

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, February 06, 2015

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Davis

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.

MOTION: **Senator Bayer** moved to approve the Minutes of January 21, 2015. **Senator Souza** seconded. The motion passed by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Senator Werk** moved to send the gubernatorial reappointment of Sharon Harrigfeld as the Director of the Department of Juvenile Corrections, to the floor with a recommendation that she be confirmed by the Senate. **Senator Tippetts** seconded the motion. The motion carried by **voice vote**.

RS 23243 **Matthew Gammette**, Idaho State Police (ISP) Forensic Lab Assistant Director, presented information Relating to the DNA collection for sex offenders. **Mr. Gammette** explained that the bill closes the loophole in the Idaho DNA Database Act, Idaho Code §19-5506. It would require a DNA collection from all felony sex offenders required to register. The bill would eliminate duplicate sample collection which adds cost. Fiscal impact is \$30,000. It is \$100 per sample and they anticipate 300 samples a year.

Senator Werk questioned if someone was convicted in any other state had DNA been collected and information stored in a common shared database. **Mr. Gammette** replied each state has different laws. He added that ISP uploads to the national database.

Vice Chairman Hagedorn questioned if the \$30,000 was in the Governor's budget. **Mr. Gammette** answered no.

Senator Tippetts queried about the 300 individuals moving into the State who need to register as sex offenders. He also asked how many leave the state. **Mr. Gammette** did not know that answer but said he would look for the numbers.

Senator Souza asked for clarification on the national database. **Mr. Gammette** explained that ISP collects a sample for the Idaho Database for a number of reasons. A person may or may not be in the national DNA database. **Senator Souza** questioned why the State needs an Idaho database versus a national database. **Mr. Gammette** replied there are differences in the kits and the markers that are on the DNA. There are some things that are not eligible at the national level, so they want to have that DNA on file in Idaho so that they can search.

Senator Werk inquired if DNA collected would it be from misdemeanors. **Mr. Gammette** replied they would be felony only. **Senator Werk** asked if the State already had a law requiring samples from those who committed a felony. **Mr. Gammette** deferred to Cindi Hall to answer the question.

Senator Burgoyne asked for people who are convicted in other states, would that state's criminal code match Idaho's criminal code. Is there an equivalency from state to state on misdemeanor and felonies? **Mr. Gammette** answered there was an equivalency, but in some instances a misdemeanor in another state is a felony in Idaho.

Senator Johnson(6) asked for clarification on Idaho Code § 19-5506, on line 30, of "who". **Mr. Gammette** stated he could not answer at this time but would get one to the Committee. **Senator Johnson(6)** cited individuals moving to Idaho who are not paying restitution for the DNA analysis and asked why they not required to pay this fee. **Mr. Gammette** related in most cases it is challenging to collect fees. **Senator Johnson(6)** asked that there be something added to the bill that gives the option of collecting the fee, whether or not the courts order it.

MOTION: **Senator Tippets** moved to print **RS 23243**. **Senator Bayer** seconded the motion.

SUBSTITUTE MOTION: **Senator Werk** moved that **RS 23243** be returned to the sponsor. **Senator Johnson(6)** seconded the motion. The substitute motion carried by **voice vote**.

RS 23355 **Robert Aldridge**, Trust and Estate Professionals of Idaho, Inc. (TEPI), presented **RS 23355** relating to conflicting wills and codicils explaining that you cannot submit conflicting documents to probate. This bill amends and addresses the confusing language.

Senator Burgoyne asked for clarification of testamentary instruments. **Mr. Aldridge** stated they were instruments that dispose of property at death.

A discussion ensued over what a testamentary instrument covers and the importance of dating a document to understand conflicting documents.

MOTION: **Senator Souza** moved to print **RS 23355**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 23356 **Robert Aldridge**, TEPI, explained this bill corrects a typographical error, changing the word "standard" to "standing".

Senator Werk moved to print **RS 23356**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

RS 23357 **Robert Aldridge**, TEPI, explained that a Guardian Ad Litem is an attorney assigned to protect the rights of the individual. The Guardian Ad Litem looks at all aspects of a case and is assigned for the duration. It is a limited role. This bill makes clear the powers of the Guardian Ad Litem.

Senator Johnson(6) questioned if all Guardian Ad Litem are attorneys. **Mr. Aldridge** answered the conservative and guardianship rules state they are to be attorneys.

MOTION: **Senator Burgoyne** moved to print **RS 23357**. **Senator Werk** seconded. The motion carried by **voice vote**.

RS 23367 **Robert Aldridge**, TEPI, introduced **RS 23367**, a bill that would allow a person with decision-making authority in another jurisdiction, especially medical and mental health powers of attorney, to be recognized.

Senator Burgoyne questioned if this was Idaho enacting a uniform law. **Mr. Aldridge** answered yes, with small limited changes. **Senator Burgoyne** wanted to know if the Uniform Law Commissioners were involved in the change and supportive of the change. **Mr. Aldridge** answered they were fully involved and supportive.

MOTION: **Senator Tippets** moved to print **RS 23367**. Senator Johnson (6) seconded the motion. The motion carried by **voice vote**.

RS 23368 **Robert Aldridge**, TEPI, introduced **RS 23368** which is about the dealings of digital assets. The bill allows access to the digital assets by fiduciary. It is desirable to have a uniform law throughout the nation, where possible.

MOTION: **Senator Werk** moved to print **RS 23368**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

RS 23369 **Robert Aldridge**, TEPI, explained that **RS 23369** expands ownership for community property during survivorship. It eliminates capital gains due to community property.

Senator Johnson(6) asked for clarification on tenancy in common. **Mr. Aldridge** explained it is when two individuals own property and have the right to transfer ownership during life or death.

MOTION: **Senator Tippets** moved to print **RS 23369**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Vice Chairman Hagedorn** adjourned the meeting at 2:15 p.m.

Senator Marv Hagedorn
Vice Chairman

Carol Cornwall
Secretary

Barbara Lewis
Assistant Secretary