

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 03, 2016

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Nonini, Senators Johnson, Souza, Lee, Burgoyne and Jordan

ABSENT/ EXCUSED: Senators Davis and Anthon

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 1:35 p.m.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Jordan** moved to send the Gubernatorial appointment of Cindy P. Wilson to the State Board of Correction to the floor with a recommendation that she be confirmed by the Senate. **Senator Nonini** seconded the motion. The motion carried by **voice vote**.

RS 24163 **Senator Jim Rice** stated that **RS 24163** is a bill to modify previous legislation. He explained that currently only county prosecutors can investigate county officials. These county prosecutors are also the attorneys for the county officials, presenting a conflict of interest in certain situations. To correct this issue after two years of using the earlier legislation, it was decided to change the word "shall" conduct an investigation to "may." **Senator Rice** indicated that the new revision will eliminate civil statutes and retain criminal statutes.

MOTION: **Senator Souza** moved to print **RS 24163**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

SCR 132 **Senator Fred Martin** explained the background behind the formation of this legislation recognizing Idaho police officers for their service to the State. He then introduced Representative Pat McDonald.

Representative Pat McDonald expressed his appreciation for the police officers of Idaho, detailing some of the issues society would face without them. He then pointed out positive characteristics of police officers including nobility, courage, veracity, empathy, sensitivity, a deep sense of ownership, dedication and commitment. **Representative McDonald** gave several examples of officers he has observed demonstrating these characteristics. He discussed the dangerous situations police officers face on a daily basis, pointing out that the "bad guys" know who the police officers are, but the officers do not necessarily know who the "bad guys" are. He pointed out that police officers do not run away from dangerous situations; they run toward them. In the face of these challenges, the officers do not quit. They are sworn to uphold the Constitution of the State of Idaho and the Constitution of the United States. **Representative McDonald** stressed that these civil servants should be recognized, emphasizing that they are there not only to enforce laws, but also to help those in need. The public can always depend on Idaho's police officers to help whenever and wherever they are needed.

Patti Bolen, Valley County Sheriff and President of the Idaho Sheriffs' Association, stated that today's technology provides speedy and extensive news coverage, a situation that is both good and bad. It is good because police forces can learn and improve; it is bad because an error is publicized to the point that the public perceives it as routine police behavior. The real routine behavior is exhibited as the officers go into harm's way every day because they are dedicated to justice. **Sheriff Bolen** emphasized that law enforcement officers are the gatekeepers between chaos and a civil society.

Senator Martin explained that this resolution was written for all police officers, but it was inspired by Corporal Jared Bisch.

Corporal Jared Bisch, Boise Police Department, speaking with deference for the men and women of law enforcement in Idaho who sacrifice every day, and for their families, thanked the Committee for the resolution.

Senator Lodge expressed her appreciation for the law enforcement people in her life who have worked hard in protecting her family. She spoke for the Committee in expressing appreciation for the sacrifices the officers make.

Senator Jordan thanked Senator Martin for bringing this resolution and expressed her gratitude for law enforcement. Besides all of the dangerous situations they are called to deal with, they also give proactive service to the community.

Senator Lee expressed appreciation, especially for the patience officers exhibit in difficult situations.

MOTION: **Senator Burgoyne** moved to send **SCR 132** to the floor. **Senator Lee** seconded the motion. The motion passed by **voice vote**.

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

RS 24185 **Senator Burgoyne** pointed out that the Committee saw this legislation last session, but due to a technical difficulty it is being reintroduced this session. In the legislation presented last year, only two sections were changed when there needed to be three. The purpose of the legislation is to change the amount of the fine for the first infraction for not having mandatory motor vehicle liability insurance from the current \$75 to \$300. The \$75 fine has been in effect for many years, with the infraction limit being \$100. In 2014 the infraction limit was changed to \$300. **Senator Burgoyne** stated his belief that \$75 is not a disincentive for those who choose not to carry liability insurance. The legislation does not change the current law, making a second violation within five years a misdemeanor. It doesn't change the \$75 fine for not carrying proof of liability insurance. He explained that it leaves unchanged the right to avoid the penalty for not carrying proof of insurance by producing proof of insurance before conviction. Because the legislation increases the fine there is a positive fiscal impact. The distribution of the funds would be 57 percent to the Department of Transportation, 38 percent to the local highway jurisdiction and 5 percent to the Idaho State Police.

MOTION: **Senator Johnson** moved to print **RS 24185**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

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

**DOCKET NO.
06-0102-1502**

Andrea Sprengel, Financial Manager for Idaho Correctional Industries (ICI), offered to answer any questions the Committee members may have or to repeat her presentation given February 3.

Senator Lee felt the presentation as given was thorough, and that the public just needed the opportunity to give testimony.

MOTION:

Senator Nonini moved that **Docket No. 06-0102-1502** be approved. **Senator Lee** seconded the motion. The motion passed by **voice vote**.

RS 24032C1

Lt. Colonel Kedrick Wills, Deputy Director, Idaho State Police (ISP), appearing for Teresa Baker, ISP, explained that aggressive driving was a factor in 56 percent of all crashes in Idaho in 2014. Members of the public frequently contact the ISP to voice their concern about aggressive driving. One tool that has been successful in 35 other states, as well as in city and county law enforcement departments in Idaho, is the use of unmarked patrol cars specifically targeting aggressive driving. Because there is also a need for marked patrol vehicles, there is a cap of not less than 90 percent of the motor vehicles being marked patrol cars. It has not been a practice to have seals on cars transporting the governor for some time, so this legislation removes that section.

Senator Lee asked for assurance that unmarked vehicles are targeting aggressive drivers and that the officers will be wearing their uniforms. **Lt. Colonel Wills** pointed out that there are directives in the procedures and practices of ISP. One is the educational component to let people know unmarked patrol cars are being used. Regarding the officers being in uniform, the ISP always patrol in a Class A uniform. Troopers will still be required to carry their commission cards with them.

Senator Burgoyne expressed concern with the language that indicates a much broader use than just for aggressive drivers. The words "or as necessary to enforce the laws of this state" seem to permit these vehicles to be used for any kind of enforcement action. **Lt. Colonel Wills** replied that is correct. ISP will replace some currently marked vehicles with these unmarked vehicles. These cars will still be the troopers' patrol cars and in order to enforce the laws, they need to be able to take action on any violation. In procedure these cars are designed specifically for the purpose of policing aggressive drivers.

MOTION:

Senator Nonini moved to print **RS 24032C1**. **Senator Souza** seconded the motion. Motion carried by **voice vote**.

RS 24066C1

Miren Unsworth, Deputy Division Administrator, Division of Family and Community Services, Department of Health and Welfare, explained that this legislation limits liability for foster parents. The Preventing Sex Trafficking and Strengthening Families Act (Public Law 113-183) requires states to establish "appropriate liability" standards so foster parents can normalize foster children's lives by enrolling them in activities. Idaho has no State statutes for this purpose. This legislation will allow foster parents and child care institutions to give permission for children and youth to enroll in activities that a reasonable and prudent parent would allow, without the concern of liability.

Senator Burgoyne expressed concern that this legislation creates a liability standard where there has been none, limits a pre-existing liability standard, or just leaves it the same. He said the way this legislation is written sounds like a negligence standard. **Ms. Unsworth** replied that in statute there are no liability protections for foster parents. The "reasonable and prudent parent" standard is defined in the Preventing Sex Trafficking and Strengthening Families Act (Public Law 113-183). She explained that if the foster parents apply the reasonable and prudent parent standard to their decisions, they will be protected from liability. If they do not apply the standard, they will not be protected.

Senator Burgoyne questioned the purpose of making the change to section 3, page 6, line 12. **Ms. Unsworth** explained that the change is to make alignment with the previous correction. **Senator Burgoyne** asked if this is just an update and not a substantive change. **Ms. Unsworth** stated that was correct.

Senator Lee requested examples of activities in which foster parents are reluctant to enroll the children due to liability concerns. **Ms. Unsworth** identified signing permission slips for fields trips, consenting to soccer or cheer leading and granting permission for summer camp or a rafting trip. Although some foster parents have gone to the caseworker to get the permission, frequently the process required so much time the opportunity to participate was missed.

MOTION:

Senator Lee moved to print **RS 24066C1**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Lodge** adjourned the meeting at 2:32 p.m.

Senator Lodge
Chair

Carol Cornwall
Secretary