

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 05, 2019

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Dayley, Vice Chairman Chaney, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Doug Taylor, ISC District 3; Paul Riggins, Idaho Association Criminal Defense Lawyers; Tony Geddes, Ada P17; Jesse Taylor, ABC; Nicole Fitzgerald, Idaho Council on DV; Kellie Lavrgne, Shoshone County Crisis & Resource Center; Chauntelle Lieske, Safe Passage; Rebecca James, Boundary Co. Victim Services; Debra Jacobs; Jennifer Zielinski; Emerald Douthit; Jaime Hansen, Family Advocates

Chairman Dayley called the meeting to order at 1:30 p.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of January 15, 2019, January 29, 2019 and January 31, 2019. **Motion carried by voice vote.**

Chairman Dayley explained the role of legislators is to be cognizant of policy impacts on germane agency budgets so he will provide a review before the Joint Finance-Appropriation Committee on February 13, 2019. He requested that Committee members let him know if there are any budgetary matters to be addressed before JFAC. In answer to questions from the Committee, Chairman Dayley clarified the RS introduction hearings are to answer questions regarding the SOP, Fiscal Notes or technical corrections that may need to be made in the RS, but substantive matters are discussed when it comes before the Committee as a bill.

RS 26685: **Rep. Rubel** and **Rep. Zollinger** presented **RS 26685**. A similar bill was introduced and passed by the House last year. It revises mandatory sentences for certain drug trafficking substances, removes the word "mandatory" from this section of code, and gives judges the latitude to impose sentences, including mandatory sentences under certain circumstances. In answer to questions from the Committee, Rep. Rubel clarified there are still cases where minimum sentences must be used. Removing the word "mandatory" creates an escape hatch for judges to use discretion.

Rep. Marshall stated he is concerned about the direction of where criminal code is going, particularly around the use of certain language of attainder. Regarding this RS, he stated the use of the words "is guilty" is concerning since it is not the Legislature's role to pronounce guilt. **Rep. Rubel** responded that this may be a far broader issue with the entire criminal code, so it may not make sense to address it in just this proposed legislation. She said this RS has been vetted extensively and would like to move forward with the RS as is. **Rep. Zollinger** concurred and suggested a sub-committee or working group could be formed to address a clean up of the entire criminal code to address Rep. Marshall's concerns.

MOTION: **Rep. McCrostie** made a motion to introduce **RS 26685**. **Motion carried by voice vote.**

Barry Wood, Senior Judge, Administrative Office of the Courts introduced the panel of District Judges and Administrative District Judges.

Melissa Moody, Administrative District Judge, Fourth Judicial District presented a case for funding two Magistrate Judges and one District Judge in Ada County. She stated defendants have the right to be listened to, respected and have the court process explained, but this isn't possible with heavy caseloads. For example, there are 900 cases and trials backed up in the Family Law division and it can take 10 months for contested cases to be heard. The last judge requested for Ada County was in 2012.

Eric Wildman, Administrative District Judge, Fifth Judicial District, spoke about the importance of official court reporters and the difficulty in filling these positions. Verbatim transcripts of court proceedings are required and failure to keep an accurate record is a risk to due process. He stated positions are difficult to fill. They are filling the gaps with recorders from other districts or freelance contractors at a reduced rate, but there is a lack of funding to pay for travel per diem. Thirteen court reporters will retire in the next five years, and an additional 15 will retire in the following five years. He explained the difficulty with using only audio recordings. The failure of a recording can result in retrial. Higher compensation and travel per diems are needed to attract the highly skilled court reporters. The courts are also creating a work force development program.

Jeff Brudie, District Judge, Second Judicial District, provided an overview of the problem-solving courts which can be effective in identifying people who can be treated and rehabilitated to avoid prison sentences. It's a team approach that involves a district manager, court coordinators, treatment providers, prosecuting and defense attorneys and probation officers. The problem-solving courts are volunteer positions. They get started based on a judge's interest. Problem-solving courts often operate before or after normal business hours, and is in addition to regular caseloads. He stated the recidivism rates for those going through the drug problem-solving courts is lower when compared to the rider program or probation.

Mitchell Brown, Administrative District Judge, Sixth Judicial District, provided an overview and update on the iCourt project, better known as Odyssey. He stated it is quick and easy to access to iCourt records across counties, for any case at any time. Attorneys can also file electronically to meet timelines. The final process of the buildout is to implement an upgrade in late 2019 and early 2020 to enhance performance and improve usability. There are plans to implement modules that will make jury selection more manageable; streamline the access to data; improve case load management; and upgrade the public portal. In answer to questions from the Committee, Judge Brown stated Odyssey needed to be implemented because the previous system was obsolete. The vendor contract ensures all upgrades to the system will be available free of charge. The vendor works with 13 other states covering 40% of the courts in the U.S. and is very reputable.

In answer to questions from the Committee, **Judge Brudie** stated there are six Veteran problem-solving courts in the state and expansion would need more funding and judges who are interested in taking them on. **Judge Wood** further explained he did not immediately know the amount of funding that would be needed to expand the number of Veteran courts because it involves a broad range of stakeholders including support from the counties. Judge Brudie explained there is a backlog in the mental health courts. Defendants qualify for mental health problem-solving courts based on five specific diagnoses. If they don't qualify for mental health court, they end up in other courts and often end up in prison.

- RS 26665:** **Rep. Wintrow** presented **RS 26665**, which deals with raising the marriage age to prevent forced or coerced marriage. The RS came about as a result of her work on the human trafficking subcommittee under the Criminal Justice Commission. This proposed legislation aligns with Idaho's statutory rape laws and closes a loophole. It permits minors to marry only if they consent to do so, have permission from parents or legal guardian, and a review by the court.
- MOTION:** **Rep. Davis** made a motion to introduce **RS 26665**. **Motion carried by voice vote.**
- HR 1:** **Chairman Dayley** stated **HR 1** was held in Committee for a time certain of February 5, 2019 to allow time for comment and input from members who voiced concerns during the public hearing on January 21, 2019. He will bring back a new RS before the committee on Thursday, February 7, 2019.
- MOTION:** **Rep. Chaney** made a motion to postpone consideration of **HR 1** for a time certain of February 7, 2019. **Motion carried by voice vote .**
- ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 3:05 p.m.

Representative Dayley
Chair

Wendy Carver-Herbert
Secretary