

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Friday, March 06, 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:** Senator Davis, 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 1:31 p.m.

**RS 23778** **Jared Larsen**, Legal Intern to Senator Davis, gave information on **RS 23778** which amends Chapter 5 of Title 45 relating to claims of lien. It excludes a trustee of a deed of trust as an owner of the property subject to the lien.

**MOTION:** **Vice Chairman Hagedorn** moved to print **RS 23778**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** **Senator Burgoyne** moved to send the gubernatorial appointment of Darrel Bolz to the State Public Defense Commission to the floor with the recommendation that he be confirmed by the Senate. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

**RS 23767** **Sandy Jones**, Idaho Commission of Pardons and Parole (Commission) explained this bill is an adjustment to the original language of the Justice Reinvestment Initiative (JRI). The Commission is to impose consequences for those who violate parole. As written, the language lengthens the time before the sanction can be imposed. It leaves more time in prison beyond the 90-180 days. This change will allow the Commission to delegate this duty to a hearing officer leading to a faster turn around time for parole violators.

**Senator Burgoyne** questioned whether the hearing officer's decision is final or if it goes before the Commission. **Ms. Jones** replied the decisions are typically final since the Commission has granted the hearing officer the authority to find the parolee guilty or not guilty of a parole violation. This legislation adds an element of specific jail time. The parolee can sign a waiver agreeing to the terms or go before the Commission. The hearing officer does not decide on the consequence, only whether the person is guilty or not guilty. The Commission makes the final decision on revocation of parole.

**Chairman Lodge** clarified the decision is appealable to the Commission. This bill helps shorten the long waiting times.

**MOTION:** **Vice Chairman Hagedorn** moved to send **RS 23767** to print. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**H 61**

**Michael Henderson**, Legal Counsel with the Idaho Supreme Court, stated this bill is proposed by the Idaho Supreme Court and amends § 20-520 which is the sentencing section in the Juvenile Corrections Act. It provides a number of options a judge can employ when sentencing a juvenile. Subsection 1A states the court can place a juvenile on probation for up to three years but not beyond the 21st birthday. Subsection R allows the court to place the juvenile in the custody of the Department of Juvenile Corrections for an indeterminate time. The courts can offer a combination of these.

The amending language makes clear the courts can combine these options. It also provides that the period of probation can be up to three years but not beyond the defendant's 21st birthday. This bill adds flexibility for probation. It also provides that the court shall have a review hearing within 30 days following release to set the terms and conditions of probation.

**MOTION:**

**Senator Souza** moved that **H 61** be sent to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**H 64**

**Michael Henderson**, Legal Counsel with the Idaho Supreme Court, explained **H 64** amends statutes addressing the credit a defendant would receive upon sentencing or revocation of probation for time previously served. When a court places a person on probation it can use jail time as a condition of probation. There is nothing in statute that states if a person violates probation and serves a sentence that credit is received for previous time served under probation. This bill provides that a defendant would receive credit for the time served as a condition of probation, ensuring that the defendant does not exceed the sentence imposed. The proposed amendments to Idaho Codes §§ 19-2603 and 20-2094A are intended to clarify that a defendant should receive credit for the time spent in jail after the service of the warrant if the probation is subsequently revoked and the defendant is ordered to serve the suspended sentence. This bill also corrects archaic language to bring it up to date for modern practice.

The fiscal impact would result from the shortened time spent in incarceration as a result of credit being given for time spent (see attachment 1).

**Vice Chairman Hagedorn** questioned the terminology of "time served" or "time spent in custody" asking if this is the same. **Mr. Henderson** answered they are equivalent terms. **Vice Chairman Hagedorn** asked if "time served" is defined in code. **Mr. Henderson** replied it is not defined, as it is a term well understood.

**MOTION:**

**Senator Johnson** moved that **H 64** be sent to the floor with a **do pass** recommendation. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

**H 62**

**Judge Barry Wood**, Senior District Judge, stated this bill amends Idaho Code §§ 10-1110 and 11-101 providing for liens resulting from restitution owed to a crime victim and to provide for execution of judgments for restitution owed to a crime victim.

Victims have a constitutional right to receive restitution. Forty-two days after the court orders restitution the victim can appeal. The life of the judgment is five years. This bill stretches out the current five years to twenty. It provides a longer time to collect the restitution. Frequently the innocent victim is not represented by a lawyer and does not understand that time is a factor in collecting on the lien.

**Senator Tippets** questioned the impact of current judgements for restitution and wondered if their time would be extended. **Judge Wood** replied the time would be extended. **Senator Tippets** questioned why these have a limit. **Judge Wood** said the original bill was not limited, but the House asked for limitation. The judgement can be renewed.

**Senator Burgoyne** stated the bill seems to come from the rationale that victims do not have representation. He asked if the court could provide a notice that sets out the process. **Judge Wood** replied the courts try not to give legal advice. The court does print brochures on procedure, and the court office puts information on the website. At the time of judgement there may be no immediate chance of recovery and the process may take a long time. There is an effort to help people collect their money.

**MOTION:** **Senator Burgoyne** moved to send **H 64** to the floor with at **do pass** recommendation. **Senator Tippets** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman Lodge** adjourned the meeting at 2:15 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