

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 16, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, 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 Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:32 p.m.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Lee.

DOCKET NO.
11-0301-1801 **Major Charlie Spencer**, Idaho State Police (ISP), explained the Idaho Forensic Services Laboratory had been working on this rule since the last legislative session and the changes were not quite ready. There were significant efforts invested with stakeholders to have everyone approve the changes. **Major Spencer** stated that breath alcohol instruments must be on the National Highway Traffic Safety Administration (NHTSA) register. ISP has no advance notification when these updates will occur to include Idaho. The amended rule approved last year is being extended to allow more time for the ISP to finish the process and will come before the Committee again next year.

MOTION: **Senator Anthon** moved to approve **Docket No.11-0301-1801**. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

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

GUBERNATORIAL APPOINTMENT HEARING: **Dan Dinning**, having been appointed to the State Public Defense Commission (Commission), was called and spoke to the Committee on speaker phone. **Mr. Dinning** stated that he was a life long Boundary County resident and took office as County Commissioner in 2001. He explained that he was involved with several local organizations and had been reelected to serve another four-year term as Commissioner. **Mr. Dinning** indicated that his interest in public defense was a result of the impact it has on small counties. He wants to help improve the process and be there to represent the small counties, and to a larger extent, the State in whatever changes are being made.

Senator Burgoyne and **Mr. Dinning** discussed how **Mr. Dinning** could be effective in helping to build a public defense system that would serve all of Idaho. They also discussed what improvements and challenges he would be focusing on.

GUBERNATORIAL APPOINTMENT HEARING: **Eric Fredericksen** having been re-appointed the State Appellate Public Defender, introduced himself and listed the various committees and commissions he has served on or is currently serving on. The focus of the Public Defenders Office is to provide constitutionally-sound representation for indigents on appeal. **Mr. Fredericksen** stated that two years ago the Legislature provided a retention plan to help retain attorneys employed by the Public Defenders office. Since that time they have not lost a single appellate attorney and have been able to attract very qualified capitol attorneys.

Mr. Fredericksen shared information regarding criminal activity in Idaho. He indicated there were a few more heroin cases, the same number of murder cases, and the number of capitol cases had risen slightly. There was an increase at the district court level but not as much at the appellate court level. **Senator Burgoyne** asked if there were areas where the Legislature could help with more funds. **Mr. Fredericksen** suggested that they needed more funds to retain support staff. Another area of concern was in reducing the case load of the trial level public defenders.

Senator Burgoyne was interested in what the demarcation line was between the state and local public defenders on handling appeals. **Mr. Fredericksen** explained the types of cases his office handled.

GUBERNATORIAL APPOINTMENT HEARING: **Brian Marx** having been appointed to the State Sexual Offender Management Board (Board) stated his experience. **Mr. Marx** Attorney, Ada County Public Defenders Office, indicated that he was a University of Idaho Law School graduate and had worked for 11 years for Ada County. He stated that he was looking forward to being a member of the Board.

Chairman Lakey questioned how the Board interacted with the other components of the criminal justice system. **Mr. Marx** explained that a representative from each group meets to provide a wide spectrum of perspectives and to determine how the rules are formed and what impact they had on those involved.

Vice Chairman Lee asked Mr. Marx what his experience could add to this position. **Mr. Marx** indicated that being able to see how evaluations are seen by the court and knowing how to present them to the court is an effective way his experience would be helpful. **Senator Burgoyne** and **Mr. Marx** discussed what Mr. Marx wanted to see accomplished during his tenure in this position. **Mr. Marx** indicated that one of the goals of the Board was to have certified, qualified people conduct evaluations and provide treatment. They also discussed Mr. Marx's opinion that the sex offense cases were the ones that carry a unique stigma because of the collateral consequences. He stated that discussing those concerns with the Board and finding resolutions were his goal.

GUBERNATORIAL APPOINTMENT HEARING: **Jonathan Loschi**, having been appointed to the State Public Defense Commission, indicated that his current employment is with the Ada County Public Defenders Office. He is the chief criminal deputy and is in his nineteenth year of employment there. He developed a passion for this type of work and his own ideas about how things should be done. One of his goals was to develop a cohesiveness with larger and smaller counties.

Senator Lee and **Mr. Loschi** discussed how vital it is to find out what the public defenders are doing so they can determine case load standards. **Senator Lakey** and **Mr. Loschi** briefly commented on the difficulty involved in the grant process. **Mr. Loschi** indicated that he would look into the possibility of making a model that would streamline the process making it easier for the smaller counties.

RS 26446 **Eric Fredericksen**, Criminal Justice Commission (Commission), stated that the goal of the Commission was to get every entity that touches criminal justice issues in the same room at once to make mutually beneficial decisions. These entities need to be involved in determining the decisions made on evidence-based practices. With all entities involved it is possible to evaluate all concerns under every lens touched by these issues. **RS 26446** was created to identify and address the struggles of the victims of human trafficking. The rationale behind this legislation is to codify discretion of all prosecutors so when federal grants are being applied for, an affirmative defense can be given for all victims of human trafficking.

MOTION: **Senator Anthon** moved to send **RS 26446** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

Chairman Lakey suggested to Mr. Fredericksen that on the actual hearing of the bill he may want to be prepared to expound on the application of the affirmative defense provision and how that process works.

RS 26466 **Sheldon Kelley**, Lieutenant Colonel, Idaho State Police (ISP) presented **RS 26466** relating to the Blue Alert System in Idaho. He indicated that the system is very similar to the Amber Alert System and is currently being used in over 30 states. It would be administered by the ISP.

MOTION: **Senator Cheatham** moved to send **RS 26466** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 26447 **Eric Fredericksen**, Idaho Criminal Justice Commission (Commission), indicated that he had chaired the subcommittee dealing with human trafficking legislation. They evaluated the current version of the statute and were proposing some minor changes. The first change acknowledges that human trafficking is an issue and that education is very important for law enforcement. The goal of this was to help officers identify when situations really are human trafficking. It also provided a definition for sex trafficking and commercial sexual activity. Another change would let human trafficking be a stand alone offense rather than an enhancement offense as it had been in the past.

MOTION: **Senator Lodge** moved to send **RS 26447** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

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

Senator Lakey
Chair

Sharon Pennington
Secretary