

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, March 21, 2012

TIME: 1:00 P.M.

PLACE: Room WW54

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

**ABSENT/
EXCUSED:**

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 1:10 p.m. and asked if there were minutes to approve.

MOTION **Senator Nuxoll** moved, seconded by **Senator Mortimer**, to approve the minutes of **March 5, 2012** as written. The motion carried by **voice vote**.

RS 21477 **Relating to Garnishments.** **Chairman Darrington** explained that this bill was a courtesy print for Senator Mortimer so the bill could be circulated among all interested parties during the interim.

MOTION **Senator Lodge** moved, seconded by **Vice Chairman Vick**, to print **RS 21477**. The motion carried by **voice vote**. **Chairman Darrington** said it would be introduced to print and not be back into the Committee.

H 648 **Relating to Judgment; Relating to an examination of Defendant for Evidence of Mental Condition.** **Senior Judge Barry Wood** explained this legislation would provide an improved process for the screening and assessment of persons who have been found guilty of felonies in order to identify those who have a substance use disorder or serious mental illness, and then provide a plan of treatment if the person is allowed to remain in the community on probation. The legislation covers proposed amendments to 19-2524 and 19-2522.

Judge Wood first addressed the amendments to Idaho Code § 19-2524 in two steps. Under current law, the Department of Health and Welfare is required to pay all costs for both substance abuse and mental health ordered under 19-2524. By the proposed amendments, the Department of Correction would bear the expense for screenings, assessments and treatment for substance use disorders, while the Department of Health and Welfare would bear the expense for mental health examinations and treatment. Costs for such assessments, evaluations and treatment could be recovered from offenders based on their ability to pay and any funds they receive from other sources for the services provided. The second step has a delayed implementation date to become effective March 1, 2013 and is at the request of the Department of Correction in order to accommodate these changes.

Judge Wood then addressed the amendments to Idaho Code § 19-2522, which provides that a court shall order a mental examination of a defendant when there is reason to believe that the mental condition of the defendant will be a significant factor at sentencing. The bill would allow the use of a prior report of a mental health examination to be used to satisfy the requirements if the report included the required information and the examination was sufficiently recent to reflect the defendant's present mental condition. So while the number of less costly screenings will increase, the more costly assessments and evaluations should decrease. It is expected that the more comprehensive screening, assessment and evaluation process will also result in more offenders being placed in community based treatment rather than being incarcerated, resulting in a reduction in correction costs and more effective rehabilitation. In summary, this was an extensive collaborative effort between our District Judges and the two executive agencies.

Chairman Darrington asked at what stage in the process would the judge order the assessment. **Judge Wood** said following a plea of guilty or finding of guilt. **Senator Davis** discussed with Judge Wood the changes regarding which department pays for the costs of the examinations. **Senator Mortimer** asked if juveniles were addressed in this bill. **Judge Wood** said this bill deals only with adult felons who are convicted. **Senator Bock** asked why it took so long. **Judge Wood** explained that the District Judges didn't come to town until in February. They were trying to get input from the people that really use this and get it right.

Ross Edmunds, Administrator of Behavioral Health, Department of Health and Welfare, supports the bill. He believes this bill will create a better opportunity for them to look at the needs of felony offenders in advance of their sentence and get some treatment services in place. **Senator Lodge** asked how long would it take for the assessment outlined in this bill and what was the cost. **Mr. Edmunds** said it was about a 9 hour process with coordination from start to finish and the cost was approximately \$300. He said the most accurate way to determine the cost is to use the grace period and measure, through a pilot process, the impact if any, and make a budget request for next year. He said they would run the pilot project from May through December so they would have any needed budget data by September. **Senator Davis** said the bill he had in front of him did not speak to a pilot project. **Mr. Edmunds** said the bill has the implementation date of March 1, 2013, providing the opportunity of doing a pilot, and is not in conflict with the current 19-2524 statute. **Chairman Darrington** said as a matter of record in this Committee, the pilot project would go forth according to the statements of Mr. Edmunds and Judge Wood. **Senator Davis** said he wanted to vote for the bill, not the subsequent legislature, and it was his understanding that the two parties got together and have a tentative agreement going forward. He didn't want his vote to be construed to be more than support for H 648.

Director Brent Reinke, IDOC, spoke in favor of H 648 and explained the reason for the delay was their fault. He said with the implementation time frame, there were two factors in regard to the Department of Corrections. He explained that the funds that were collected for the cost of supervision were not able to keep up with the statute requirements that they currently have so between now and July 1st, they would need to lay off, or not fill seven field positions. He said they may not be able to maintain the current number of probation officers. He said knowing this project is from a research perspective, it will help in screening all felons at the front end. He said they need to be prepared to conduct 19 screens a day beginning in March 1, 2013, and they cannot do that at this time. The Department needs the time to be able to retool. They wanted to roll the SUDS project out appropriately and accurately. In order for the staff to be able to do these screens within 7 days and 19 a day from there on, they would need time to be able to retool. In discussions of this redraft and modifications to 19-2524, they came to a very clear agreement that would be the case. **Senator Bock** said he was making an assumption about

this legislation as it appears to him that if there was better screening done, there would be fewer of those folks sent to Corrections and asked if that was correct. **Mr. Reinke** said it means there should be better screening earlier in the process of the 7 days on the screen and the 35 days on what is called a presentence investigation. The more information earlier in the process, the more they can fit the needs of that offender and line him up with the appropriate services earlier. **Senator Bock** asked how in Section (7), page 9, will they start making dents into the level of care that is given in the facilities out there. **Mr. Reinke** asked if he was referring to the Balla Report and he commented there was no connection between the Balla Report and 19-2524. There is no question that there is a connection from the standpoint of the level and type of services under the requirements based on those assessed needs.

MOTION **Senator Bock** moved, seconded by **Senator Nuxoll**, to send **H 648** to the Floor with a **do pass** recommendation. The motion carried by **voice vote**.

H 651 **Relating to Judges; Relating to Salaries of Judges. Patricia Tobias**, Administrative Director of the Courts, explained the bill that would change the annual salary of justices of the Supreme Court, judges of the Court of Appeals, district judges, and attorney magistrate judges beginning July 1, 2012. The annual salaries of the justices and judges would be increased by two percent, the same consideration contemplated for all other state employees. There are no cost of living increases, bonuses, salary incentives or other adjustments that are available to recognize continued excellence. The total fiscal impact of this change for the increased cost of salary and benefits, which are paid from the General Fund, is \$371,700 for FY 2013. The funding for this legislation is already included in the Court's appropriation bill as recommended by Joint Finance and Appropriation. The judges are keeping pace although more are working longer days, longer nights and weekends to do so. Affording judges their first salary increase in four years is the first step in adequately compensating Idaho's judiciary.

MOTION **Senator LeFavour** moved, seconded by **Senator Davis**, to send **H 651** to the Floor with a **do pass** recommendation. In accordance with Rule 39 H, **Senator Lodge** declared she had a possible conflict of interest, but intended to vote. The motion carried by **voice vote**.

Chairman Darrington said there would be another meeting, but was not sure when. He also asked if there were other minutes to be approved.

MOTION **Senator Bock** moved, seconded by **Senator LeFavour**, to approve the minutes of **March 12, 2012** as written. The motion carried by **voice vote**.

MOTION **Senator LeFavour** moved, seconded by **Senator Bock**, to approve the minutes of **March 7, 2012** as written. The motion carried by **voice vote**.

ADJOURNMENT There being no further business, **Chairman Darrington** adjourned the meeting at 1:55 p.m. Future meetings will be at the call of the Chair.

Senator Darrington
Chairman

Leigh Hinds
Secretary