

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Tuesday, March 26, 2013

**TIME:** 8:30 A.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Vick, Senators Davis, Mortimer, Nuxoll, Lakey, Bock and Werk

**ABSENT/ EXCUSED:** Senator Hagedorn

**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 to order at 8:35 a.m. and asked the secretary to call the roll.

**GUB APPT:** **Lieutenant Colonel Ralph W. Powell** of Meridian, Idaho was appointed Director of the Idaho State Police Department (Department) to serve a term commencing March 21, 2013 and serving at the pleasure of the Governor. **Chairman Lodge** welcomed Lt. Col. Powell and asked him to present a brief history of his background. **Lt. Col. Powell** said he started his career with the Idaho State Police as a Trooper 30 years ago in District 5. He transferred to District 3, where he served in Executive Protection and on the Idaho State Police (ISP) SWAT Team. He was a District 3 Sergeant from 1987 to 1993, then was transferred to Coeur d'Alene as the District Commander. In 1996, as a Captain, he transferred to Boise and took over the District 3 Command position. In 1999, he was promoted to Major over the Forensic Services Division and approximately nine years later he became the Major over Police Services when Forensics was moved to Police Services. In January 2010, he transferred to Operations Major over Districts 3, 5 and 6, Commercial Vehicle Safety, Training and the Regional Communications Centers. He was promoted to Lieutenant Colonel January 2012.

**Lt. Col. Powell** said he holds a Master's degree in Public Administration and a Bachelor's degree in Pre-Law. He is a graduate from the FBI National Academy, and enjoys spending time with his family which consists of wife Julie, five daughters, three sons-in-law and eight grandchildren.

**Senator Werk** posed questions on (1) laboratory-related problems at trials, (2) DNA testing backlog and (3) criminal case turnaround. **Lt. Col. Powell** responded that (1) annual and five-year audits generally keep the Department out of trouble, (2) most labs have backlogs and the Department works hard to keep it to a minimum with the goal to have the backlog down to zero by July 2013, and (3) criminal case turnaround is 45 days and, while not always met, it is greatly improved from the previous 60 days.

**Senator Nuxoll** asked which aspect of his work he likes best. He replied it's the people. He said he has a great support staff, top of the line people, who he feels are the Department's greatest asset.

**Senator Lakey** addressed a recent publication on road rage and asked him about the best way to handle this problem. **Lt. Col. Powell** said research was done to identify causes and solutions. He said at the end of the day it's important to avoid eye contact when faced with this type of threat.

**Senator Davis** asked which question posed by Governor Otter during his interview was most difficult to answer. **Lt. Col. Powell** said he was asked to relate his vision for the Department. He said his answer was to continue to expand and enhance the Department and to make it stronger by sharing strategic plans and resources with the Transportation Department. **Senator Davis** commented on potential technical advances available to ISP and Lt. Col. Powell's thoughts on his length of service as Director.

**Chairman Lodge** thanked Lt. Col. Powell for attending the meeting. She informed the Committee that a vote on Lt. Col. Powell's appointment would be held later in the meeting.

**H 256**

**Relating to the Child Protective Act - Senior Judge John Varin** explained that the amendments to this legislation are the result of almost two years of work by the Supreme Court's Child Protection Committee. He said the amendments would improve implementation of the Child Protective Act (CPA) and the Termination of Parent and Child Relationship Act by clarifying time-lines and definitions, adding consistency and providing a clear description of findings made at various hearings.

**Judge Varin** reviewed the amendments by Section:

Section 1: Amends the definition section of the CPA (I.C. § 16-1602) including moving the term "aggravated circumstances" from the adjudicatory statute and providing definitions and cross-reference to criminal statutes to more clearly define what constitutes aggravated circumstances.

Section 2: Amends I.C. § 16-1610 (Petition) to simply clean up the language and make it consistent with other changes.

Section 3: Amends the adjudicatory statute (I.C. § 16-1619) to clean up the language to be consistent with the definitional changes in section 1 and confirms, if aggravated circumstances are present, the permanency hearing is held within 30 days of that determination.

Section 4: Amends I.C. § 16-1620 (Permanency Hearing when there is a finding of Aggravated Circumstances.)

Section 5: Amends I.C. § 16-1621 (Case Plan hearing-No Aggravated Circumstances) by again merging the juvenile rule (IJR 44) with the statute so details of the case plan hearing are in one location.

Section 6: Amends I.C. § 16-1622 (Review and Annual Permanency Hearing) and affirms a review hearing must be held no later than six months from court order and every six months thereafter.

Section 7: Amends I.C. § 16-1623 to clarify that the hearing is to be held in 48 hours excluding weekends and holidays.

Section 8: Amends I.C. § 16-1624 to provide a timeframe for filing the petition.

Section 9: Amends I.C. § 16-1625 to clean up the language.

Section 10: Amends I.C. § 16-1629 (Duties of Department) to clean up the language and remove rebuttable presumption for filing terminations.

Section 11: Amends I.C. § 16-2002 (Definitions-Termination chapter) to clarify "neglect."

Section 12: Amends I.C. § 16-2005 (Termination-Grounds) and replaces the old aggravated circumstances language consistent with changes to section 1.

**Senator Werk** asked about the six-month hearing notification in section 6. **Judge Varin** referenced the rules and time-standards for processing. **Senator Mortimer** questioned the 30-day time frame in section 3, what it takes to get a child out of the home with proper notification, if sufficient care is given to get the child back home as soon as possible, and also, why the rebuttal presumption terminology was removed from section 10. **Judge Varin** said filing a petition within 30 days does not affect the process but it gets the issue before the court more quickly. He said relative to removal of the rebuttal presumption terminology, the wording was simply moved to page 19 for added clarity.

- MOTION:** **Senator Davis** moved to send **H 256** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.
- Chairman Lodge** said committee members could meet with Judge Varin directly after this meeting to get more information about the amendments to H 256 if needed.
- CONFIRMATION VOTE:** **Senator Mortimer** moved to send the gubernatorial appointment of **Lt. Col. Ralph W. Powell** to the floor with the recommendation that he be confirmed. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.
- GRADUATION:** **Chairman Lodge** recognized **Madeline Breen**, Page, and **Elizabeth Manor**, Intern, complimented them for their good work and presented them with a gift from the committee.
- ADJOURNED:** There being no further business, **Chairman Lodge** adjourned the meeting at 9:25 a.m.

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Senator Lodge  
Chairman

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Leigh Hinds  
Secretary