

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 22, 2014

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: None

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: **Vice Chairman Vick** called the meeting to order at 1:31. p.m.and asked the secretary to call the roll.

DOCKET NO. 21-0102-1301 **Division of Veterans Services**
Rules Governing Emergency Relief for Veterans - Tamara Mackenthun, Deputy Administrator, explained this rule adds Tribal Veterans Representatives to the list of those who are eligible to receive funding to attend annual training. Currently counties and veterans service organizations and State Veterans Service Officers can be reimbursed for their annual service officers school. This rule change will allow five Tribal Veteran Service Officers representing just over 1,200 veterans to also attend our two and one-half day training course. It will allow them to receive information regarding Idaho specific services for veterans, and more importantly the latest information from the Federal Veterans Administration to assist Idaho veterans in filing claims for disabilities.

The result of this change will be an increase of our current budget by approximately \$2,500 of \$20,000 for this training.

MOTION: **Senator Hagedorn** moved to approve **Docket No. 21-0102-1301**. The motion was seconded by **Senator Lakey**. The motion carried by **voice vote**.

21-0108-1301 **Rules Governing Veterans Recognition Fund - Tamara Mackenthun** stated last year HB 222 created the Idaho Veterans Recognition Fund and that fund set aside are \$18 million existing fund balance to fund initiatives and programs to support veterans. This bill also set down the basic procedures for the funds, specifically, the makeup of the committee that will decide how the money will be allocated. This rule provides the basic administrative procedures for the grant application process and lists the eligible activities and programs. These rules are almost identical to the rules for administration of our Veterans Support Fund, which is funded with the tax one check-off donations. This fund is simply on a larger scale with more checks and balances and requires more extensive justification for grants.

MOTION: **Senator Lakey** moved to approve **Docket No. 21-0108-1301**. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

RS 22563

Relating to the Idaho DNA Database Act of 1996 - Senator Rice stated currently Idaho Code requires the collection of a DNA sample upon conviction or a guilty plea to any felony or attempted felony, or upon a finding of probable cause. It is silent about other circumstances where a DNA sample could be collected.

A recent US Supreme Court ruling on DNA collection opens the door for the collection of a DNA sample upon arrest. The purpose of this legislation is to clarify that, in Idaho, DNA samples may be collected only upon a conviction or guilty plea to a felony or attempted felony, or with a warrant obtained through a finding of probable cause.

MOTION: **Senator Mortimer** moved to print **RS 22563**. Seconded by **Senator Hagedorn**. The motion carried by **voice vote**.

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

PRESENTATION: Department of Pardons and Parole - Olivia Craven, Director of Pardons and Parole, stated the Parole Commission conducted 2,934 hearings last year. The parole grant rate was 65 percent and they released 1,412 offenders to parole; which was 183 more than the previous year. For non-violent offenders the parole grant rate was 82 percent, medium risk offenders for non-violent crimes was 69 percent, and high risk offenders in non-violent crimes was 61 percent. The Department issued 1,044 warrants of arrest for parolees last year, but they do not have all of their statistics for parole violators completed. That data will be available in two weeks.

Ms. Craven explained that the Council of State Government (CSG) study, "Justice Reinvestment" showed that Idaho has a low crime rate but its recidivism rate has increased. Their department has been concerned with the higher rate of returns of parole violators. The CSG study pointed out that our incarceration rate is the eighth highest in the country, and offenders serving time for non-violent crimes are serving twice as much time as other states. The criminal justice system has not been reviewed since the mid-1980s. The Unified Sentencing Act was a result of this last review and created a fair sentencing process. However, we need to look at the administration of this Act. The Governor has stated that our state is at a crossroads. What do we want from our system? We want offenders to be held accountable for their actions; without accountability negative behavior continues. We want rehabilitation; drug and alcohol addiction is a big problem in the prisons. There are issues with mental health and criminality problems. We want offenders to change and not commit more crimes. We want all citizens to be responsible and take care of their families. The system can only provide the tools for change, it is up to the offender to use those tools to make the changes.

CSG's study recommends that more structure needs to be applied in all areas. The system is not broken and we do many good things in our state. They told us that we were ahead of many other states in the things that we do.

Problems that Idaho needs to address:

Concern for community treatment: Some of our best programs are in prisons; they are therapeutic communities which are long term drug and alcohol treatment programs. We have good sex offender and cognitive programs, CARP and ARDP that the courts and the parole commission use for parole violators. Studies show that treatment is more successful in the community. Increasing community based treatment for substance abuse, criminal thinking and attitudes, and mental health should be made available in that setting.

Supervision related to parolees: CSG research shows that supervision outcomes are greatest when sanctions are imposed with four factors: 1) Swiftly; 2) Consistency; 3) Proportionality; and 4) Rewarding behavior with incentives. Sanctions need to be enforced at the first violation; not waiting until there are numerous violations. This will help future violations not become bigger offenses such as committing a new felony or absconding. Give the parole officers the tools they need for short term arrests and more intensive treatment in the community. Also, tailoring confinement responses for the first and second violation without going directly to the Parole Commission.

Violations: Over the last one and half years the Department started triaging parole violations. They were simply receiving too many violations for them to efficiently process. About one-third of these parole violators will go through treatment through Facility Correctional Alternative Placement Programs (CAPP's), Conflict Resolution Program (CRP), and Residential Drug and Alcohol Program (RDAP); but these are three to six month programs and given in the prison system. One-third of the parole violators will be reinstated after a short term. One-third will go before the Parole Commission for revocation proceedings. They have reduced the time-frame for time in custody to three to four months for all parole violators. The new policy suggested by CSG would allow for the parole officer to provide sanctions and more treatment with the offender in the community. These sanctions in treatment have to occur when the violation occurs with swiftness and certainty. The system did not give parole officers tools to use. Parole officers will reap more positive results by applying structure and sanctions when violations occur. In conjunction with the use of short term jail incarcerations for one to three days. If the parolee is using drugs or alcohol, immediate referral to more intense treatment should be the course of action. More UA testing for drugs and alcohol abuse. Create a violations grid with graduated sanctions with increased severity based on the violation and risk level. Violators of restitution and other assessments should not go back to prison for their inability to pay these court ordered obligations; but it is often the reported part of the violation. The Criminal Justice Commission will be reviewing all of the assessments, restitution and all financial obligations to improve outcome. Right now the parole officers are administering collection of these debts instead of supervising these individuals.

Prison stays are twice the national average in Idaho; we need to move offenders through treatment. Offenders need to start preparing for release when they come into the system. Exploring answers, at that time, for questions such as where are they going to go when they get out. Focus on helping violators transition out to the community; this requires more life skills. Punishment alone is not effective in reducing recidivism. There needs to be more intensive treatment in the community to prevent violations that bring the offenders back to prison. CSG recommended that by policy they release non-violent offenders closer to their parole eligibility date. CSG pointed out that there needs to be increased capacity of state agencies to collect and analyze data in order to reduce inefficiency for better outcomes.

Senator Lakey stated at the magistrate level, when judges impose probation, they often compose discretionary time for the probation officer to impose for some of those short term and immediate consequences. Is there a need for a statutory change or a commission approach with the district judges for immediate consequences? **Ms. Craven** answered that the Commission has never been able to delegate authority to parole officers to give offenders discretionary jail time. The study presents statutory changes that would allow for this to occur; but the Commission is supportive of this change.

Senator Lakey stated the CSG study pointed out that there was an average of 78 days between the parole date to the release date. This seems an excessive amount of time. **Ms. Craven** clarified that much of this time is getting the offenders through their treatment program and parole plans. That is why she suggests putting more emphasis on parole plan issues sooner into the process. Programing has a finite number of available beds for treatment. Sometimes offenders have disciplinary problems and they are removed from programs and have to begin again.

Senator Lakey asked if there is a reason why offenders would choose to go to term versus going through their treatment system which would help them get out of prison earlier. **Ms. Craven** explained that treatment and responsibilities are hard, and sometimes offenders would rather do their time then work hard and take care of responsibilities.

PRESENTATION: IDOC Department Update - Brent Reinke, Director of Idaho Department of Corrections introduced **Kevin Kempf**, Team Leader for the Idaho Correctional Center ICC Transition stating that they will be presenting the Annual Report for IDC (attachment 1) and pointed out another project within that report of Children of Incarcerated Members (attachment 2). **Mr. Reinke** stated that currently the IDC is responsible for 1 out of every 34 adult men and 1 out of every 156 women in the state.

The Governor's request, declared that the goals of consistent successful day-to-day operations in our correctional system are better served by the State of Idaho taking a direct management role at ICC. The Boise site is a medium to high custodial prison and there are some challenges that the State faces because of the custody level of the prison; which is another reason why it is critical that the transition of operations be seamless. The operations of the correctional facilities will shift from the Corrections Corporation of America (CCA) to the Idaho Department of Corrections (IDC) at midnight on June 30, 2014. The individuals incarcerated in this Boise facility are medium to high custody offenders.

Kevin Kempf - Team Leader for Incident Command System ICS Transition, explained that the ICS is the structure that will allow the transition in the operations of the prisons to go seamlessly. Worldwide ICS is used to resolve major operations, large company mergers, etc. It is a process that ensures the transition will be smooth. There are three goals in the transition:

- Now to July 1 on-site visits at ICC, sorting of inventory and staffing.
- Stabilize population - transition to be slow and steady. All things important to correctional practices must be measured to make sure that all good correctional practices will be in place at ICC.
- Meaningful opportunities - good correctional practices. You must keep inmates busy. We want them to do something meaningful such as instituting a correctional industries program into ICC.

Cost of the Idaho Correction Center today: As of July 1, 2014 it will cost \$25.98/per day for personnel; \$7.87/per day on operational needs; .46¢/per day on capital outlay; \$15.31/per day medical contract; for a total of \$34.31/per day to operate the facility. Balla is the backdrop for the healthcare; which will incorporate medical services into the ICC. Healthcare cost at present is \$6.41/per day, these are very lean dollars for that care. There will need to be a significant change in healthcare operations in the facility on July 1, 2014.

IDC Annual Report (attachment 3) shows that they have lost one out of every four corrections officers in the Department. To address this attrition the Department has gone from using five to seven academies at POST. Probation and parole case loads are at 79 offenders to 1 officer. Education, treatment and reentry: Produce 10 percent of the GED's in the State.

Senator Werk asked will ICC be hiring some of the staff that has been working for CCA. **Mr. Kempf** replied that they intend to hire many of the current CCA staff, primarily in the correctional officer ranks.

Senator Davis asked if the state of Idaho had recovered the overpayment to CCA. **Director Reinke** stated that they are just at the end of the investigative process with the Idaho State Police (ISP). The Board of Corrections is looking into those negotiated amounts and will report on that outcome in the very near future.

Senator Hagedorn said he was glad to see the slide of the fire suppression teams. Since Idaho is a natural resource rich state, there could be some opportunity for the prisoners to work on fire suppression such as removing fuels. Consider hatching and stocking sage grouse for the State. Are there incentives which would help inmates choose educational training versus going to term? **Director Reinke** advised that they have six crews working up and down the highways in all parts of the State removing fuels. They are looking into raising grouse, pheasants, etc. for restocking the State. Their goal is to do a better job of workforce development within the prison system. As to your term question, there are those individual inmates that prefer the incarcerated life and that is something they have to work on with one inmate at a time.

Vice Chairman Vick asked what are the opportunities for training at the facility? **Director Reinke** explained that they are very limited. There is no correctional industry presence at the ICC. Next year the Director will be back to request a correctional industries be considered at ICC. There are 2060 inmates that need some type of a production line assembly. It is about workforce readiness and development.

ADJOURNED: There being no further business, the meeting adjourned at 2:52 p.m.

Senator Lodge
Chair

Carol Deis
Secretary