

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, January 27, 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:** **Chairman Lodge** called the meeting to order at 1:32 p.m. and asked the secretary to call the roll.

**MINUTES:** Approve Minutes of January 13, 2014

**MOTION:** **Senator Werk** moved to approve the minutes of January 13, 2013. The motion was seconded by **Senator Davis**. The motion carried by **voice vote**.

**RS 22593** **Relating to the Idaho Criminal Gang Enforcement Act** - Ellie Somoza, Deputy Prosecutor Canyon County, stated the purpose of this bill is to conform the legislative intent regarding the Idaho Criminal Gang Enforcement Act. As it is currently written, the enhancement of 52 only applied to charges filed by indictment or by information. Only felony charges can be filed by indictment or information. The enhancement of the legislation calls for increased penalties for misdemeanors but misdemeanors cannot be filed by indictment or information. This was an oversight when the original legislation was passed. The words complaint and petition shall be added to the legislation so that these enhancements can be applied to misdemeanors and juvenile charges.

**Senator Bock** asked for clarification on the changes on page 2 in the legislation, that are not related to the changes that have been presented. **Ms. Somoza** stated the purpose of the changes on page 2 is to prohibit committed felons from possessing firearms. **Senator Bock** asked why this change is not part of Ms. Somoza's presentation. **Ms. Somoza** clarified: 1) The enhancement as written only applied to charges that are filed by information or indictment. The purpose of this legislation is to correct that language to include complaint or petitions as they apply to misdemeanor charges and juvenile charges. 2) Individuals that were convicted of crime recruitment, supplying firearms to a criminal gang and human trafficking

**Senator Lakey** stated there is an additional portion that relates to the revocation of a right to bare firearms by certain convicted felons, but these are not referenced in the Statement of Purpose (SOP). This legislation should come back to the Committee another day.

**Senator Davis** explained if you choose to print the RS between now and the time that the Senate introduces it tomorrow, a new (SOP) including the revocation of the right to bare firearms by certain convicted felons could be routed to the Committee to make sure they would accept the added language. Clearly Rule 18 is intended to pick up this very situation which challenges the sufficiency of the SOP, and if it appears to be inadequate then the SOP should be repaired. If the legislation is caught at a print hearing this is the best time to clean up the language.

**Senator Werk** said there are two subjects that are being dealt with in this single bill. Issue one is the complaint or petition. Issue two deals with felony convictions and which individuals can possess a firearm after serving time. These are two separate issues and the legislation should be presented in two different bills.

**Chairman Lodge** said **RS 22593** will be held in Committee.

**PASSING OF  
GAVEL:**

Chairman Lodge passed the gavel to Vice Chairman Vick to continue the meeting.

**S 1214**

**Relating to Proceedings in Magistrate's Division** - Michael Henderson, Legal Counsel for the Courts, explained that **S 1214** deals with Idaho Code §19-3915. Chapter 39, Title 19, which deals with proceedings in the magistrate division of district court. The statute states that the "court must settle all questions of law that may arise in course of a trial, but can give no charge to the jury." The charges to the jury are the courts instructions to the jury of applicable law. Dating back to 1864 the language seems to clearly be contradicted by other provisions in Idaho Law including §1921-32 which states charging the jury in all matters of law necessary for their information. Criminal Rule 30 has detailed provisions as to how the court arrives at the instructions that it gives to the jury.

**Senator Davis** moved to send **S 1214** to the floor with a do pass recommendation. Seconded by **Senator Lakey**. The motion carried by **voice vote**.

**S 1215**

**Relating to the Child Protective Act** - Michael Henderson stated that this is another defects bill. Last year the Child Protection Committee of the supreme court recommended to the Legislature certain changes to the Child Protective Act, and that bill was passed. The supreme court made some errors in the references of the legislation. **S 1215** deals with amendments to Section 16-1622 which references back to the proceeding statutes Section 16-1621, under Subsection 3.

**MOTION:**

**Senator Davis** moved to send **S 1215** to the floor with a do pass recommendation. Seconded by **Senator Nuxoll**. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman Lodge** adjourned the meeting at 1:50.

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Senator Lodge  
Chair

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Carol Deis  
Secretary