

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, February 03, 2017

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Lee, Senators Davis, Hagedorn, Anthon, Agenbroad, Foreman, Bock (Burgoyne), and Nye

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 1:00 p.m.

MINUTES APPROVAL: **Senator Agenbroad** moved to approve the minutes of January 18, 2017. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Senator Lee** moved to send the gubernatorial appointment of Paula Garay to the Sexual Offender Management Board to the floor with recommendation that she be confirmed by the Senate. **Senate Bock** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Senator Davis** moved to send the gubernatorial appointment of Debbie Field to the State Board of Correction to the floor with recommendation that she be confirmed by the Senate. **Senate Lee** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT HEARING: **Eric D. Fredericksen, State Appellate Public Defender (SAPD). Mr. Fredericksen** introduced himself by sharing his background growing up in Idaho. He indicated that he grew up on a farm in Idaho and enjoys the outdoors. He has been serving as the Acting State Appellate Public Defender since July, 2016.

Senator Lee asked Mr. Fredericksen to share what improvements and challenges he has seen with the Justice Reinvestment Initiative (JRI). **Mr. Fredericksen** replied that public defenders had been showing up in court and not following up with the defendant, but under JRI the focus is on incorporating a wholistic defense system in which the defendant has follow-up, including during probation, thus reducing recidivism.

Senator Davis noted that Mr. Fredericksen is an adjunct professor at Boise State University (BSU). He asked what courses Mr. Fredericksen teaches, how long he has been with BSU, how much distraction this may be to the performance of his office, and what benefits it may bring. **Mr. Fredericksen** responded that he was an adjunct professor with BSU from 2003 until 2013. He taught Introduction to Law, Introduction to Criminal Procedure, and an evidence course. He indicated that a benefit of having taught is having developed the ability to communicate with individuals on a basic level regarding their defense. He stated there should be no distractions, and that his focus will be on his office. He emphasized his commitment to ensuring that the constitutional right to assistance of counsel is firm in Idaho, and that clients are adequately represented.

Senator Davis pointed out that Idaho has had multiple SAPD's during his tenure. He requested Mr. Fredericksen's opinion on why people readily leave that job. **Mr. Fredericksen** commented that he did not see anything being a problem with the job, but that it does provide training for positions with greater responsibility. **Senator Davis** inquired as to Mr. Fredericksen's gifts or talents that make him uniquely qualified to hold the SAPD position. **Mr. Fredericksen** advised that he has handled cases at every level of court in the State of Idaho. The cases included appeals, civil trials, felony criminal trials, and cases involving indigent individuals. **Senator Davis** asked what concerns or anxieties Mr. Fredericksen held about doing this job, and declared that the answer would not impact the vote. **Mr. Fredericksen** stated that his biggest concern is what he doesn't know that he doesn't know about the position. He observed that he has a tremendously talented group of attorneys and he wants to be sure he keeps those attorneys on his team. Learning new things every day, asserted **Mr. Fredericksen**, is what excites him about performing this job.

Senator Davis challenged Mr. Fredericksen to share something that is not on his resumé. **Mr. Fredericksen** related that he was the son of an English teacher and an attorney who instilled in him the knowledge that he needed to stand up for those who are not as lucky as he.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Eric D. Fredericksen, State Public Defense Commission (Commission). **Mr. Fredericksen** pointed out that public defense reform has been evolving, and has given the Commission the authority to enact rules. A new executive director has been hired to help negotiate the rules.

Senator Hagedorn expressed appreciation for Mr. Fredericksen's seriousness regarding public defense. He inquired what Mr. Fredericksen saw as the challenges facing the Commission. **Mr. Fredericksen** replied that the Commission is breaking ground for new processes. He expressed excitement regarding this new endeavor in improving Idaho's defense system.

**PASSED THE
GAVEL:**

Chairman Lodge passed the gavel to Vice Chairman Lee.

**DOCKET NO.
50-0101-1602**

Rules of the Commission of Pardons and Parole. **Jarod Cash**, Deputy Director, Commission of Pardons and Parole (CPP), explained that this rule change is an extension of a temporary rule put into place in 2016 to change Idaho Code § 20-229B. This rule change grants more discretion to the CPP in how to manage parole violators whose offences were violent or sexual in nature. **Mr. Cash** explained that the CPP wants to extend the temporary status of this rule as there will be statutory changes this year. The CPP will make larger rule changes next year aligning the rules with statute.

Senator Davis asked why this was a temporary rather than a pending rule. **Mr. Cash** turned the question over to Dennis Stevenson, Rules Coordinator, Office of Administrative Rules. **Mr. Stevenson** explained that the rule arrived in the rules office too late to meet the deadline for pending rules, so the request was made for an extension of the temporary status.

Vice-Chairman Lee inquired if implementing this rule change has brought about the results CPP had hoped for. **Mr. Cash** responded it has helped by placing parolees who have a more serious offense before the Commission, rather than automatically giving those parolees short-term sanctions. He stated that the minimal change in language gave additional flexibility to the process.

Senator Hagedorn expressed the thoughts of those who run the jails regarding the 90-day and the 180-day sanctions. They believe this process is compounding their issues with space and the cost to their jails. He also inquired if changing the "will" to "can" as it relates to the parole officers' discretions would help. **Mr. Cash** responded that the parolees with sanctions are spending less time in county jails, and that this language change benefits the county jails and manages the flow of offenders in a more efficient manner. He also said there are many steps taken before the parolees reach the level of being returned to jail.

MOTION: **Senator Anthon** moved to accept **Docket No. 50-0101-1602**. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 06-0102-1601 **Rules of Correctional Industries.** **Andrea Sprengel**, Financial Manager, Correctional Industries (CI), explained that this docket amends the rule passed last year with a request to modify the language in Section 013. Modifications made include changing the heading from "Inmate Compensation" to "Disbursement of Funds," and changing the word "may" to "must" as suggested by the Committee last year.

MOTION: **Chairman Lodge** moved to accept **Docket No. 06-0102-1601**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

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

ADJOURNED: There being no further business at this time, **Chairman Lodge** adjourned the meeting at 1:40 p.m.

Chairman Lodge
Chair

Carol Cornwall
Secretary