

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, March 10, 2017

TIME: 1:15 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Lee, Senators Davis, Hagedorn, Anthon, Agenbroad, Foreman, 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 1:15 p.m.

MINUTES APPROVAL: **Senator Nye** moved to approve the Minutes of January 30, 2017. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

Senator Anthon moved to approve the Minutes of February 8, 2017. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

Senator Nye moved to approve the Minutes of March 3, 2017. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

RS 25507 **Relating to Garvee.** **Senator Davis** moved to send **RS 25507** and **RS 25508** to print. **Senator Anthon** seconded the motion.

RS 25508 **Transportation Funds.** **Senator Brackett** said the SOP for RS 25508 needs to be sent back to committee for a change in the SOP.

VOTE: The motion was carried by **voice vote** with **Senator Hagedorn** voting no.

PRESENTATION: **Sexual Offender Management Board (SOMB) Report.** **Jon Burnham**, Chairman, SOMB, stated that SOMB exists under the Idaho Department of Corrections (IDOC), and its aim is to represent the diversity in the different populations that may be impacted by their decisions, and who may have feedback. She stated that 2016 was a year of transition with Kathy Baird, an administrative assistant with much experience, retiring. The position title has since been upgraded to program manager. A different level of expertise and responsibility has been given to the position, and Nancy Volle was hired as the new Program Manager.

Administrative rules and standards are in place for evaluations, treatment programs, treatment providers, and for polygraphers throughout Idaho. SOMB operation procedures have been completed. The number one goal is to refine the quality assurance process. Another goal is the refinement of the sexual offender registration system for juveniles and adults. Quality assurance is tied to the risk-based registration system. Certified providers are required to have on-going training. Current supervision guidelines pertain to adults; probational supervision guidelines for juveniles have not yet been developed (attachment 1).

DISCUSSION: **Senator Hagedorn** said the multi level risk based system had not passed previously. How would it be more successful this time? **Mr. Burnham** said the risk assessment pieces are solid and in place. That will impact how the levels get designated.

Chairman Lodge introduced Nancy Volle. **Nancy Volle** stated she was the new Program Manager for SOMB. She graduated in Criminal Justice and has been a Parole & Probation Officer and a Sex Offender Officer for the state of Idaho.

H 201

Relating to a petition for a name change. **Michael Henderson**, Legal Counsel of the Idaho Supreme Court, stated **H 201** was presented last year, but it has been revised to correct some issues. Language was not gender neutral and it appeared to only refer to name changes for minors. One question raised last year concerned emancipated minors. The term "emancipated minor" was not clear. Provisions for who has to be named in the petition of name change are clarified. Notice on the petition must be given at least 30 days before the hearing. This bill amends publication of the notice. Language was changed to allow the court to decide what newspaper would be used for the notice.

Senator Anthon asked why a newspaper of general circulation such as those used in city publications would not be used. **Mr. Henderson** said there is some existing inconsistency in the Idaho Code in this area. **Senator Anthon** said defining newspaper was one of the struggles. Would the court name the newspaper? **Mr. Henderson** said he was unsure how the newspapers were designated under the current statute. Magistrates will probably decide on the newspaper and designate it in the clerk's office. **Senator Anthon** asked if newspaper folks had looked at the bill. **Mr. Henderson** replied yes.

Senator Davis asked for clarification on wording for line 36 on page one. **Mr. Henderson** agreed the word "chapter" would be better than "section". **Senator Davis** asked about clarification of lines 29 and 30 wording. **Mr. Henderson** replied that the term "minor" in the context of lines 29 and 30 does not include an "emancipated minor".

Senator Nye asked about lines 31 and 34 which stated "must cause notice to be served on relevant people." He asked what would happen if the relevant people could not be found. **Mr. Henderson** said the "if known" provisions in 7803 would be applied. **Senator Nye** asked about page 1 line 34 serving grandparents. He wondered why, since grandparents do not have visitation rights, they have to be served? **Mr. Henderson** said it was a policy call whether or not they were included.

MOTION:

Senator Burgoyne moved to send **H 201** to the floor with a do pass recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

H 148

Relating to guardians and conservators, and the appointment of temporary guardians. **Mr. Henderson**, Legal Counsel of the Idaho Supreme Court, said guardians were appointed when they are needed for three types of persons: children; incapacitated persons; and persons with developmental disabilities as defined by law.

This bill permits co-guardians instead of a singular guardian. The authority of those guardians would be clear. Temporary guardian appointment provisions spell out how the appointment will take place, and the authority of the temporary guardian.

If a guardian fails to perform the duties as they should, a temporary guardian can be appointed. These provisions are repeated in regards to incapacitated persons. Temporary guardians for persons with developmental disabilities would be put into statute for the first time.

Court visitors are appointed by the court to act as the eyes and ears of the court in cases involving incapacitated persons. They investigate the nature and cause of the incapacity, what the individuals needs are, and other matters to provide assistance to the court. The proposed changes will take provisions out of statute regarding court visitors and place them in court rules. The proposed rule would state the court visitor must have a master's level degree in psychology, social work, or counseling. Those requirements can be waived if the visitor has a bachelor degree in one of the above disciplines.

Evaluation Committees are teams of three people who have technical training and experience in the area of developmental disability. They provide reports to the court on the impairment of the individual, the individual's needs, suitability of the person's proposed guardian, and recommendations on the type of guardianship that may be required. This bill proposes that the details of the reports be placed in rule, rather than statute. They can be adjusted then as needed to meet the needs of the courts.

DISCUSSION: **Senator Anthon** asked about a request for conservatorship regarding an incapacitated person. Was this included in the statute? **Judge Chris Beiter**, Magistrate Judge in Ada County, stated there was a provision for temporary conservatorship already in the statute. **Senator Anthon** said in a rural community, it can be a struggle to find someone with an appropriate degree. Some of the best court visitors were experienced nurses.

Judge Beiter said he would take that into consideration. **Senator Nye** asked how a matter was handled where co-guardians disagree. **Judge Beiter** said the court will have to determine individual situations.

Senator Nye asked if section 1 of this bill applied to guardians ad litem. **Judge Beiter** replied that the guardian ad litem does not have to be an attorney. Section 1 does not apply. **Senator Lee** asked about a situation where two grandmothers came to court. Would a temporary guardianship not be assigned because there are two people who have the ability or authority and willingness to act? **Judge Beiter** stated the court would have to decide between the competing petitions. **Senator Lee** wanted to make sure it did not preclude the ability to appoint a temporary because the language says "there is no other." **Senator Burgoyne** said the bill stated that no person other than the guardian appears to have the ability to act. If a grandparent did have the authority to act, the requirement has not been met to appoint a guardian.

Senator Anthon asked if the court would consider the petition if one grandmother held delegation, and the other grandmother wanted guardianship? **Judge Beiter** said the court would not have the authority to act while a case for guardianship is pending.

MOTION: **Senator Nye** moved to send **H 148** to the floor with a do pass. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lodge** adjourned the meeting at 2:25 p.m.

Senator Lodge
Chair

Carol Cornwall
Secretary

Audrey Hays
Assistant Secretary