

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 02, 2015

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Vice Chairman Hagedorn, Senators Davis, Tippetts, Johnson (6), Bayer, Souza, Werk, Johnson (Lodge, 11) and Burgoyne

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 Hagedorn** called the Senate Judiciary and Rules Committee (Committee) to order at 1:31 p.m.

RS 23400 **Senator Burgoyne** described **RS 23400** as a simple change in the amount of the fine for failure to carry mandatory auto insurance. The fine would move from \$75 to \$300. Idaho's car insurance averages around \$750 a year which is not high. The State's current fine scheme incentivizes not carrying insurance (see attachment 1).

Senator Tippetts noted that the Statement of Purpose (SOP) contains a number and but not a contact person; the error needs to be corrected. **Senator Burgoyne** stated it would be corrected.

A discussion ensued about the change in the amount and the last time an amount change was made by the Legislature.

Senator Werk questioned why the \$300 amount was chosen. **Senator Burgoyne** explained the Legislature had capped infractions at \$300.

MOTION: **Senator Davis** moved to print **RS 23400** with the corrections made to the SOP. **Senator Werk** seconded the motion. The motion passed by **voice vote**.

RS 23313 **Senator Burgoyne** explained this bill would allow Idaho State Police (ISP) to participate in the new FBI criminal background check program known as Rap Back. This program automatically updates the criminal history of a person. Currently the problem is that after a background check fingerprints are deleted from ISP and FBI records and new criminal issues are not picked up. Under Rap Back the fingerprints are retained by the FBI and ISP. Therefore a match will appear when new criminal activity occurs. Employers and supervising entities are not required to participate in the program.

RS 23313 provides ISP legislative authority to participate in and carry out the Rap Back program, pursuant to administrative rules being adopted by ISP. These rules would return to the Legislature as part of the rules review process next Session. ISP would not implement Rap Back until the rules have come before the Legislature.

Section 1 of **RS 23313** amends Idaho Code § 37-3001 with added definition for the Rap Back service. Section 2 of **RS 23313** amends Idaho Code § 67-3008 to authorize ISP to participate. A state fee of \$25.00 and a federal fee of \$39.75 is charged to enroll in Rap Back. There is a user fee of \$2.25 for two years, \$6.00 for 5 years and \$13.00 for a lifetime.

Senator Davis questioned whether the legislation was brought on behalf of anyone. **Senator Burgoyne** stated it was brought on behalf of ISP.

Senator Tippets asked for clarification on the process or criteria for expungement of records. **Senator Burgoyne** yielded to Dawn Peck.

Dawn Peck, Manager, Bureau of Criminal Identification, explained that ISP criminal records expungement follows a process using a written request. Rules would be created that outline the whole program.

Senator Johnson(6) observed that the SOP stated the bill would correct a problem. He asked for an explanation of the problem. **Senator Burgoyne** replied that criminal activity committed after a background check would not be available to the employer unless another background check was requested. **RS 23313** corrects that problem. **Senator Burgoyne** yielded to Ms. Peck for further clarification.

Ms. Peck explained that background checks are only as good as the day they are printed. She pointed out that crimes in other states do not show up for Idaho checks but through the Rap Back system they would.

MOTION: **Senator Davis** moved to print **RS 23313**. **Senator Bayer** seconded the motion. Motion carried by **voice vote**.

RS 23204 **Sharon Harrigfeld**, Director, Department of Juvenile Corrections (DJC) explained the revisions in **RS 23204** allow for those over 18 years of age who escape on a juvenile case to be adjudicated as adults in adult court.

MOTION: **Senator Tippets** moved to print **RS 23204**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

RS 23282 **Sharon Harrigfeld**, Director, Department of Juvenile Corrections (DJC) expounded to the Committee the process of blended sentences. In the case of a juvenile who committed a serious crime and is tried as an adult, the sentence as an adult could be blended keeping the offender at DJC for treatment and rehabilitation. Upon release from DJC the court can impose the remaining sentence, retain jurisdiction, and/or place on a rider or on felony probation. This bill offers clarification on blended sentences.

Senator Davis questioned if this was a policy shift. **Ms. Harrigfeld** stated it is not; it is just a clarification on blended sentences being dual sentences. **Senator Davis** asked for clarification on the jurisdiction of a district judge, with the understanding jurisdiction was retained only when a youth was sentenced to North Idaho Correctional Institution (Cottonwood). **Ms. Harrigfeld** yielded to Denton Derrington to answer.

Denton Derrington, Chairman of the Board of Juvenile Corrections, explained that the Juvenile Corrections Act passed by the DJC states juveniles cannot be kept in a judge's jurisdiction beyond the age of 18. Blended sentences were instituted, and judges retained some jurisdiction while they were in DJC. **RS 23282** will allow judges to retain jurisdiction of offenders while in DJC, when the offender reaches 18 years of age, judges will decide if they will be moved into Idaho Department of Correction (DOC) to finish their sentence.

MOTION: **Senator Davis** moved to print **RS 23282**. **Senator Johnson**(6) seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT HEARING: **Vice Chairman Hagedorn** welcomed Cassandra Jones, appointed as Executive Director of the Commission on Pardons and Paroles (Commission). **Ms. Jones** gave a short biography of her experience and referenced her resumé and application.

Senator Davis questioned Ms. Jones on her experience and knowledge of what was needed at the moment for the Commission. **Ms. Jones** affirmed her knowledge of the Commission and the need for streamlined technology. **Senator Davis** asked if Idaho participates in the American Probation and Parole Association (APPA) and how Idaho might compare with other states in best practices. **Ms. Jones** was familiar with APPA but did not know if Idaho participates in it. She stated there is another organization, Association of Parolees Authorities International (APAI), that applied more directly to the Commission. APAI did outline best practices which were very closely aligned with Idaho and to the changes with Justice Reinvestment (JRI).

Senator Werk asked Ms. Jones her understanding and plan for better coordination the over releases. **Ms. Jones** outlined the improved technology and said with the help of the DOC and JRI, people will be moved through the system more efficiently.

Senator Werk stated the backlog of minutes for hearings needed to be addressed. **Ms. Jones** answered the Commission was aware of the issue and was integrating a new data system that would be ready in a few months to address the backlog and move forward with new minutes. There had been legal issues about signing of the old minutes and those have been addressed by the Commission. Integration and implementation of the system would make a difference.

Vice Chairman Hagedorn set the confirmation vote on Ms. Jones for the next meeting.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Vice Chairman Hagedorn welcomed Sharon Harrigfeld, appointed as the Director of the Department of Juvenile Corrections (DJC). **Ms. Harrigfeld** spoke about her experience and tenure working with juveniles. She explained how the DJC has changed over the past years. Ms. Harrigfeld stood for questions.

Senator Tippets noted a possible conflict with her brother being a magistrate judge in Ada County and asked if juvenile cases were handled by him. **Ms. Harrigfeld** stated those cases were given over to other judges so as to alleviate conflict.

Senator Burgoyne disclosed to the Committee that a member of his family had a professional relationship with Ms. Harrigfeld when she was in private practice as a counselor.

Senator Werk asked for clarification on the lawsuits at hand. **Ms. Harrigfeld** stated she could not address the issues of the lawsuits as they are in litigation. She did clarify that DJC has increased it's prison rape audits. Those audits have shown the facilities to be in compliance.

Senator Burgoyne asked if she had given deposition in these lawsuits. **Ms. Harrigfeld** said she had in the whistleblowers lawsuit, and it is a matter of public record. **Senator Burgoyne** asked for a copy of that deposition. **Ms. Harrigfeld** indicated a copy would be provided. **Senator Burgoyne** asked if any other documents that are public record are available. **Ms. Harrigfeld** reported she would provide a packet of information.

Vice Chairman Hagedorn asked Ms. Harrigfeld to get the packet of information to the Committee Secretary. **Vice Chairman Hagedorn** set the confirmation vote on Ms. Harrigfeld for the next meeting.

PRESENTATION:

Sharon Harrigfeld, Department of Juvenile Corrections (DJC), presented a PowerPoint on the projects, programs and future of the DJC (see attachment 1). She stood for questions.

Vice Chairman Hagedorn asked if funding from the Department of Education was used to educate the juveniles in DJC. **Ms. Harrigfeld** answered in the negative. Teachers for the DJC were paid out of the DJC's general budget. **Vice Chairman Hagedorn** asked Ms. Harrigfeld if a trend chart could be made and given to the Committee to help with understanding how many youth the DJC is housing and where the numbers were headed. He recommended using 100,000 juveniles per year as a guideline.

ADJOURNED: There being no further business, **Vice Chairman Hagedorn** adjourned the meeting at 2:58 p.m.

Senator Hagedorn
Vice Chairman

Carol Cornwall
Secretary

Barbara Lewis
Assistant Secretary