

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, January 17, 2014

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Vick, Senators Mortimer, Nuxoll, Hagedorn, Lakey, and Werk

ABSENT/ EXCUSED: Senators Davis and Bock

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 1:29 p.m.

RS 22464 **Relating to Proceedings in Magistrate's Division**
Patti Tobias, Administrative Director of the Courts, explained article V, section 25, of the Idaho Constitution requires defects in the law be reported by judges to the Governor each year. The courts prepare the legislation addressing those changes. Defect legislation always addresses errors or omissions in the laws that they make. For **RS 22464** the courts are requesting the words on line 9 "but can give no charge to the jury" be deleted. This provision was enacted in 1864 and is no longer correct. The court must always instruct the jury in matters of law as provided by a separate Idaho Code section and court rule.

MOTION: **Senator Hagedorn** moved to print **RS 22464**. Seconded by **Senator Lakey**. The motion carried by **Voice Vote**.

RS 22465 **Relating to Child Protective Act**
Patti Tobias explained last year HB 256 was enacted which made very helpful changes to the Child Protection Act. It was the result of extensive work by many including the Child Protection Committee, prosecuting attorneys, public defenders, the Department of Health and Welfare, court appointed special advocates, and many others. Unfortunately, there are two incorrect references that need to be corrected. On page 2 of the legislation, on line 6, (b) should be (c), and then on line 8, (c) should be (d).

MOTION: **Senator Mortimer** moved to print **RS 22465**. Seconded by **Senator Nuxoll**. The motion carried by **Voice Vote**.

PASSING OF GAVEL: Chairman Lodge passed the gavel to Vice Chairman Vick to present the Rules Review.

DOCKET NO. 11-1001-1301 **Idaho State Police Pending Fee Rule**
Rules Governing Idaho Public Safety and Security Information System (ILETS)
Vice Chairman Vick stated just to refresh your memories we heard this rule on Monday and there was concern with the huge fee increase along with why ILETS was not considering cloud computing as a solution for some of their needs.

Dawn Peck, Manager Bureau of Identification, Idaho State Police (ISP), stated she had e-mailed the Committee a response that outlines the issues for cloud computing. ILETS system has to abide by the FBI Criminal Justice Information Services (CJIS) Security Policy. There are privacy issues for a law enforcement agency which precludes them from using cloud computing solutions. ILETS is connected to the FBI and they must abide by that security policy. To date, no state

or local law enforcement agency has been able to use that methodology. ILETS continues to search for a cheaper more economical avenue of doing business and securing data by using a method such as cloud computing. There are the Governor's rules and the compliance rules that ISP has to abide by in protecting data. When you are putting your data in a cloud you are trusting another entity to guard your data. Under the rules in the CJIS Policy they must do a document check of individuals that have access, either, logical or physical, to the data. ISP has to know that their facilities are secure, and the cloud architecture does not fit the check marks that must be completed to prove that ISP is secure under the FBI audits.

Chairman Lodge asked do you know if the cities and counties support the rule proposed by ISP on behalf of the ILETS. **Ms. Peck** responded that ILETS has spoken with the Association of Counties and Cities and they are in support of this rule change.

MOTION: **Senator Nuxoll** moved to approve **Docket No. 11-1001-1301**. The motion was seconded by **Senator Hagedorn**. The motion carried by **Voice Vote**.

PASSING OF GAVEL: Vice Chairman Vick passed the gavel back to Chairman Lodge.

ADJOURNED: There being no further business, the meeting adjourned at 1:52 p.m.

Senator Lodge
Chair

Carol Deis
Secretary