

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

- DATE:** Wednesday, February 22, 2012
- TIME:** 1:30 P.M.
- PLACE:** Room WW54
- MEMBERS PRESENT:** Chairman Darrington, Vice Chairman Vick, Senators Davis, 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 1:35 p.m. and asked if there were minutes to be approved. He welcomed the judges to our Committee meeting. The Chairman recognized Senator LeFavour for a motion on the minutes.
- MOTION** **Senator LeFavour** moved, seconded by **Senator Mortimer**, to approve the minutes of **February 15, 2012** as written. The motion carried by **voice vote**.
- Chairman Darrington** said the next item of business is to act on the appointment of **Joel P. Hazel, Coeur d'Alene to the Judicial Council** and the Chair would entertain a motion.
- MOTION** **Senator Davis** moved to send the Idaho State Bar's appointment of **Joel P. Hazel** to the Idaho Judicial Council to the floor with the recommendation that it be confirmed by the Senate. **Senator LeFavour** seconded the motion. The motion carried by **voice vote**.
- Chairman Darrington** said to the members of the Judiciary that while going through the business of today, he would make a brief explanation of how they do business. The first two items on the Agenda are called RS's; that's an acronym for Routing Slip. A Routing Slip means a proposed bill. A member of the Legislature takes a bill to be drafted to Legislative Council staff. It comes back in an envelope package with an RS number. That RS is put before the committee for print. Each member of the committee has a copy of the RS and today the first RS is a concurrent resolution. A motion to print a concurrent resolution sends it immediately to the floor of the Senate, unlike a bill. **Vice Chairman Vick** will present the resolution.
- RS 21259** **A Concurrent Resolution stating findings of the Legislature and rejecting certain rules of the Idaho State Police relating to rules of the Idaho Peace Officer Standards and Training (POST) Council.** **Vice Chairman Vick** explained that this was the result of the rejection of Section 091 and 092 of a pending rule, Docket No. 11-1101-1102. The entire rule is about the decertification process of an officer. Section 091 deals with the standards which an officer can be certified and Section 092 relates to the due process or decertification. Both of these sections were removed with the consent of the POST Council.
- MOTION** **Senator Mortimer** moved, seconded by **Senator Davis**, to print **RS 21259**. The motion carried by voice vote. **Senator Mortimer** asked about the other POST rule with a section regarding veterans which was rejected by the committee and wondered what had happened to that one. **Chairman Darrington** stated that the House had approved that particular rule and both bodies must agree.

RS 21351C1

Relating to Bullying. Senator LeFavour explained that this was a rework of the previous bill that she brought before the Committee. This legislation is to reinforce and strengthen Idaho's existing anti-bullying laws, to include cyber-bullying, expand coverage to minors who are not students and to emphasize that all school personnel have a responsibility to enforce school policy. It provides new sections outlining the training for school staff on bullying prevention and best practices in intervening in cases of bullying. Under this proposed legislation, standard language relating to the commission of an infraction is added, removing the "may" so that, should charges be filed, this language appropriately allows the courts to determine whether an individual has in fact violated the provisions of this section of the law.

Senator Davis had some concern about the fiscal note and suggested that the SOP be rewritten. He also referred to page 5, Idaho Code, § 33-1208B, paragraph 1, "...efforts shall be made annually..."; paragraph 3 "...certificated personnel shall annually participate..."; paragraph 4 says "...certificated personnel shall report events of..."; and then paragraph 2 says "School personnel are required to...." He asked if "required to" meant "shall?" **Senator LeFavour** said during drafting there were things added and things taken out, but it does mean "shall." **Vice Chairman Vick** asked if this requirement would apply to private schools and home schools. **Senator LeFavour** said she thought or hoped that it would. **Vice Chairman Vick** said surely it wouldn't require parents to take these classes when they perhaps had only one student. According to the existing language, it applies to everyone in the state. **Senator LeFavour** said it would.

MOTION

Senator Davis moved, seconded by **Senator McKague**, to print a new RS 21351C1 to **RS 21351C2** with the change made on page 3, line 21 of making the colon a period. The motion carried by **voice vote**.

Chairman Darrington explained to the judges that a Senate bill came in a goldenrod cover and is a copy of what was in the other packet (an RS), but now has a bill number on it. All information of what has happened to the bill is recorded on the back.

S 1324

Relating to Attorney's Fees in Civil Actions. Senator Corder explained that this bill simply raises the amount pled in a civil action from \$25,000 to \$35,000 providing a conservative inflation based adjustment to Section 12-120 (1), Idaho Code. This would give more individuals access to the court and give some assurance that they could recoup attorney fees.

Senator Davis asked if Kurt Holzer would yield to a question. **Senator Davis** asked if there was a policy reason for a different standard between (1) the amount pled of \$35,000 and (4) personal injury claims remain at \$25,000. **Mr. Holzer** said he thought there were policy reasons; the liability limits that exist that are \$25,000 minimum and while he would probably increase that amount also, but it's this body's determination whether to make these subparts the same. **Senator Bock** asked if there was any real inconsistency in increasing the second number as the first number. **Mr. Holzer** said there are other policies that came into play when dealing with §12-120(4), and primarily it's the minimum limit insurance issue. Mr. Holzer believes that Senator Corder advocates to raise §12-120(1) and not raise §12-120(4).

MOTION

Senator Davis moved, seconded by **Senator LeFavour**, to send **S 1324** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

Chairman Darrington pointed out that they would now discuss the House bills which were blue backed and have passed on the floor of the House and referred to this Committee.

H 455 **Relating to Divorce Actions.** **Patricia Tobias** introduced Sr. Judge Michael Dennard to present the bill to the Committee. **Judge Dennard** explained this bill amends Idaho Code § 32-717D to permit a parenting coordinator to charge a retainer fee. Parenting coordinators have provided a vital service to the courts in high conflict family law cases for nearly a decade. However, the Judge explained, it has become difficult to recruit and maintain a list of qualified parenting coordinators because of their inability to charge a retainer.

MOTION **Senator LeFavour** moved, seconded by **Vice Chairman Vick**, to send **H 455** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

H 475 **Relating to the Suspension of Judgment and Sentence.** **Ms. Tobias** introduced Sr. Judge Jack Varin to present the bill to the Committee. **Judge Varin** explained this bill allows defendants to participate and complete programs in spite of the fact their probation ended while attending these problem-solving court programs. This bill allows courts to extend the period of probation to allow defendants in Idaho's misdemeanor problem-solving courts to participate in a DUI or misdemeanor drug court program. This allows courts to have an alternative to incarcerating such a defendant in the county jail, and help to rehabilitate the defendant, thereby reducing the chances that the defendant may commit other serious crimes, including felonies.

MOTION **Senator LeFavour** moved, seconded by **Senator Nuxoll**, to send **H 475** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

ADJOURNMENT There being no further business, **Chairman Darrington** adjourned the meeting at 2:40 p.m.

Senator Darrington
Chairman

Leigh Hinds
Secretary