

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 21, 2015

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Vice Chairman Hagedorn, Senators Tippetts, Johnson, Bayer, and Souza

ABSENT/ EXCUSED: Senators Davis, Werk, Burgoyne, and Smyser (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.

CONVENED: **Vice Chairman Hagedorn** called the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m. He introduced the Committee secretary, Carol Cornwall, and the Committee page, Jamison Lake.

PRESENTATION: **Mr. Ian Thomson**, Executive Director, State Public Defense Commission (PDC), introduced the members of the PDC in attendance with him: Judge Molly Husky, Chairman, and Darrel Bolz, Vice Chairman.

Mr. Thomson explained that the PDC was created last summer and consists of seven members serving on a voluntary part-time basis and two paid members, the director and an administrative assistant. The PDC meets regularly about twice a month. **Mr. Thomson** pointed out that although a lot of interest has been expressed from various sectors of the community, several members of the PDC are new to the area and are taking time to familiarize themselves with the issues. As a result, he has set modest expectations for the next couple of months when identifying priorities.

Mr. Thomson stated that one of the priorities is providing guidance to county commissioners in the construction of contracts they sign with private attorneys. Thirty-four of Idaho's counties have private contract attorneys to provide these services. The PDC will be discussing model contracts to provide efficient and equitable policies.

The second priority he addressed was training for public defenders including some specialized training on death penalty and juvenile issues. These trainings will be paid for by the PDC using allocated funds.

Mr. Thomson said that the PDC would also address the issues of qualifications and rules for the public defenders and data reporting requirements. The PDC and the agencies throughout the State eagerly anticipate the implementation of Odyssey; it will provide consistency and organized access to information across the State.

Vice Chairman Hagedorn asked how responsive the counties have been in working with each other and if they are sharing lessons learned.

Mr. Thomson replied that each county has not been surveyed by the PDC, but they have been surveyed by LSO. Response from county clerks was high. Response was much lower from contract attorneys and prosecutors' offices. **Mr. Thomson** reported that conversations with county representatives indicate cooperation among the counties, but there is a need to know what the PDC wanted from them in advance so the data could be accumulated. He said there is some sharing but not a systematic process of sharing (see attachment 1).

RS 23284

Vice Chairman Hagedorn introduced Josh Tewalt, Deputy Chief of Prisons for the Department of Corrections (Department).

Mr. Tewalt explained that **RS 23284** provides language that clarifies the confidentiality of certain execution participants, records and information. Non-disclosure protections are currently granted to the on-site physician, staff, contractors, consultants and volunteers serving on escort or medical teams, nor will any information be disclosed that could jeopardize the Department's ability to carry out an execution. **RS 23284** codifies those protections and further includes as protected information the source of any legal substances. This confidentiality is critical for consultants and member of the medical field whose participation, if made known, could have safety and professional ramifications.

Senator Tippets asked if the type of legal substance is public information.

Mr. Tewalt responded that the type of the substance is public information. The source of the substance is not. He pointed out that there is a public standard operations procedure document that outlines the execution process: the roles of people involved in that process, their credentials, the training, the types of legal substances and the amounts of those substances.

MOTION:

Senator Tippets moved to print **RS 23284**. **Senator Bayer** seconded the motion.

Senator Bayer asked for clarification on the reference to legal compulsion.

Mr. Tewalt replied that sometimes something extreme may occur and the last part of the language addresses that.

Senator Bayer asked if a rare occurrence would limit subsequent proceedings.

Mr. Tewalt turned the answer over to Mark Kubinski, the Lead Deputy Attorney General with the Department of Corrections.

Mr. Kubinski explained that the language prevents the disclosure of that information to the public or to other individuals, but that it doesn't limit the ability of the courts to have access to that information.

Vice Chairman Hagedorn asked for clarification on ". . . any information for the disclosure of such information would jeopardize the Department's ability to carry out an execution." He asked if there are any other restrictions that would limit that broad term.

Mr. Tewalt responded that the intent behind that language is to prevent disclosure of identifying information.

The motion carried by **voice vote**.

RS 23210

Vice Chairman Hagedorn introduced Mr. Josh Tewalt to present **RS 23210**.

Mr. Tewalt explained the **RS 23210** is a housekeeping bill bringing outdated references in Idaho Code in line with current practices as related to the Penal Betterment Fund (PBF). The PBF resided with the Department of Corrections (DOC) until the creation of the Correctional Industries, from which it is now administered. The reference to the PBF was never removed from the DOC. The current wording implies that prisoners pay is coming from the PBF, and that has not been the practice since 1974. Now they are paid from dedicated funds. **RS 23210** will correct that inconsistency.

MOTION:

Senator Bayer moved to print **RS 23210**. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

ADJOURNMENT: There being no further business, **Vice Chairman Hagedorn** adjourned the meeting at 4:57 p.m.

Senator Hagedorn
Acting Chair

Carol Cornwall
Secretary