

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 22, 2020

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 1:30 p.m.

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

GUBERNATORIAL APPOINTMENT VOTE: **Senator Anthon** moved to send the Gubernatorial appointment of Karen Neill to the State Board of Correction to the floor with the recommendation that she be confirmed by the Senate. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Burgoyne** moved to send the Gubernatorial appointment of Angela D. Barkell to the State Public Defense Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Grow** moved to send the Gubernatorial appointment of Raymond David Moore to the Commission on Pardons and Parole to the floor with the recommendation that he be confirmed by the Senate. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT AND REAPPOINTMENT VOTE: **Senator Cheatham** moved to send the Gubernatorial appointment of Tony L. Plott to the Commission on Pardons and Parole beginning July 5, 2019 through December 31, 2019 and the Gubernatorial reappointment beginning January 1, 2020 through January 1, 2023 with the recommendation that he be confirmed by the Senate. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

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

DOCKET NO.11-0301-1901 **Matthew Gammett**, Forensic Specialist, Idaho State Police, stated that **Docket No. 11-0301-1901** identified and eliminated things that were obsolete, outdated or unnecessary. Updates were made to clarify the number and types of breath samples required to be valid for court purposes and a reference to the newest federal register notification describing breath testing instruments was included.

- DISCUSSION:** After questions from the Committee, **Mr. Gammett** clarified that the monitoring period clearly states there is an observation period and a deprivation period. He indicated that if a subject is being difficult and the number of required samples is not obtained, the court would consider one sample valid. He stated that this rule would be used mainly for cases in the field. **Chairman Lakey** confirmed with **Mr. Gammett** that the changes being made were not inconsistent with any of the design parameters or specifications for use of the equipment itself. **Mr. Gammett** commented that they are consistent with everything they had been doing; this rule clarifies the definitions and states how they would be applied functionally while administering the breath test.
- MOTION:** **Senator Burgoyne** moved to approve **Docket No. 11-0301-1901F**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.
Vice Chairman Lee passed the gavel back to Chairman Lakey.
- PRESENTATION:** **Judge Barry Wood** introduced himself and the Administrative Court Judges. He explained that each judge would speak on areas they are well experienced in.
- PRESENTATION:** **Magistrate Judge David Epis**, Fourth Judicial District, stated when he first started as a judge there were no judicial performance evaluations and no mentor programs. He gave a brief history of the mentor program prior to 2001. The Judicial Council decided to pilot a program to give formal performance evaluations. The Council consulted with the National Center for State Courts to obtain a tool that would measure a judge's performance and identify blind spots as well as strengths. The current program includes every judge being evaluated once every three years. They now have a local mentor judge, a statewide mentor judge, and a facilitator judge for each judge in the State of Idaho.
- DISCUSSION:** In response to **Vice Chairman Lee's** questions, **Judge Epis** stated that there had not been any areas where extra training was needed. He shared that judges are very independent people but they had responded well to the evaluations and resulting feedback.
- PRESENTATION:** **Magistrate Annie McDevitt**, Fourth Judicial District, indicated that 40 percent of the Idaho judiciary are new judges. Judicial education is imperative to enhancing professionalism of the judiciary and promoting the rule of law. The goal of the Idaho Judiciary is to provide access to justice by ensuring fair process in a timely, unbiased manner. **Judge McDevitt** explained the orientation process and continuing education that Idaho judges receive and the benefits from both programs.
- DISCUSSION:** **Chairman Lakey** inquired about her experience with the appointment process. She explained it and indicated that it was very positive.
- PRESENTATION:** **Magistrate Judge John Lothspeich**, Fifth Judicial District, stated that detention without a hearing is the most common method to hold a mentally ill person. The person must be in imminent danger of hurting themselves or others. They have 24 hours to obtain a court-ordered hold. **Judge Lothspeich** described the steps and processes involved in trying to determine a patient's mental illness and in developing a plan for how to help them. He indicated that there had been an 18 percent increase over the last five years in mental commitments. Bed space shortage is compromising the treatment plans and setting patients up for potential recommitment without getting their needed care. He discussed Assisted Outpatient Treatment (AOT) which provides community-based mental health treatment options as a possibility for Idaho's shortage of facilities to take care of the mentally ill.

DISCUSSION: **Senator Anthon** asked if the increase in commitments is commensurate with an increase in the number of recommitment slots. **Judge Lothespeich** confirmed this. He saw two concerns, one being that mental illness can be multigenerational, and the other being the lack of qualified psychiatrists and psychologists to work with the patients.

Chairman Lakey asked Judge Wood if he would provide information regarding magistrate vacancies in Idaho. **Judge Wood** explained that recruitment and retention were the main challenges regarding the vacancies. He stated that he would provide a report issued in 2014 that still holds true in the area of judicial turnover. Both of these areas are discussed in detail in the report (see Attachment 1).

Senator Burgoyne commented that it would be very difficult to return to private practice after being a judge even though a judgeship could be very satisfying. **Senator Lodge** expressed how many sacrifices are made by family members and the many social contacts that change when one spouse decides to become a judge.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:55 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary