

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, March 04, 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.

MINUTES APPROVAL: **Senator Johnson** moved to approve the Minutes of February 10, 2016. **Senator Jordan** seconded the motion. The motion passed by **voice vote**.

Senator Lee moved to approve the Minutes of February 24, 2016. **Senator Souza** seconded the motion. The motion passed by **voice vote**.

S 1343 **Chairman Lodge** explained that Sandy Jones, Executive Director, Commission of Pardons and Parole (Commission), and Terry Kirkham from the Commission of Pardons and Parole are here to further explain and to answer questions regarding **S 1343**. **Ms. Jones** advised that this bill intends to increase public safety by ensuring the option of parole revocation for the most serious parole violations. She related that prior to the Justice Reinvestment Initiative (JRI), most parole violations resulted in revocation of parole and a return to an Idaho Department of Correction (IDOC) institution for a period of time. In order to reduce the prison population, currently parole violators, except those with new convictions, receive a 90-day return to prison for the first violation and a 180-day return for the second violation.

Ms. Jones disclosed that since the implementation of this procedure it has become clear that some parole violations present a public safety risk and would be best addressed by a full Commission hearing. These more serious violations deal with parolees with a history of sexual offenses who continue to engage in high-risk behavior, and parolees with new pending felonies or violent misdemeanors that have not been adjudicated. **Ms. Jones** pointed out that if this change is made, the Commission will continue to have the option to impose the 90/180-day sanctions if appropriate, but the public safety decision would be made by the Commission, versus an automatic sanction process.

Senator Davis stated that the wording is problematic, adding that there need to be better definitions of sexual conduct and violence. **Terry Kirkham** replied that the violations are delineated in the conditions of parole. A discussion of the definitions of terms and violations ensued. **Senator Burgoyne** offered an explanation of the provisions and unclear aspects of the bill. **Mr. Kirkham** concurred with Senator Burgoyne's analysis. **Senator Burgoyne** asked if the decision of the Commission

is appealable. **Mr. Kirkham** replied that it is not. **Senator Burgoyne** addressed the concern of a mix of law and fact in some cases, resulting in ambiguity of the charge. **Mr. Kirkham** replied that more scrutiny would be given by the Commission to those cases as some of them would be open to interpretation based on the preponderance of evidence. Further discussion was held to clarify the violations and the procedures that would be followed, with **Ms. Jones** repeating that the offense had to first be a violation of parole in order to be considered.

MOTION: **Senator Anthon** moved to send **S 1343** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion passed by **voice vote**.

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

HCR 39 **Representative Tom Dayley**, District 21, advised that **HCR 39** would reject **Docket No. 50-0101-1501, § 250, Subsection 05**, because the Idaho Department of Corrections (IDOC), after some consideration, decided they did not want to change the rule. **Senator Burgoyne** clarified to the Committee how IDOC's decision occurred. **Representative Dayley** acknowledged that Senator Burgoyne was correct.

MOTION: **Senator Souza** moved to send **HCR 39** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

HCR 40 **Representative Dayley** explained that **HCR 40**, regarding the use of liquor licenses, had been rejected by the House. He requested that the Senate do the same.

MOTION: **Senator Lee** moved to send **HCR 40** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

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

H 495 **Representative John Gannon** stated that young adults ages 18 through 20 are faced with a lifetime misdemeanor for violating the minor-in-consumption statute, i.e. possessing and/or consuming alcohol. This bill would vacate the guilt and seal the record so the young adult would not have a lifetime misdemeanor. There are conditions associated with this action. First, there must be only one minor-in-consumption violation. If the individual has two violations, he/she is not eligible. The second condition is having five years without any alcohol or drug-related violations.

Senator Souza asked why a diversionary program would not be considered instead of this approach. **Representative Gannon** replied that a diversionary program might be used. That is at prosecutorial discretion, and some prosecuting attorneys are stricter than others.

Senator Davis asked how this bill would work with **H 494**, as both of the bills modify the same code section. There was extensive discussion regarding the interaction of **H 494** and **H 495**.

MOTION: **Senator Davis** moved to send **H 495** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion passed by **voice vote**.

ADJOURNED: **Senator Lodge** adjourned the meeting at 2:53 p.m.

Chairman Lodge
Chair

Carol Cornwall
Secretary