

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, March 18, 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 1:32 p.m.

MINUTES APPROVAL **Senator Tippetts** moved to approve the Minutes of February 25, 2015. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Kevin Kempf**, Director Idaho Department of Correction (IDOC), complimented the Committee on their hard work and presented a PowerPoint update on IDOC. The assessment goals were set to look at the people, the protocol, and the structure to see where improvements could be made. IDOC focused on three questions: Are we positioned for success? Are we mission focused? Are we ready?

Mr. Kempf expounded on the confusion in the reporting structure and the opportunity to be more efficient. There has been a shift in resources so reporting happens in the area to which it relates. There has been a reclassification of 15 positions to better meet the needs of IDOC. For efficiency IDOC put some services under an evaluation and compliance area. They will be able to shut down an additional building by implementing these changes which will save \$38,000 year. Total savings resulting from these changes will be \$240,000 a year.

Mr. Kempf stated there is still a need to reduce officers' paperwork to allow them more time with probationers. The consideration of Pathways, through the Council of State Government (CSG), will assess where needs are still prevalent and changes will be made.

Vice Chairman Hagedorn complimented the presentation and questioned if they had considered a dashboard with access to measure goals. **Mr. Kempf** answered he would be happy to do that.

Senator Tippetts asked if there has been a survey on employee morale lately or if there are plans in the near future to do so. **Mr. Kempf** stated no, not recently but the Human Resource Department is looking into this and such a survey is in the formative stages. **Senator Tippetts** encouraged Mr. Kempf to do it soon as it is good to compare where IDOC is now and then in a year.

Chairman Lodge asked Mr. Kempf to explain Pathways. **Mr. Kempf** stated when an offender comes into the system they are assessed and classified and a route is determined for successful parole. This is called Pathways. Some of the Pathways are confusing and are in need of improvement.

Mr. Kempf introduced Josh Tewalt, Budget and Policy Administrator; Henry Antencio, Deputy Director; and Debbie Field.

Chairman Lodge thanked Senator Davis for his help in getting CSG up and going, which helped IDOC with the new Pathways to help offenders have a more successful life when leaving the prison system.

Senator Jordan asked what steps are being made to keep employees longer. **Mr. Kempf** answered the Governor's office, along with JFAC, has approved a retention plan that will be a significant help in retaining employees.

RS 23755C1

Senator Burgoyne explained **RS 23755C1** relates to judicial qualifications that are inconsistent and leave out ethical and other important qualifications. This bill makes qualification changes to fill in gaps, create consistency, and credit military legal work towards legal experience requirements. **Senator Burgoyne** clarified that "active in the practice of law" and "good standing" mean that one's license to practice law is unrestricted and the law license is not limited because of ethical violations.

MOTION:

Vice Chairman Hagedorn moved to print **RS 23755C1**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 195

Representative Luker returned to answer previous questions. He stated if the fireworks are altered to create a bomb the provisions would apply. As to injury of property or person there are other statutes that apply. The definition of fireworks is found in Idaho Code § 39-2609.

Senator Tippetts asked if the selling of illegal fireworks would be an infraction or a misdemeanor. **Representative Luker** answered it would be an infraction. **Senator Tippetts** suggested examining the issue of selling illegal fireworks.

Senator Tippetts moved to send **H 195** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

S 1154

Senator Rice explained the changes that were made to the bill after he met with a prosecuting attorney and detective. This bill now covers arrests and a number of other items. **Senator Rice** thanked Senator Davis for his notes on the earlier hearing. The bill would now cover any offenses in which victims were coerced to participate. There are now instructions in place for victims to petition to clear their records. Required will be name; case number; date and place of arrest; statement identifying the human trafficker; approximate date, place and manner in which the victims were enslaved; and the victims' age at the time. Victims also will need to state how they became involved in the activities leading to the crime.

Courts would then decide if the crime happened during the time of being trafficked and if they were coerced. The victims' records can then be expunged and court case information will be put in a sealed file. The information will be kept on a special index, not accessible to the public. All agencies outside of the court will erase the record. This information will not be used against a victim of human trafficking for any purpose. It will be available to use to prosecute and investigate human traffickers. **Senator Rice** emphasized that traffickers target anyone, and the State of Idaho should do what they can to help these victims.

Senator Tippetts asked if the judge documents the evidence status for a victim of human trafficking. **Senator Rice** answered the statements are under oath and the documentation is substantive. **Senator Tippetts** inquired why it is mandatory that a petitioner be required to raise a defense in a criminal case. **Senator Rice** answered that there is a principle of law stating you raise all the defense you have. The victim's fear sometimes prevents the use of this defense. **Senator Rice** also advised that there needs to be more education of police officers and prosecutors assisting them to do a better job of taking care of the victims.

Senator Davis questioned whether Idaho is trying to create a cross state boundary relief. **Senator Rice** replied Idaho cannot do it for other states' charges nor for federal charges. This only applies in arrests by an Idaho agency.

Senator Davis wondered if there was a constitutional problem by compelling a person to do something in defense of their case. **Senator Rice** answered he doesn't think it is a constitutional problem, but it can be taken out if the Committee feels it needs to be removed. **Senator Davis** questioned the prosecuting attorney versus prosecutor on page seven. **Senator Rice** stated it might cause confusion as the prosecuting attorney is a county prosecutor, and there may be city prosecutions as well. The bill can be sent to the 14th Order to amend the definitions.

Senator Burgoyne commended Senator Rice on the bill but questioned Subsection 5 in the wording of "raise the defense." What if the petitioner can not raise it. **Senator Rice** discussed language changes for the 14th Order.

TESTIMONY:

Representative McDonald, former U.S. Marshall, stated his support of this legislation as it has a direct relationship to human trafficking. He described the amount of human trafficking occurring and the crimes that go with it. He stated Idaho needs better law enforcement resources to help detect this crime as the State is not exempt from this problem.

Kelly Miller, Executive Director of Idaho Coalition Against Domestic Violence (Coalition), stated the Coalition supports this bill. This gives them an opportunity to expunge a record allowing victims to obtain gainful employment.

MOTION:

Vice Chairman Hagedorn moved to send **S 1154** to the 14th Order for amendment. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

Vice chairman Hagedorn asked if a misdemeanor record will be changed to an infraction with these new laws. **Senator Davis** said they would not be retroactive. It would be from July 1, 2015 forward.

ADJOURNED:

There being no further business, **Chairman Lodge** adjourned the meeting at 2:54 p.m.

Senator Lodge
Chair

Carol Cornwall
Committee Secretary

Barbara Lewis
Assistant Secretary