

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, February 11, 2015

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Vice Chairman Hagedorn, Senators Davis, Tippetts, Johnson(6), Bayer, Souza, Johnson(Lodge,(11), Werk 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 1:30 p.m. **Vice Chairman Hagedorn** announced a revision to the agenda to accommodate Senator Lakey's schedule.

**RS 23407** **Senator Lakey** stated **RS 23407** is a resolution to reauthorize the Public Defender Reform Committee to continue for another year. The committee has made significant progress, but there is more work to do.

**MOTION:** **Senator Werk** moved to print **RS 23407**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**RS 23370C1** **Robert L. Aldridge**, Trust & Estate Professionals of Idaho, Inc. (TEPI), asked that this bill be withdrawn.

**UNANIMOUS CONSENT REQUEST:** **Senator Davis** asked for unanimous consent to return **RS 23370C1** to the sponsor. There were no objections.

**RS 23418** **Kandee Yearsley**, Child Support Bureau Chief, Department of Health and Welfare, presented **RS 23418** which amends and clarifies issues relating to the Uniform Interstate Family Support Act (UIFSA). The bill will improve enforcement of American child support orders abroad (see attachment 1).

**Senator Burgoyne** questioned if this is a project of the Uniform Law Commission, if the bill has been before the Commission, and if it met with their approval. **Ms. Yearsley** answered yes.

**MOTION:** **Senator Davis** moved to print **RS 23418**. **Senator Tippetts** seconded the motion. The motion carried by **voice vote**.

**RS 23479 AND RS 23496** **Senator Davis** asked if both **RS 23479** and **RS 23496** could be presented at the same time. **Vice Chairman Hagedorn** affirmed they could be done together.

**Senator Davis** explained that **RS 23479** amends § 11-105 to increase the period of time for claiming a money judgment from five years to ten years. **RS 23496** amends a judgment granted before June 30, 2015 to a five year time limit and after July 1, 2015 to a ten year time frame.

**Senator Burgoyne** said that judgment liens should only be for five years so that records searches would have a limitation. Once expired, it should be renewable.

**MOTION:** **Senator Burgoyne** moved to print **RS 23479** and **RS 23796**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
11-1104-1401**

**Vic McCraw**, POST Division Administrator, explained **Docket No. 11-1104-1401** changes the minimum standards for correction officers and detention officers to match those of the other disciplines.

**Senator Davis** asked for a short review of the information on the past dockets that were reviewed by Mr. McCraw. **Mr. McCraw** answered that this docket puts the training for correction officers and adult probation and parole officers on par with other sections that were already reviewed. The language on home schoolers' education was stricken as passage of the GED is not required. **Senator Davis** questioned the need for separate rules for education. **Mr. McCraw** explained that the rules have expanded to different disciplines and each has had an education rule added.

**DISCUSSION:**

A discussion ensued about the term GED and other tests which are now the standard for admission into colleges, universities and the military.

**MOTION:**

**Senator Johnson**(6) moved to approve **Docket No. 11-1104-1401**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
11-0301-1401**

**Matthew Gammette**, Idaho State Police Forensics Services (ISPFS) Lab Assistant Director, stated that **Docket No. 11-0301-1401** has two components. **Mr. Gammette** explained that this docket takes the long-standing standard operating procedures (SOP) for labs doing blood, urine and alcohol analysis and puts it into IDAPA with legislative oversight.

It also adds additional quality control requirements for labs that want approval to do alcohol testing. Labs do not have to follow these rules, but they have to provide a foundation for testing.

**Mr. Gammette** explained the history and reliability of the SOP. All labs have a SOP as a way to standardize procedures. SOPs have been used in Idaho since 1980. The SOP is a scientifically set and living document. Modifications are made to be in compliance with national recommendations for breath alcohol testing.

With an adversarial legal system, prosecutors argue SOPs are good and defense attorneys argue the SOP is scientifically flawed. These arguments are played out in court. ISPFS needs SOPs to be acceptable to the courts. There is no evidence to support that they are not valid.

Courts have ruled about SOPs in many cases, and ISPFS has been following the different outcomes. ISPFS decided to embark on a rulemaking process adapting the SOP into an administrative rule (see attachments 2 and 3).

**Vice Chairman Hagedorn** asked if there were any changes in the SOP when the temporary rules went into effect in September 2014. **Mr. Gammette**, answered in the affirmative; changes were made again in December 2014, and changes will continue to be made.

**Mr. Gammette** referenced other states' procedures (see attachment 4). Idaho is unique in that scientists do the breath alcohol tests and those tests are run through the state lab. **Mr. Gammette** yielded to Jeremy Johnston to address the second component of **Docket No. 11-0301-1401**.

**Jeremy Johnston**, ISPFS Volatiles Analysis Discipline Leader and overseer of the alcohol testing blood and breath, explained the National Safety Council sets the minimum criteria and preserves the evidential value. Idaho follows these recommendations (see attachment 2).

**Mr. Johnston** further stated there is state professional testing and certification for breath alcohol test operators, as well as breath alcohol testing specialists. All instruments are approved by the appropriate agency.

ISPFS sets testing protocol along with definitions for deprivation, observation and monitoring. These words can have a different meaning in other states. ISPFS also sets a 15 minute deprivation period with optional observation during that time.

A discussion of the standard and procedures of observation ensued.

**Senator Davis** expressed concern regarding ambiguous wording. **Mr. Johnston** clarified the language.

**Senator Tippetts** asked about the laboratory and minimum requirements for those doing the testing. **Mr. Johnston** stated the laboratory is what is approved, not the people. Each laboratory has to undergo proficiency testing, and it would be up to the laboratory to make sure the workers were properly qualified. **Senator Tippetts** questioned if this could be an issue raised in a court even though the laboratory was certified but the person was not qualified. **Mr. Johnston** answered yes, even if all rules are followed and qualified people do the testing.

**Senator Tippetts** questioned why Idaho does not have some minimum specified standard for individuals conducting the test. **Mr. Johnston** said ISP felt it was inappropriate to dictate the training of individuals who might have a limited role in the sample. There would be difficulty in distilling the criteria for each individual in their role in a laboratory.

**Senator Tippetts** asked if the breath testing instruments would be approved by three different agencies, or should the word "or" be inserted between the agency names. **Mr. Johnston** yielded to Mr. Gammette

**Mr. Gammette** answered the intent is to follow all three agencies' recommendations.

**Senator Tippetts** asked about the word "should" in the 15 minute period for the breath testing. **Mr. Gammette** yielded to Mr. Johnston.

**Mr. Johnston** answered that there is criteria to be met for contamination and restarting the testing period. **Senator Tippetts** asked why they start over. **Mr. Johnston** answered if raw alcohol was regurgitated and contaminated the mouth, the second procedure would show those results.

**ADJOURNED:** **Vice Chairman Hagedorn** stated the Committee would schedule Mr. Gammette and Mr. Johnston for further questioning. There being no further business, **Vice Chairman Hagedorn** adjourned the meeting at 2:51 p.m.

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Senator Hagedorn  
Vice Chairman

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Carol Cornwall  
Secretary

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Barbara Lewis  
Assistant Secretary