

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 30, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Darrington, Vice Chairman Vick, Senators Davis, Malloy (McKague), Mortimer, Nuxoll, Bock, and LeFavour

ABSENT/ EXCUSED: Senator Lodge

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.

Chairman Darrington called the meeting to order at 1:30 p.m. and asked if there were minutes to approve.

MOTION **Senator Malloy** moved, seconded by **Senator Nuxoll**, to approve the minutes of **January 23, 2012** as written. The motion carried by **voice vote**.

RS 21015 **Relating to Telegraphs. Michael Henderson**, legal counsel for the Idaho Supreme Court, explained this legislation was recommended by the Idaho Supreme Court to correct defects and omissions in the law. The bill would amend Section 19-616 and 19-617 of the Idaho Code. Section 19-616 dealing with arrest warrants sent by telecommunication or facsimile would be made consistent with the procedure set forth in Rule 4(g) of the Idaho Criminal Rules. Section 19-617 which addresses the procedure for an officer to send a telegraphic warrant would be repealed.

Mr. Henderson further explained this bill would repeal Section 62-414, 62-415, 62-416 and 62-417 which requires railway corporations to send and post telegraphic notifications of late arrival of trains and the penalties associated therewith.

MOTION **Senator Nuxoll** moved, seconded by **Senator Malloy**, to print **RS 21015**. The motion carried by **voice vote**.

S 1213 **Relating to Proceedings in the Magistrate's Division of the District Court. Michael Henderson** detailed the defects and omissions of Idaho Code Section 19-3945, concerning juror and witness fees that would be remedied by S1213. Mr. Henderson explained that S1213 would remove obsolete references to examining Magistrates and probate and justice courts and refers instead to the Magistrate Division of district court and that witnesses in those courts would receive the same fee and mileage payments as witnesses in the district court under Idaho Code Section 19-3008. Mr. Henderson further explained that jurors in coroner's inquests would receive the same fee and mileage as other jurors receive under Idaho Code Section 2-215.

MOTION **Senator Bock** moved, seconded by **Senator Mortimer**, that **S1213** be sent to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

S 1222 **Relating to Judges. Michael Henderson** explained that S1222 would remove references to probate judges and justices of the peace and substitute those references with magistrate division or district court. It also repeals two obsolete statutes: Idaho Code Section 19-3009 a provision that limited the ability of courts to subpoena witnesses from outside the county; and Idaho Code Section 55-717, which pertains only to acknowledgement of a document before a justice of the peace.

Vice Chairman Vick questioned language contained in S1222 pursuant to marriage licenses. **Mr. Henderson** explained the changes were because of reference to justice of the peace and that the mention of specific religious groups was unnecessary.

MOTION **Senator LeFavour** moved, seconded by **Senator Nuxoll**, that **S1222** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**.

S 1232 **Relating to the Uniform Prudent Investor Act. Robert Aldridge**, Trust & Estate Professionals of Idaho, explained that S1232 amends Idaho Code Section 68-514, part of the Uniform Prudent Investor Act, to properly refer to conservators. The original language in Section 68-514 refers to the general term "guardian", which in some states, but not in Idaho, refers to both guardians and conservators. Mr. Aldridge explained further that in almost all cases, conservators, not guardians are the fiduciaries handling the financial affairs of the protected person. The term "guardian" is kept because in some cases guardians will actually handle funds for the ward.

MOTION **Senator Malloy** moved, seconded by **Vice Chairman Vick**, that **S1232** be sent to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

S 1233 **Relating to Guardians of Minors. Robert Aldridge**, stated that an Idaho Supreme Court Case in 2011 deemed the Idaho Code providing for termination of a minor guardianship was incomplete and essentially only covered removal or resignation. Mr. Aldridge explained that this bill would amend Idaho Code, Section 15-5-210 and 15-5-212 to add the provisions contained in existing Section 15-5-212A which was enacted in 2007. He further explained the result would give clear guidance to courts and to persons involved in guardianship specifying the grounds, standard of proof, and methods for removal or termination of a guardian or for modification of the guardianship.

MOTION **Senator Mortimer** moved, seconded by **Senator LeFavour**, that **S1233** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**.

S 1219 **Relating to the Juvenile Corrections Act. Sharon Harrigfeld**, Director of the Department of Juvenile Corrections, explained that S1219 was housekeeping legislation regarding the Juvenile Corrections Act. Director Harrigfeld detailed the clarifications made to the terms "juvenile" and "juvenile offender" which would correct confusion in the Juvenile Corrections Act. Director Harrigfeld stated S1219 would also delete or change references in the Act to the Department of Health and Welfare to reflect Idaho Department of Juvenile Corrections and would allow funding for substance abuse treatments to be appropriated.

Senator Davis clarified confusion concerning sections that had previously been repealed.

MOTION **Senator LeFavour** moved, seconded by **Senator Malloy**, that **S1219** be sent to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

Rules Review - Department of Juvenile Corrections

DOCKET NO. 05-0102-1101 **Vice Chairman Vick** introduced **Director Sharon Harrigfeld** of the Department of Juvenile Corrections to present Docket No. 05-0102-1101. **Director Harrigfeld** summarized those in the Department involved in the rules review for the Juvenile Detention Center. The rules include compliance with the Prison Regulation Act, the use of chemical agents has been clarified and the use of electric shock weapons has been prohibited unless used by law enforcement officers responding to a call.

Senator Malloy questioned whether one individual was present during the screenings or if a second individual was present. **Director Harrigfeld** responded that sometimes a medical authority would not be available to do the screening. **Senator Malloy** expressed concern that an officer could be accused of inappropriate conduct.

Discussion ensued with questions by **Senator Malloy** and **Senator Davis** concerning the medical screening performed by Juvenile Officers in the event medical examiners were not available. **Director Harrigfeld** addressed all concerns.

MOTION **Senator LeFavour** moved, seconded by **Senator Mortimer**, to approve **Docket No. 05-0102-1101**. The motion carried by **voice vote**.

PRESENTATION **Director Sharon Harrigfeld** of the Department of Juvenile Corrections presented an update of the department. The Director reviewed the Juvenile Corrections Mission statement, the projected and actual numbers of juveniles treated in the program, as well as explaining the different programs; Incentive, Re-entry and Mental health. The roles and responsibilities of the Department with Substance Use Disorder Services (SUDS) were explained. The program costs and future expenditures were detailed. Director Harrigfeld highlighted the current facility locations and noted that the department exceeded the national average on at least 75% of the critical measures and 50% of the reintegration measures. The Director reviewed staff needs and training and the staff turnover rate which is slightly higher than the Idaho statewide average.

Director Harrigfeld answered questions posed by **Senators Davis, Nuxoll** and **LeFavour** concerning substance abuse, budget cuts and if budget restraints have affected the performance of the Department. The Director stated that there was an increase in more serious problems seen by the Department, and more staff training was necessary for the staff to handle such problems.

Vice Chairman Vick questioned the Director concerning the mental health diagnosis. Anxiety, depression, bipolar and post traumatic stress disorder were the most frequent diagnosis. When questioned if one of the mental health disorders were more prevalent to which she replied she did not have any data relating to that.

Budget questions were raised by **Senator Mortimer** with comments by **Chairman Darrington** and **Senator Davis**. **Director Harrigfeld** answered budget concerns as well as efforts by the local entities to assist with the juveniles, thus keeping them at home and in their own schools. The Director indicated that 33% of the budget from the Department is given back to the local county entities.

There being no further business, **Chairman Darrington** adjourned the meeting at 2:44 p.m.

Senator Darrington
Chairman

Leigh Hinds
Secretary