

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 09, 2015

TIME: 1:30 P.M.

PLACE: Room WW54

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

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: **Chairman Lodge** called the Senate Judiciary and Rules Committee (Committee) to order at 1:33 p.m.

WELCOME: **Chairman Lodge** welcomed Senator Jordan to the Committee as a new member.

MINUTES APPROVAL: **Vice Chairman Hagedorn** moved to approve the Minutes of February 18, 2015.

Senator Bayer seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Lodge passed the gavel to Vice Chairman Hagedorn.

S 1067

Vice Chairman Hagedorn asked Kandee Yearsley, Child Support Bureau Chief, Department of Health and Welfare, for a summary of the discussion she had at the Committee meeting on February 25, 2015. **Ms. Yearsley** summarized **S 1067** relating to the Uniform Interstate Family Support Act (UIFSA). On September 18, 2014, Congress passed the Prevent Sex Trafficking and Strengthening Families Act which included the requirement for all states to enact the 2008 Amendments to UIFSA during their 2015 Legislative session. These amendments incorporate the provision of the 2007 Hague Convention on International Recovery of Child Support and Family Maintenance to improve the enforcement of American child support orders abroad. All fifty states must enact UIFSA in a verbatim manner for the United States (US) to participate in and obtain benefits from the Hague Convention. **Ms. Yearsley** stated she had answers for the questions the Committee had asked earlier. **Ms. Yearsley** read those questions and gave answers to the Committee (see attachment 1).

Senator Johnson questioned what funds are at risk if Idaho does not pass this bill. **Ms. Yearsley** referred to the information received from the Department of Health and Human Services regarding which funding would be affected if the bill is not passed (see attachment 2). She explained that not passing the bill would result in immediate suspension of all federal payments for the State's Child Support Enforcement Program. The State also would lose funds from Temporary Assistance for Needy Families (TANF).

MOTION: **Senator Johnson** moved that **S 1067** be sent to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Hagedorn passed the gavel back to Chairman Lodge.

- H 136** **Michael Kane**, Idaho Sheriffs Association, answered inquiries from Senator Davis about the discretionary jail time that allows probation or parole officers to put someone in jail for up to three days. **Senator Davis** questioned the State paying for the cost of probation violation as counties traditionally paid for this cost. **Mr. Kane** answered it came from the Justice Reinvestment Initiative (JRI) and was to get the probationers' attention, keep court costs down and save money on housing of probationers for a longer time while waiting for a court hearing.
- Chairman Lodge** clarified it was also to help get offenders' attention, a wake up call, so they didn't have to go to the penitentiary.
- MOTION:** **Senator Davis** moved that **H 136** be sent to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion passed by **voice vote**.
- H 138** **Michael Kane**, Idaho Sheriff's Association, explained **H 138** repeals two obsolete laws. The first is requiring permission to remove a prisoner in case of pestilence or illness. The second half of the bill asks to repeal expenses of removing a person from the jail following section guidelines, but the section has already been previously removed from law.
- MOTION:** **Vice Chairman Hagedorn** moved that **H 138** be sent to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by voice vote.
- H 139** **Michale Kane**, Idaho Sheriff's Association, stated **H 139** is to repeal an obsolete law regarding jurisdiction in duels.
- DISCUSSION:** A short discussion ensued on the history of dueling and about this being a territorial law and its significance in history.
- MOTION:** **Senator Bayer** moved that **H 139** be sent to the floor with a **do pass** recommendation. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.
- H 157** **Major Steve Richardson**, Idaho State Police (ISP), explained that **H 157** will grant express authority to the Director of ISP to contract with entities requesting special public safety services which ISP can provide with the entity paying for these services. This legislation prevents the cost of special public safety services falling upon the taxpayers (see attachment 3).
- Senator Burgoyne** questioned why it is beneficial for ISP to take on activities that are not required and for which a charge is made. **Major Richardson** said these are usually activities like the mega-loads going through Idaho that require a permit from the Idaho Transportation Department (ITD). This requires ISP involvement. Activities can involve multiple counties, and ISP has the ability to carry out the duties and responsibilities needed to ensure public safety. Activities needing ISP presence can also happen when partnership is needed with a private entity. ISP is able to lend organization and authority ensuring safety at these events.
- Vice Chairman Hagedorn** wondered if there would be other options if the entity cannot afford the contract with ISP. **Major Richardson** stated the permit system through ITD requires ISP presence on certain events. A private entity would have to work out an alternative with ITD if they cannot pay ISP for their services. **Vice Chairman Hagedorn** inquired about the mega-loads that come through Idaho. Instead of using ISP, could it be handled by a private contractor. **Major Richardson** replied private contractors are involved but ISP is involved by escorting the trucks, doing the inspections, handling the protestors and enforcing the law.

Senator Souza clarified information about the Ironman run that takes place in Northern Idaho. The cost of the ISP contract is largely paid by the Chamber of Commerce and other community groups.

Senator Tippetts asked about the fiscal note and wondered if the ISP charges for anything beyond the cost. **Major Richardson** answered no. They only seek reimbursement for resources used and actual cost. **Senator Tippetts** asked if passage of the bill would change current practices. **Major Richardson** stated it would reinforce the practice of the past and strengthen implied authority.

Senator Davis questioned the need for this bill. He stated ISP already has legal plenary authority to enforce laws and the ability to recoup costs when ISP is required or chooses to participate in an area in which they normally would not be involved. **Major Richardson** reiterated that the purpose of the bill is to ensure there is statutory authority for ISP to contract with private entities.

Vice Chairman Hagedorn asked for clarity on what is beyond usual and ordinary services. **Major Richardson** answered that the House committee asked for the specific wording. It means when concentrated resources are involved for one particular purpose for more time than is customary. It is when ISP goes beyond what is normally provided. **Vice Chairman Hagedorn** asked if this would be an issue if ISP had more resources. **Major Richardson** replied it would be less of an issue.

Senator Johnson pointed out that a company wanting to haul mega-loads across Idaho needs detailed plans and permits from ITD. He asked if ITD could bear the responsibility of having the company hire additional people. **Major Richardson** explained while private entities can do many things, they cannot carry out law enforcement. ITD wants ISP involved. ITD requires help, and the companies expect law enforcement to be with them. Local agencies, when knowing there will be issues, also want ISP involvement.

Senator Johnson commented that in these types of projects ITD has jurisdiction. He inquired if ITD requires funding from the entity and a contract is made with ITD, could ISP charge for its services.

Senator Souza commented on the cost of private entities doing business in Idaho and needing ISP's help. ISP should be able to recoup the money spent.

Vice Chairman Hagedorn spoke about the motorcycle group that until last year was large, but because of the ISP and Boise City police costs the number of riders has been greatly reduced. He stated his concern is the scope of limitation, who chooses whom to charge. **Major Richardson** answered the motorcycle ride got so large that it tied up the interstate system and created a burden involving too many resources to do it safely, and the law enforcement groups started to charge. ISP is working with Harley-Davidson on doing a one-way ride so fewer resources are tied up. Each contract is looked at case by case. Charges come depending on the time and resources needed.

Vice Chairman Hagedorn asked if anything in the language of the bill would preclude ISP from choosing who they would or would not charge. **Major Richardson** answered the key component is the necessity for public safety. If the situation does not meet the standard of helping the public, then ISP is not involved.

Senator Tippets asked how much of this contracting is going on. **Major Richardson** answered in fiscal year (FY) 2013, \$33,604, and in FY 2014, \$38,419 was received for three events each year, totaling less than five percent of the overtime annually for officers. **Senator Tippets** questioned the impact if there could not be a reimbursement of the costs for these three events. **Major Richardson** answered it would differ each year. Three years ago it was \$700,000 and it does pose a significant amount of time when officers are off of their regular routine. **Senator Tippets** asked how difficult it would be for ISP to absorb the \$35,000-45,000 each year. **Major Richardson** said it would reduce the number of troopers on the road by that equivalent amount. **Senator Tippets** asked for clarification on why the legislation is brought now. **Major Richardson** answered it is about transferring the cost to the taxpayers from the private entities and it is being able to provide the staffing for the overtime.

Marsi Woody, Financial Executive Officer, ISP, clarified with an example of FY 2012 when the cost was \$162,1487 in overtime. That cost was reimbursed by private entities. If this were added into the budget, it would be significant and the fluctuations from year to year would be a concern.

Vice Chairman Hagedorn asked about the average annual burden cost per officer. **Ms. Woody** answered she would get that number to him.

Senator Jordan asked if, without the legal authority to recoup the costs, ISP is able to absorb the cost. **Ms. Woody** answered ISP would not be able to do so.

Senator Davis asked if the wording could be changed so it did not look like ISP is a police force for hire. **Major Richardson** answered they are open for revisions.

MOTION: **Senator Burgoyne** moved that **H 157** be sent to the 14th Order for amendment. **Senator Davis** seconded the motion.

SUBSTITUTE MOTION: **Vice Chairman Hagedorn** moved that **H 157** be held in Committee. **Senator Souza** seconded the motion.

DISCUSSION: A discussion ensued with **Vice Chairman Hagedorn**, **Senator Davis**, **Senator Johnson**, and **Ms. Woody** commenting on issues of the cost to the tax payers, limitations, authority for reimbursement on unusual activities, permits including the cost and working with ITD to correct the wording.

SUBSTITUTE MOTION VOTE: **Chairman Lodge** called for a vote on the substitute motion to hold **H 157** in Committee. The substitute motion failed by **voice vote**.

VOTE: **Chairman Lodge** called for a vote on the original motion to send **H 157** to the 14th Order for amendment. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Lodge** adjourned the meeting at 2:53 p.m.

Senator Lodge
Chairman

Carol Cornwall
Committee Secretary

Barbara Lewis
Assistant Secretary