaho's participants in problem solving courts have a lower risk of recidivism than someone who is on regular probation or someone who actually goes to prison.

Ms. Thomas stated that court administration includes being responsible for adjudication and administration. This position was created by statute and includes helping the Idaho Supreme Court work through and complete its administrative duties. The divisions in her office include everything from business processes, to finances, to human resources. She is involved in the administration of the justice services division and the legal services division. There is an administrative district judge in each district to ensure the calendars throughout the districts are set and they make assignments regarding which cases will be heard by whom. They arrange for the drawing of juries, act as chairman of the magistrate commission, and appoint other court personnel. There are court reporters, district managers, guardianship monitors, and clerks elected in each county. When the district court staff is doing court business, they are answerable to the Idaho Supreme Court (see Attachment 1).

DISCUSSION:

Senator Grow asked about the fact that cities are mandated by the State to help pay for courthouse costs. **Ms. Thomas** stated that Idaho law dictates that court facilities are provided by the counties. The cities themselves pass ordinances and write tickets so they do drive part of the workload. Last year, legislation was passed to actually change how funding happens. A funding formula takes some of the money from the liquor fund that used to go to the cities and is now given to the counties for the purpose of supporting the magistrate courts.

PRESENTATION:

Chairman Lakey announced that Mr. Headlee was presenting in a House Committee and would make his presentation later in this meeting.

RS 26534

Jason Spillman, Legal Counsel, Administrative Office of the Courts, Idaho Supreme Court, stated that **RS 26534** sets forth several crimes related to the escape of prisoners or persons that are being housed in a public institution. Idaho Code § 18-2509 should specifically refer to the crime of aiding escape as set forth in Idaho Code § 18-2508.

MOTION:

Senator Burgoyne moved to send **RS 26534** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

PRESENTATION:

Paul Headlee, Division Manager, Budget and Policy Analysis, Legislative Services Office, stated that his goal was to help increase understanding and familiarity with the budgeting process used in Idaho. He indicated that he would cover a portion of the statewide level budgeting concepts and reports. The Budget Book is the document the Legislature uses for making budget decisions. A small portion has been attached (see Attachment 2). As shown on page 4, the budget process flowchart reflects stages of the process. He indicated that the agency request was on one side and the Governor's recommendation on the other side, making easy comparison. Page 5 reflects the six benchmarks that each budget passes through, beginning with the current year original appropriation and ending with the following year original appropriation. This model budget spans two different years and one of the best attributes of the model is the flexibility built in for legislators to make adjustments in the current year and going forward. **Mr. Headlee** continued his presentation with an explanation regarding the General Fund Summary for FY 2019 and FY 2020. The end result was a 6.8 percent increase to the General Fund in the Governor's proposed budget.

PRESENTATION: **Jared Hoskins**, Principal Budget & Policy Analyst, Idaho Legislative Services Office, began his presentation by giving a description of the Court Operations Division and indicated that this division is one of three budgeted divisions of the Judicial Branch. He stated that he would speak about the budgets of the three divisions (see Attachment 3). He pointed out that the FY 2020 request and FY 2020 Governor's Recommendation were very close. This is because, by statute, the Governor is required to transmit budget requests of the judicial branch and legislative branch as they were received. The differences are a result in a change in employee compensation benefits. **Senator Grow** asked if the executive budget was built around the amounts requested by these three divisions. **Mr. Hoskins** responded that those requests are built into the Governor's recommendation.

DISCUSSION: **Mr. Hoskins** discussed the Public Defense Commission historical operating budget summary. There was a discussion among Chairman Lakey, Senator Burgoyne and Mr. Hoskins concerning providing security to the Public Defense Commission's budget and if it was typical for a budget request to come from the dedicated fund. Mr. Hoskins stated that insecurity would result from the Commission having to ask for an increase from the dedicated fund annually. The ideal situation would be to have a general fund amount included in the base. He indicated that a dedicated revenue source had not been identified in the Governor's recommendation.

Mr. Hoskins stated that the Department of Corrections was another large agency requiring funding and budgeting. He indicated that there are supplemental requests built in between the original appropriation and the total appropriation to account for "population drive costs." These account for the fluctuating costs associated with the per diems for three different divisions. Those include the County and Out of State Placement, Correctional Alternative Placement, and Medical Services. **Mr. Hoskins** gave more detail regarding one time funding, inflationary adjustments and program maintenance costs. He stated that the Legislative Budget Book was available and has all the details included in the presentation.

RS 26535 **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, Idaho Supreme Court, presented **RS 26535** and stated that in some circumstances, a court may be allowed to direct service of a summons via publication in a newspaper. Another section of Idaho Code states that one of the requirements is when a defendant's address is known, a copy of the summons must be mailed to that defendant. The current form of the statute confusingly requires that the clerk direct mailing of that, when it is the order that is issued by the judge that directs for such mailing.

MOTION: **Senator Lodge** moved to send **RS 26535** to print. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

RS 26536 **Mr. Spillman** presented **RS 26536**. He indicated that this RS deals with the appellate process for primary election contests. Currently, the statute states that the U.S. Supreme Court should render a decision in such cases within ten days of receipt of the appeal. This fix would state that the Supreme Court shall render decisions within ten days of the case becoming at issue. **Senator Burgoyne** commented that at the hearing for this RS, Mr. Spillman be prepared to discuss the deadlines that the Secretary of State and the county clerks have to meet for the general elections.

MOTION: **Senator Burgoyne** moved to send **RS 26536** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

RS 26537

Mr. Spillman presented **RS 26537**. He indicated that often after defendants are found guilty in their criminal case, they will have remaining cash bail that they have posted on deposit with the court. Those remaining monies can be applied to the defendant's other debts owed to the court. This RS would correct two oversights: entry of an order for withheld judgment should be added as a triggering event for applying remaining cash bail amounts to pay debts owed to the Court; and remaining bail monies may be applied to debts resulting from other "infraction" actions.

MOTION:

Senator Anthon moved to send **RS 26537** and **RS 26555** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:56 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary