

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, January 26, 2018

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Lee, Senators Hagedorn, Lakey, Anthon, Foreman, Potts, 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 1:31 P.M.

RS 25952 **Relating To Pre-Trial Release Amending Idaho Code § 19-2904 Authorizing Court To Determine Whether A Pre-Trial Supervision Program Is Appropriate In Certain Instances.** Sara Thomas, Administrative Director of the Idaho Supreme Court presented this Routing Slip (RS). **Director Thomas** noted the cost of handling pre-trial situations varied in different counties. She elaborated on the type of oversight common in these pre-trial situations and how it was handled throughout the State. She emphasized the counties handle these costs differently.

Director Thomas explained that for some of the counties there were no fees associated with placement on pre-trial release. She noted that, in turn, other counties were overcharging what it would typically cost to be on probation. She commented working on a software application to streamline this process and to allow for collection of pre-trial fees. She explained the Idaho law lacked adequate statutes to authorize these pre-trial fees.

DISCUSSION: **Senator Potts** asked if the fees are charged to the defendants or covered by the State. **Director Thomas** explained the collection varied with each county. She noted some counties collected none, others collected the fee through the Clerk of the Court, or alternatively on the account of probation officers. **Senator Potts** inquired if this RS will authorize counties to collect the fees or make them mandatory. **Director Thomas** responded the intent is to authorize the collection of the fee with set a cap of \$30.00 maximum. She noted how the cap was intended to reduce the exorbitant costs some counties charged.

Vice Chairman Lee requested clarification on how the fee is applied. **Director Thomas** pointed out that the fee does not require creation of a pre-trial release program. She noted the intent of the legislation is to allow for the collection. She explained the fee is a supervision fee which is allocated for the supervision program. She noted other fees are collected to fund other programs.

Vice Chairman Lee asked if the intent was to regulate and reduce discrepancies. **Director Thomas** responded that the intent is, in part, to regulate and to alleviate fee discrepancies with the various collections.

MOTION: **Senator Anthon** moved to print **RS 25952**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 25953 **Relating To Criminal Procedure - Amending By Adding New Section Idaho Code § 19-2525 To Provide Reimbursement Eligibility From Court Following A Vacated Order of Restitution. Jason Slade Spillman**, Legal Counsel of the Administrative Office of the Idaho Supreme Court, presented this RS. He noted this RS was a proposal for the process in rare legal situations. He elaborated that defendants are directed to pay fines and restitutions through the Clerk of the Court. He explained, once restitution of fines is made, the defendant's conviction is vacated on appeal. He noted the defendant is entitled to reimbursement of said fees and fines. He noted that State of Idaho lacked statutes for reimbursement of those fines to defendants. He noted this bill proposed a process of facilitating reimbursement to defendants.

MOTION: **Senator Hagedorn** moved to print **RS 25953**. **Vice Chairman Lee** seconded. The motion passed by **voice vote**.

RS 25619 **Relating To Escapee Juvenile Offenders Amending Idaho Code § 20-532A. Sharon Harrigfeld**, Director for the Department of Juvenile Corrections, noted what the term "custody" was applicable to with respect to juvenile offenders. She explained differences as to what constitutes an actual juvenile escapee and to which situations it applied.

MOTION: **Senator Anthon** moved to print **RS 25619**. **Vice Chairman Lee** seconded. The motion passed by **voice vote**.

RS 25620 **Relating To Juvenile Corrections Amending Idaho Code § 20-520 Removing Provision For Review Of Certain Reports And Clarifying Juvenile Detention Placement. Sharon Harrigfeld**, Director for the Department of Juvenile Corrections (DJC), noted this RS pertained to occurrences in which juvenile history report could be reviewed before a sentencing judge. She noted the rule presently required the judge not to review the social history report until after the disposition. She elaborated that this practice lacked analysis with the DJC. She noted the removal of this sentence would alleviate confusion. She addressed the language which permitted holding juvenile offenders. She noted how that was not the preferred practice. She emphasized the removal of the language would clarify this section.

DISCUSSION: **Senator Hagedorn** asked if trial attorneys were reached for comments. **Director Harrigfeld** responded they were not. She elaborated that the current practice dictated that juveniles not be retained in jails. **Senator Hagedorn** inquired as to why the specific court should not consider a review. **Director Harrigfeld** responded when juveniles are arrested and placed on probation their social history is completed as part of the inquiry. She noted the language stated that the court could not review juvenile's social history report. She explained, in the current practice, the court would want to do so in order to possibly divert a juvenile. She explained there may be underlying issues that need to be adjudicated prior to the review.

Senator Hagedorn asked if the current practice was not occurring in accordance with the statutes. **Director Harrigfeld** explained the need to clean up the language so the practices would be conformed throughout the State.

Senator Lakey asked if a juvenile has been sentenced was the offender placed in a facility. **Director Harrigfeld** responded that, unless a juvenile is a habitual offender, he/she can be securely detained.

MOTION: **Senator Lakey** moved to print **RS 25620**. **Vice Chairman Lee** seconded. The motion passed by **voice vote**.

RS 25689 **Relating To Juvenile Corrections Act Amending Idaho Code § 20-520 Regarding Notice To Parties Of Juvenile Offender Release.** **Sharon Harrigfeld**, Director for the Department of Juvenile Corrections, explained the language clarification that stakeholders were notified when juvenile offenders were released or awaiting anticipation of release.

MOTION: **Senator Anthon** moved to print **RS 25689**. **Senator Lakey** seconded. The motion passed by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lodge** adjourned the meeting at 1:50 P.M..

Senator Lodge
Chair

Anna Wroblewski-Jones
Secretary