

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, January 13, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador (Malek), Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis (Burns)

**ABSENT/
EXCUSED:** None

GUESTS: Tony Geddes, Ada PD; Darrell Bolz, PDC; Barry Wood, Rick Bollor, Diane Walker, ISC; Jared Larsen, Governor's Office

Chairman Chaney called the meeting to order at 1:30 p.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of the January 9, 2020 meeting. **Motion carried by voice vote.**

Chairman Chaney welcomed **Rep. Burns** who will be substituting for **Rep. Davis** and **Rep. Malek** who will be substituting for **Rep. Amador**.

Chairman Chaney reviewed the Cannon of Judicial Ethics for Judges.

Judge Barry Wood, Senior Judge, Administrative Office of the Courts introduced **Judge Rick Bollar**, Magistrate Judge, Fifth Judicial District who presented on child custody determinations. Judge Bollar explained that some of the most difficult cases are those of family law. They tend to be very emotional and have enormous consequences for the parents and children. Judge Bollar provided an overview of the court resources available to help avoid custody litigation and he highlighted the terms and legal standards outlined in Idaho statute that are used in these cases. He stated there are seven standards that are used for determining child custody and one is not necessarily weighted more than another, but all are taken into consideration with the priority being the best interests of the children. He stated the shortest amount of time to get a court date is approximately 60 days, but it is not uncommon for it to take six months, and the need for resources continues to grow.

In answer to questions from the Committee, **Judge Bollar** stated the Guardian Ad Litims participate in a different role than the attorneys and they are important, but there is not much availability of this resource beyond CASA and child protection cases. Grandparent rights are also covered under Idaho code 32-719 as it relates to the best interest of the children. He explained that family law used to be ensconced in the administrative rules of civil procedure, but due to the increasing number of self-represented litigants who had difficulty navigating these rules, family law issues were separated out. He stated that in his experience, there is not any preconception that mothers are entitled to more custodial time than fathers, but there are cases where disparate resources create a disadvantage. Some of the law helps level the playing field, but it is still difficult.

DOCKET NO. 61-0000-1900: **Kathleen Elliott**, Executive Director, Public Defense Commission presented **Docket No. 61-0000-1900**. She introduced herself, and members of the board and provided a brief overview of how the Commission came into existence. She explained the Commission provides training for defending attorneys, collects data, provides master contracts, but does not represent clients. While the Commission intends to bring new rules forward next year, the goal for this year was to meet the requirements under the Governor's Red Tape Reduction Act. The rule changes were simple and non-substantive but included: removing redundant information; clarifying interpretation and incorporation by reference; replacing the word "grant" with "financial assistance," pursuant to last year's legislation; consolidating definitions; removing unnecessary lettering; and removing the word "shall" in two places because it was unnecessary and did not affect the rule.

For the record, no one indicated a desire to testify.

MOTION: **Rep. Wintrow** made a motion to approve **Docket No. 61-0000-1900**.

To clarify, **Ms. Elliott** stated the word "grant" was changed to "financial assistance" because the word "grant" is perceived as temporary and it caused some concern on the part of the counties. The word financial assistance is a more accurate description of the funds available to the counties for the representation of indigent clients.

VOTE ON MOTION: **Chairman Chaney** called for a vote on the motion to approve **Docket No. 61-0000-1900**. **Motion carried by voice vote**.

RS 27266: **Rep. Wintrow** presented **RS 27266** on behalf of the State Appellate Public Defender (SAPD). This proposed legislation would allow the SAPD to take indigent defendants in juvenile and misdemeanor appeals cases instead of the county public defenders. Currently, the SAPD consults, and/or assists on many of these cases. It would affect approximately 30 cases over a three year period.

Rep. Wintrow explained she will go through the specifics of the financial numbers during the bill hearing, but the Governor has committed additional financial means and it will provide some relief to the counties.

MOTION: **Rep. McCrostie** made a motion to introduce **RS 27266**. **Motion carried by voice vote**.

RS 27270: **Rep. Troy** presented **RS 27270**. This proposed legislation will facilitate information sharing to provide a more comprehensive view of what is going on in Idaho's criminal justice environment. The intent is to see what is working and what might not be working, with the goal of reducing recidivism rates and costs. First, the proposed legislation creates a legal frame work to link systems together through the state Controller's office, while being done in a way that protects an individual's identity. It will require a MOU between the participating agencies to ensure everyone is clear about how it will work. Second, it will create a data oversight council. Third, it will ensure each agency owns its own data, and the information within the data center will be protected from public information requests.

MOTION: **Rep. Kerby** made a motion to introduce **RS 27270**.

In answer to questions from the Committee, **Rep. Troy** explained the state has already invested in the data system at the Controller's office, but it is not being used to its fullest capacity. The goal of the system is to gather information that can lead to a better understanding of what is transpiring within Idaho's criminal justice system so it can lead to better outcomes, and ultimately a cost savings in the form of lowering the demand for more prison beds. She stated it may save Idahoans from more time in prison.

Rep. Troy deferred to **Eric Frederickson**, Chairman of the Idaho Criminal Justice Commission, to answer a question from the Committee. He stated the contributing agencies would initially be voluntary, but he expects the Governor's Office would issue an executive order identifying specific contributing agencies at some point in the future.

VOTE ON MOTION:

Chairman Chaney called for a vote on the motion to introduce **RS 27270**. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 2:45 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary