

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Friday, February 23, 2018

**TIME:** UPON ADJOURNMENT OF THE SENATE AND MAJORITY CAUCUS

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Lee, Senators Hagedorn, Lakey, Foreman, Potts, Burgoyne, and Nye

**ABSENT/  
EXCUSED:** Senator Anthon

**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** convened the meeting of the Senate Judiciary and Rules Committee (Committee) at 12:20 P.M.

**GUBERNATORIAL  
APPOINTMENT  
VOTE:** **Vice Chairman Lee** moved to send the gubernatorial appointment of Cortney Dennis to the Commission of Pardons and Parole to the floor with the recommendation that she be confirmed by the Senate. **Senator Burgoyne** seconded. The motion carried by **voice vote**.

**GUBERNATORIAL  
APPOINTMENT  
VOTE:** **Senator Lakey** moved to send the gubernatorial appointment of Rich Wills to the Commission of Pardons and Parole to the floor with the recommendation that he be confirmed by the Senate. **Senator Burgoyne** seconded. The motion carried by **voice vote**.

**GUBERNATORIAL  
APPOINTMENT  
VOTE:** **Senator Potts** moved to send the gubernatorial appointment of Shellee Daniels to the State Public Defense Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Burgoyne** seconded. The motion carried by **voice vote**.

**S 1298** **Relating to Criminal History Records to Provide for the Retention and Destruction of Certain Fingerprints.** Bill **S 1298** was presented by Senator Grant Burgoyne. **Senator Burgoyne** described the current process of what transpires with fingerprints once they have been captured with law enforcement. He explained the costs associated with repeated background checks. He noted this legislation would allow the updated information to be automatically shared, in particular he called attention to school districts which may not have to perform repeated checks once the teacher/educator is in the system. He explained the importance of the type of records shared in the system, specifically arrests and charges, even if the individual might not be convicted. He also discussed the various crimes this legislation would affect. He provided examples in which this legislation would become very useful. (Attachment 1)

**DISCUSSION:**

**Senator Potts** asked regarding tracking of the information. **Senator Burgoyne** responded each entity will be required to track in accordance with individual's rights. He requested that Bureau Chief within the Idaho State Police of the Bureau of Criminal Investigations, Dawn Peck explain.

**Ms. Peck** responded that when someone is fingerprinted they receive their statement of rights. She noted Idaho will participate in the federal data sharing program. She explained how agencies will be able to enroll in this "rat back" legislation program. She provided examples of how the checks and notifications are accomplished, in particular with the Board of Medicine (BOM).

**Vice Chairman Lee** inquired regarding current resources and needed funding. **Ms. Peck** responded extensive analysis went into this project and most of it will be automated infrastructure without the requisite additional employees.

**Ms. Annie Lawler**, Executive Director for the BOM provided a practical perspective in application of the updated fingerprints and records. She noted various medical professionals licensed through the BOM. She explained current statutes did not require licensees to report current criminal arrests, convictions, and charges. She noted that the staff currently does not have the time allowance to perform updated searches on each licensee. She praised how the "rat back" legislation would assist in this challenge via automated means without the expansion of staff.

**MOTION:**

**Senator Potts** moved to send **S 1298** to the floor with a **do pass**. **Vice Chairman Lee** seconded. The motion passed by **voice vote**.

**S 1300**

**Relating to Pre-Trial Release and to Provide for a Pre-Trial Supervision Fee** presented by Sara Thomas, Administrative Director of the Idaho Supreme Court. **Director Thomas** explained the definition of "pre-trial supervision". She noted the importance of releasing someone and the process to determine whether bail should be imposed. She explained current statute also states that a judge may impose conditions of release on anyone released pre-trial, whether on their own recognizance or on bail, a condition of release is specifically defined.

**Director Thomas** explained that judges may impose conditions of release upon a defendant and do so to address the duty to consider protection of victims, witnesses, and the public. Idaho law does not currently identify a mechanism to monitor defendants in compliance with the conditions that are imposed, and similarly, bail bonds do not ensure compliance with the conditions of release. She explained at length how the counties follow through on the process of supervision, as well as how fees are imposed and collected. She noted the importance of fees collected that are due and owing to the court. She described the responsibility for tracking and managing these fees which already existed with the courts.

**Director Thomas** elaborated on what the legislation was intended to accomplish; she noted it would provide clear standards deemed by the courts, should a defendant's participation be necessary to ensure protection of victims and witnesses among others. She noted that setting a monetary cap would aid in having the financial obligation be repaid by defendants, ultimately giving the counties what is due and owed. (Attachment 2)

**DISCUSSION:**

**Senator Burgoyne** inquired regarding the dismissal of charges and in such a scenario would the defendant be eligible for a refund. **Director Thomas** responded that it would not be so since the service was received by way of monitored supervision. An extensive discussion ensued regarding the complexities of the process of tracking, funding, and managing pre-trial supervision vis a vie the courts and counties with the topics including:

- impact on the bail bond industry
- requirements of conditions of release
- cost of pre-trial supervision fee
- collection of pre-trial supervision fee
- tracking and managing the pre-trial supervision fee
- necessity of managing the pre-trial supervision fee with additional employees
- fiscal impact

**Seth Grigg**, Executive Director of the Idaho Association of Counties presented on behalf of the IAC and in support of **S 1300**. He explained counties' role in the process and how the fees allocation is permitted to the counties in statute. He elaborated how the legislation would benefit the counties, in particular with the overcrowding of the jail population.

**Senator Potts** inquired regarding counties' support of this bill. **Director Grigg** responded that counties are in full support. He elaborated on the counties being in a unique relationship with the courts.

**Director Thomas** responded that it is in part courts' responsibility because courts rely on these fees and work with the counties. She noted that the software Odyssey will be the court's official electronic record once payments are initiated.

**Senator Lakey** praised the bill as a practical solution to help the courts and counties work together. **Senator Burgoyne** expressed concern with the criminal justice system. **Senator Hagedorn** expressed concern over the application of Odyssey and its implementation. **Vice Chairman Lee** noted this was a positive step forward. **Senator Foreman** shared concerns with state government approach to the counties handling of this issue. **Senator Potts** shared governmental overreach concerns. **Chairman Lodge** praised courts and counties coming together for a solution.

**MOTION:**

**Senator Lakey** moved to send **S 1300** to the floor with a **do pass**. **Senator Burgoyne** seconded. The motion passed by **voice vote**. **Senators Hagedorn, Foreman and Potts** voted **nay**.

**MINUTES APPROVAL:**

**Senator Lakey** moved to approve the minutes of January 31, 2018. **Senator Burgoyne** seconded. The motion passed by **voice vote**.

**MINUTES APPROVAL:**

**Senator Potts** moved to approve the minutes of February 5, 2018. **Senator Nye** seconded. The motion passed by **voice vote**.

**ADJOURNED**

There being no further business, **Chairman Lodge** adjourned the Committee meeting at 1:23 P.M.

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Senator Lodge  
Chair

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Anna Wroblewski-Jones  
Secretary