

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, March 04, 2015

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Hagedorn, Senators Davis, Tippetts, Johnson, Bayer, Souza and Burgoyne

**ABSENT/ EXCUSED:** All present, with a vacancy in District 17

**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 Senate Judiciary and Rules Committee (Committee) to order at 1:32 p.m. She announced that the approval of minutes would occur later in the meeting.

**GUBERNATORIAL APPOINTMENT:** **Senator Tippetts** moved to send the gubernatorial appointment of Kimber Ricks State Public Defense Commission to the floor with a recommendation that he be confirmed by the Senate. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT HEARING:** Darrel Bolz has been appointed to the State Public Defense Commission (Commission) commencing July 1, 2014 and expiring July 1, 2017. **Mr. Bolz** recounted his background in agriculture. While serving as a State Representative he served on the Joint Finance-Appropriations Committee (JFAC) and also on the House Judiciary and Rules Committee giving him an opportunity to work with criminal justice in the State. He filled in for the Chairman on the Criminal Justice Commission and served on the Committee of Public Defense. The Commission was formed in July 2014 and has met twelve times since the formation date. **Mr. Bolz** finds the work of the Commission interesting. Several issues have become apparent. There is a need for funding for public defense. The Commission faces questions of the expectations and on not having much authority. They may promulgate rules and present legislation. The Commission is a part of the executive agency, and what the Commission needs has to come through the Governor's office.

**Chairman Lodge** set the vote for Mr. Bolz's appointment to the State Public Defense Commission for Friday, March 6, 2015.

**MINUTES APPROVAL:** **Senator Johnson** moved to approve the Minutes of February 4, 2015. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

**RS 23704C1** **Senator Schmidt** explained **RS 23704C1** relates to payment for health care for the indigent sick both at the county level and the State CAT Fund.

**MOTION:** **Vice Chairman Hagedorn** moved to print **RS 23704C1**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**RS 23676** **Roy Eiguren**, EigurenFisherEllis, spoke about the Youth Justice Funding Collaborative which is a foundation formed to accelerate policy reform for state juvenile justice systems. Both he and Judge Jack Varin are involved with the national foundation. **Mr. Eiguren** stated the first handout given to the Committee explained the expungement of juvenile records and the second handout explained **RS 23676** (see attachments 1 and 2).

**MOTION:** **Senator Davis** moved to print **RS 23676**. **Vice Chairman Hagedorn** seconded the motion.  
**Senator Tippetts** stated he has a conflict of interest pursuant to Senate Rule 39 (H), but intended to vote.  
The motion carried by **voice vote**.

**S 1103** **Senator Rice** expounded on **S 1103** regarding victims of human trafficking. **Senator Rice** cited the National Human Trafficking Resource Center (NHTRC) Annual Report (see attachment 3) and pointed out that Idaho is involved with human trafficking. **Senator Rice** pointed out on page 4 of the report that Idaho received 56 calls in 2014. **S 1103** provides a method for victims to vacate convictions and expunge records received while a victim of human trafficking. Those criminal convictions and arrests can prevent victims from getting jobs, housing and student aid. **Senator Rice** noted the bill needs some language changed and/or added to keep the records sealed with the order of expungement being kept for possible future needs of the victim.

**Senator Tippetts** inquired about the wording of "from local, state or national" and asked if the phrase was necessary. **Senator Rice** answered if there is a finding in court from another state it can be used to help identify and show they were a victim of human trafficking. One can use a report from another agency but it must be from a state or federal agency. **Senator Tippetts** asked for clarification on vacating or expungement on conviction. **Senator Rice** said vacating a record and expungement are two different parts. If there is an arrest but no conviction, it is to vacate. Expungement is for a conviction. **Senator Tippetts** asked if these records would be used for prosecution against another person. **Senator Rice** responded these records can only be used with a court order, but the victim could get them for themselves only.

**Senator Burgoyne** asked if human trafficking would be a defense for an initial criminal charge. **Senator Rice** replied it is a defense that could be used, but the person may be too afraid or has had threats made against them so they do not use it. This bill provides an opportunity for them to come forward. **Senator Burgoyne** wondered if a case goes to trial and results in a not guilty verdict, would the person have the opportunity to have the case sealed. **Senator Rice** stated he would add this provision. It was not something brought up before.

**TESTIMONY:** **Merikay Jost**, Boise, Idaho, expressed concern about line 24, on page 1, of the bill and the compromising of an ongoing prosecution. **Ms. Jost** gave the Committee written testimony (see attachment 4). **Chairman Lodge** asked Ms. Jost to visit with Senator Rice about her concerns. **Ms. Jost** responded she would.

**Debra LaFond** shared her experience being a sex slave. She stated a person can be restored, but during the time of enslavement one is coerced and drug-induced to have a victim do things against their will. She lost her children because of activities of enslavement. She explained on the way to reforming you lose hope, there is shame involved and her life and her families' lives were threatened. After seven years she was able to get out. She had been arrested and was sent to a state hospital as a result of the treatment she had received while a trafficking victim. Treatment, good mentors and classes have helped her to become who she is today. **Ms. LaFond** explained her way of giving back was to help others who have been in her situation. **Chairman Lodge** expressed thanks to Ms. LaFond for sharing her story before the Committee, knowing it was hard to talk about.

**Holly Koule Rebholtz**, Idaho Prosecuting Attorney (IPA), set forth concerns IPA over expunging all non-violent crimes that were committed during the time while enslaved. She said this could be abused in court, given the broad language. **Ms. Rebholtz** expounded on other states' language for different types of expungement. No other states address arrests as they consider convictions only. She also questioned the no time restriction for victims to bring an action. Most states have a reasonable time limit for bringing action. **Ms. Rebholtz** spoke of the experience of other states and asked that Idaho look at the wording and experience of these states in adding the language needed to make this bill stronger.

**Senator Burgoyne** questioned if there is a burden of proof, and if so, what would she recommend the standard to be. **Ms. Rebholtz** does not have a recommendation, just a concern of how it will work in court. The bill would be better if "force", "inducement" or "coercion" were included. **Senator Burgoyne** questioned in a criminal case if coercion is raised, what would be the burden of proof. **Ms. Rebholtz** replied there are jury instructions given.

**Senator Hagedorn** asked if the records of a victim were expunged, what would one do if the records were needed to convict the trafficker. **Ms. Rebholtz** stated if there is no victim, there is no case. There are many nuances to what this bill brings.

**Mike Miraglia**, Fraternal Order of Police (FOP), stated he was a police officer and that the FOP has a neutral stance on **S 1103**. **Mr. Miraglia** spoke to the scope of the crimes included as being overly broad and recommends the language be tighter for other illegal activities that happen in addition to prostitution. **Mr. Miraglia** stated the criminal activity must have happened during the time period the victims were trafficked or as a result of it.

**Senator Davis** emphasized the sponsor acknowledges there are needed changes and this is what the Committee is hearing in testimony. He asked if Senator Rice would be willing to work with those people testifying to revise the bill. **Senator Rice** stated he would be willing to work with them to revise some of the bill.

**MOTION:**

**Senator Davis** moved that **S 1103** be held in Committee. **Senator Burgoyne** seconded the motion.

**Chairman Lodge** requested that those present and wanting to testify or who have testified to get with Senator Rice to work on the bill.

**Senator Davis** asked for unanimous consent to hold **S 1103** in Committee to allow Senator Rice time to work on a new RS.

**S 1068 AND S 1069**

**Senator Davis** explained that **S 1069** increases the period of time for claiming a money judgment from five years to ten years. **S 1068** 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** stated he would like the judgement to last forever, but the life of the lien should have a limitation.

**Vice Chairman Hagedorn** stated **S 1069** would be easier to understand as all judgements after July 1, 2015 would be ten years.

**Senator Bayer** asked if there is a precedent for changing the timelines for existing judgements. **Senator Davis** answered there is going to be some judicial questions over the timeline but that **S 1069** lets one understand that a judgement stands at five years if made before July 1, 2015. After July 1, 2015 all will be at ten. **Senator Bayer** inquired if there was an average time for judgement. **Senator Davis** replied he did not know.

**MOTION:**

**Vice Chairman Hagedorn** moved to send **S 1069** to the 14th Order for possible amendment. **Senator Bayer** seconded the motion.

**Senator Burgoyne** asked if Senator Davis has talked to some practitioners. **Senator Davis** answered no.

The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman Lodge** adjourned the meeting at 3:05 p.m.

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Senator Lodge  
Chairman

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Carol Cornwall  
Committee Secretary

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Barbara Lewis  
Assistant Secretary