

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 17, 2016

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Nonini, Senators Davis, Johnson, Souza, Lee, Anthon, 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 meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

PAGE FAREWELL: **Chairman Lodge** invited Aleena Follette to the podium and commended her on providing outstanding support to the Committee during her time here as a page. **Ms. Follette** then shared with the Committee her plans for the future.

PRESENTATION: **Reverend Bill Roscoe**, Director of the Boise Rescue Mission (BRM), stated that the BRM was established in 1958; its mission is to provide for the necessities of homeless and hungry people, while teaching them how to apply Biblical principles to their lives. The BRM supports the Justice Reinvestment Initiative (JRI) and offers projects to further the JRI's goals. The BRM provides programs to assist individuals on probation or parole to remain in compliance with their requirements. **Reverend Roscoe** emphasized that the BRM has rules of conduct with 24-hour professional and staff supervision. All participants are advised that the BRM cooperates with the Commission of Pardons and Parole and other law enforcement agencies. He identified three specific programs that work in cooperation with the criminal justice system to help reduce recidivism: the New Life Recovery Program, the Accountability Program and the Job Search Program. **Reverend Roscoe** detailed other services provided, such as transitional programs for veterans and for individuals going through the process to receive Social Security benefits, mental health care and children's programs. He reported that in 2015 more than 460 people made the transition from a Mission program to independent living. Currently almost 200 people staying at one of the Mission's facilities are working, saving and looking forward to independent living.

INTRODUCTION: **Chairman Lodge** introduced Senator John McGee, who previously served on the Senate Health and Welfare Committee.

RS 24048

Sandy Jones, Executive Director of the Commission of Pardons and Parole (Commission), pointed out that historically restoration of gun rights has been part of the pardon process. Idaho Code § 20-213A already allows for pardon and commutation applications to be reviewed in executive session; this legislation will add firearms restoration to the statute. **Ms. Jones** explained that Idaho Code § 18-310 establishes a separate set of circumstances for restoration of firearms rights for individuals who have been convicted of certain felonies. She then detailed the application process for the restoration of firearms rights. The Attorney General's office advised the Commission that the process for those who have been convicted of those specific felonies be put into rule. **Ms. Jones** reported that it was added to rule during the 2015 Legislative Session. This legislation will clarify the process in statute.

Senator Souza asked if the initial screening is done in executive session and then followed up in open session. **Ms. Jones** answered that it is.

Senator Davis questioned the language of the bill as it relates to the Open Meeting Law. An extensive discussion ensued, with **Senators Burgoyne, Anthon** and **Souza** also expressing concerns about the language of the bill and the application of the Open Meeting Law to this process.

MOTION:

Senator Nonini moved to return **RS 24048** to the sponsor. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

RS 24357

Kanoa Gordon, Intern, explained that **RS 24357** proposes to amend Idaho Code § 20-229B, responding to a key goal of the JRI that provides for the Commission of Pardons and Parole to be given the ability to impose swift and uniform sanctions when a parolee violates the conditions of parole. **Mr. Gordon** pointed out that when the referenced code was instituted it established that a first-time parole violation would result in incarceration for ninety days and a second-time parole violation would result in incarceration for 180 days. This procedure promoted uniformity in response to parole violations, but a concern arose regarding a parole violation through an act that is violent or sexual in nature. **Mr. Gordon** expressed that if the 90/180 sanctions are automatically used, the parolee who has committed the sexual or violent crime would receive a consequence that is not commensurate with the violation. This, he said, poses a possible danger to the public.

MOTION:

Senator Davis moved to print **RS 24357**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

S 1235

Sharon Harrigfeld, Director, Department of Juvenile Corrections, explained that the proposed amendment to Idaho Code § 20-511 clarifies the process for granting informal adjustments to juveniles and aligns the Code with common practice. It allows juveniles to admit the allegations at any time in the proceedings, rather than only at the initial stage. It also aligns with common practice some additional procedures and reporting processes.

Senator Anthon inquired about a record of the juvenile making admission if there is not a formal admit/deny hearing. **Ms. Harrigfeld** referred the question to Marc Crecelius, Deputy Attorney General. **Marc Crecelius** explained that there is a record made in the juvenile proceedings and the judge would take a plea. The court would make a record at that time.

Senator Souza expressed concern that the court's discretion could potentially be taken away by changing "may" to "shall." **Ms. Harrigfeld** replied that there is an "if" clause that explains the discretionary actions of the court.

MOTION: **Senator Anthon** moved to send **S 1235** to the floor with a **do pass** recommendation. **Senator Nonini** seconded the motion. The motion carried by **voice vote**.

S 1256 **Senator Burgoyne** informed the Committee that **S 1256** will raise the current fine of \$75 to \$300 for the infraction of not carrying auto insurance. He explained that there is an error and that the bill should go to the 14th Order for amendment. **Senator Burgoyne** went on to explain how not having proof of insurance is addressed as opposed to not having insurance. In reference to the increase in fine, **Senator Burgoyne** advised that the \$75 fine has been in place for many years and at that time the infraction limit was \$100. That limit has been changed to \$300. In analyzing the consequences that can occur when drivers do not have insurance, he felt this amount is appropriate. He detailed what the impact would be on the violator and expressed the serious consequences that can be visited upon victims of accidents caused by an uninsured driver.

Senator Davis stated that \$300 was a lot. He inquired what Senator Burgoyne felt about the high amount. **Senator Burgoyne** responded that although he understands and sympathizes with those people in society who are less fortunate than others, social inequity is not a valid basis for cheating the system and being irresponsible. **Senator Davis** inquired what the fine is in surrounding states. **Senator Burgoyne** replied that he did not know.

TESTIMONY: **Chryssa Rich** spoke in favor of **S 1256**. She related her experience when she was hit from the rear by an uninsured driver. She reported that after the individual drove without insurance, provided an officer with a fake address, lied to an officer, attempted to commit insurance fraud, lost in small claims court and defied court orders, she paid only \$75. She did reimburse Ms. Rich for her \$500 deductible, but only after much effort by Ms. Rich over a six-month period. The total that the at-fault driver paid was less than one year's insurance premium.

Senator Lee asked if Ms. Rich had only had liability insurance, would she have had a deductible. **Ms. Rich** stated that her medical would have been covered but not the extensive auto damages.

MOTION: **Senator Davis** moved to send **S 1256** to the 14th Order for possible amendment. **Senator Lee** seconded the motion.

Senator Johnson suggested that the bill be amended to say "up to \$300," allowing some flexibility.

Senator Davis indicated support for the bill, explaining that he has seen a number of cases where recipients of tickets for driving without insurance admitted that it was an intentional decision to do so.

Senator Souza stated that she could not support the amount because it is such a dramatic increase. She felt that even \$300 would not be a deterrent for those wanting to challenge the system, and that it would cause a serious financial burden to those who can't afford the insurance.

The motion carried by **voice vote**.

S 1255 **Senator Rice** observed that **S 1255** makes some changes to legislation that was passed two years ago regarding preliminary investigations of county elected officials by the Attorney General's office. Prior to that time only the County Prosecutor could investigate county elected officials, but he is their attorney. **Senator Rice** explained that in applying that legislation over the last two years, some problems were revealed. This legislation will remedy those issues by keeping investigations dealing with criminal law with the Attorney General's Office and relieving the Attorney General of becoming involved in county civil matters.

MOTION: **Senator Johnson** moved to send **S 1255** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Lee** moved to approve the Minutes of January 29, 2016. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

ADJOURNMENT: There being no further business at this time, **Chairman Lodge** adjourned the meeting at 3:03 p.m.

Chairman Lodge
Chair

Carol Cornwall
Secretary