

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

- DATE:** Monday, February 22, 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.
- INTRODUCTION:** **Chairman Lodge** introduced the new page, Cardston Stanford, to the Committee. **Mr. Stanford** shared with the Committee that he is from Sugar City and attends Madison High School. He stated that he was Lt. Governor of Boys' State, that he graduates this spring and that he will then serve a two-year LDS mission in Paris, France. The Committee welcomed Mr. Stanford.
- ANNOUNCEMENT:** **Chairman Lodge** advised the Committee that a report from Kevin Kempf, Department of Corrections, regarding justice reinvestment is available and asked that the members let the secretary know in what form they would like to receive it.
- GUBERNATORIAL APPOINTMENT HEARING:** **J. Philip Reberger** was reappointed as a non-attorney member of the Judicial Council, where he has served since 2003. **Mr. Reberger** commended the judiciary in Idaho on its work. He gave a summary of the process by which appointments are made. He emphasized that the legislatively mandated judicial appointment process is both valid and exceptionally effective. **Mr. Reberger** observed that the quality, quantity, diversity and strong sense of public commitment of applicants has improved. He identified other areas in which he has worked, including dealing with a diminishing number of complaints and the very few serious disciplinary actions that have been taken regarding the judiciary. **Senator Burgoyne** pointed out that statute sets forth the requirement that not more than three of the appointed members be from one political party. He asked if that is being followed. **Mr. Reberger** stated the requirement is being followed. **Senator Burgoyne** inquired if Mr. Reberger is in compliance with the statute stating that no permanent member may hold any position for profit with the United States or the State. **Mr. Reberger** replied that he is in compliance. **Senator Burgoyne** then asked what Mr. Reberger perceived as making a good judge. **Mr. Reberger** declared that paramount would be a passion for the rule of law. The ability to communicate effectively is very important.
- GUBERNATORIAL APPOINTMENT HEARING:** **Anna Jane "Janie" Dressen**, reappointed to the Commission of Pardons and Parole (Commission), explained that she is an Idaho girl with ancestors and progeny being Idahoans. She is committed to the welfare of the State. **Ms. Dressen** summarized her background stating that she has served on the Commission since 1998, retired in 2006, was again appointed to the Commission in 2009 and has been serving since then.

**Senator Burgoyne** asked about the statutory qualification that not more than three persons from any one party be on the Commission. He inquired if the balance will be maintained with her appointment and noted that she is an Independent. **Ms. Dressen** answered that he is correct. She then invited the Committee members to come to a hearing.

**Chairman Lodge** solicited her viewpoint regarding the Justice Reinvestment Initiative (JRI). **Ms. Dressen** disclosed that there had been some concerns but, having been implemented for a year, she felt that the guidelines have proven to be working well. There are still some concerns about the sanctions, but those concerns are in the process of being addressed.

**GUBERNATORIAL  
APPOINTMENT  
HEARING:**

**Courtney C. Dennis**, appointed to the Commission of Pardons and Parole, detailed her background working with the Ada County Sheriff's Office, as well as her educational and employment background prior to working for the sheriff's office. She left the sheriff's office in January of 2016 and sees this appointment as an opportunity to continue to positively contribute to the Idaho justice system. She informed the Committee that she has deep roots in Idaho spanning five generations. When **Ms. Dennis** considered this opportunity, she spent time learning what would be expected. She is confident that qualities she possesses, including the ability to remain calm in difficult situations and to make decisions based on facts rather than emotions, will serve her well as a commissioner. She stated that she supports the JRI and the mission of the Pardons and Parole Commission. **Ms. Dennis** concluded by emphasizing that her personal qualities, background and experience will make her a valuable member of the Commission.

**Senator Davis** asked Ms. Dennis if she sought the position or if she was contacted. **Ms. Dennis** replied that she sought the position after hearing about it from the Director of the Commission of Pardons and Parole and then researching the responsibilities involved. **Senator Davis** inquired how Ms. Dennis knew the Director. **Ms. Dennis** answered that they both worked for the Ada County Sheriff's Office. **Senator Davis** also asked if she has ever been elected or appointed to a position in the State. **Ms. Dennis** responded that she has not.

**Senator Burgoyne** inquired about the extent of knowledge of the law that was needed as a member of the county zoning commission. **Ms. Dennis** explained that the commission does the initial work and then the commission's legal counsel addresses any legal issues involved. **Senator Burgoyne** inquired what in her background would be beneficial in this position. She enumerated several personal qualities that she has developed and described her educational background. **Ms. Dennis** related her experience teaching criminal justice courses and stated that she had Police Officers Standards and Training (POST) certifications for dispatching and communications.

**MINUTES  
APPROVAL:**

**Senator Johnson** moved to approve the Minutes of February 1, 2016. **Senator Nonini** seconded the motion. The motion carried by **voice vote**.

**PASSED THE  
GAVEL:**

Chairman Lodge passed the gavel to Vice Chairman Nonini.

**RS 24567**

**Chairman Lodge** explained that this bill simply adds "or community service projects" to the list of labor opportunities inmates in a county jail may be allowed to perform. Currently under Idaho Code § 20-617 it is legal for inmates to perform labor on federal, state and other governmental projects.

**Senator Burgoyne** suggested that because we have community service being done now, this legislation is to ensure that what we are doing is lawful. **Chairman Lodge** pointed out that this would extend work projects to assist the elderly and disabled. She also explained that the inmates are covered by workman's compensation.

**MOTION:** **Senator Burgoyne** moved to send **RS 24567** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

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

**RS 24566** **Michael Henderson**, Legal Counsel with the Idaho Supreme Court, stated that this bill corrects an omission in the law modifying statutes addressing guardianships. When a child has a guardian, and is not a ward of the court, there are times when that guardianship needs to be terminated. There is nothing in statute to address this issue. This legislation would amend Idaho Code § 15-5-212 and Idaho Code § 15-5-210 by providing for interested parties to petition to have a guardianship terminated if they believe it is in the best interest of the child.

**MOTION:** **Senator Nonini** moved that **RS 24566** be sent to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**S 1253** **Miren Unsworth**, Deputy Administrator of the Department of Health and Welfare's Division of Family and Community Services (Division), explained that in order to allow foster children to participate in various activities that require parental permission, this bill will amend the Child Protective Act, Idaho Code § 16-1602, by adding definitions of "caregiver" and "foster parent." A new section, Idaho Code § 16-1644, limits the liability of caregivers who enroll foster children in activities, so long as they apply a "reasonable and prudent parent" standard. She reported that the Division has received positive feedback for this bill from foster parents. **Senator Burgoyne** asked if there is any opposition because this legislation might impinge on parental rights. **Ms. Unsworth** replied that she has not heard anything from advocacy groups or parents.

**MOTION:** **Senator Burgoyne** moved to send **S 1253** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**S 1277** **Sara Thomas**, State Appellate Public Defender and Chair of the Idaho Criminal Justice Commission (Commission) explained that **S 1277** is a bill that comes through a subcommittee of the Commission. At the request of the Governor, the Commission examined whether or not Idaho's sex crimes statutes in Idaho are adequate. **Ms. Thomas** detailed the process used and the stakeholders involved in the analysis. Paul Panther was the chairman of the subcommittee.

**Paul Panther**, Deputy Attorney General and Chief of the Criminal Law Division, pointed out that the subcommittee identified several areas of the rape statute that needed attention. The areas of concern deal with the amount of resistance offered by the victim, neutral language and emotional or mental status of the victim. A lengthy discussion ensued regarding the nature of rape. **Mr. Panther** explained the considerations given to the sexual battery of an adult, including definition, level of the crime as a misdemeanor, the fine and other consequences involved. More discussion followed relating to the various sections of **S 1277**.

**MOTION:** **Senator Davis** moved to send **S 1277** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**S 1276** **Michael Kane**, Idaho Sheriffs Association, stated that this bill is supported by the Idaho Prosecuting Attorneys Association and the Chiefs of Police Association. Idaho Code § 18-310 provides that felons who commit egregious crimes cannot, after completing their sentence, ship, transport, possess or receive firearms. This bill will amend the code to add the following crimes that have been created since the original passage of the law or were overlooked when the original bill was enacted:

- terrorism,
- arson in the first or second degree,
- theft by extortion,
- human trafficking,
- felony riot,
- hijacking,
- racketeering and
- supplying firearms to a criminal gang.

**Senator Souza** explained that there have been concerns expressed by her constituents regarding the term "terrorism." She asked Mr. Kane to define the term. **Mr. Kane** replied that he cited the Idaho Code sections that define terrorism. **Senator Souza** asked specifically about domestic terrorism. She inquired if there could be a misuse of the term "terrorism" when dealing with people from the conservative mindset who might be taking some action but do not cause bodily harm or any serious danger. **Mr. Kane** commented that after many years of experience in serving as attorney in criminal cases, he cannot think of any times when the concept of terrorism would apply to the situations to which Senator Souza is referring. **Senator Souza** requested assurance that the crime must involve a violent action in order to be considered terrorism.

**Senator Jordan** requested clarification regarding whose firearms rights would be revoked and asked if it would just apply to people who have been convicted of and served sentences for these specific charges. **Mr. Kane** responded yes.

**MOTION:** **Senator Jordan** moved to send **S 1276** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, the meeting was adjourned at 3:00 p.m.

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Chairman Lodge  
Chair

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Carol Cornwall  
Secretary