

MINUTES  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**

**DATE:** Thursday, January 21, 2021

**TIME:** 1:30 P.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representative(s) Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Chairman Chaney, Representative(s) Ruchti

**GUESTS:** Matthew Gammette, Idaho State Police; Seth Grigg, Idaho Association of Counties; Eric Fredricksen, SHPN; Tony Geddes, Ada County Public Defenders; Mariel Wilson, a guest of Rep. Ruchti; Nancy Volle, Sex Offender Management Board; Andrew Masser, Baldauf Masser LLP; Leslie Duncan, Kootenai County; Anne Taylor, Kootenai County Public Defender; Sean Walsh, Walsh Law Group; Darrell Bolz, Public Defense Commission; Justin McCarthy, Blaine County Public Defender; Lauren Bramwell, ACLU; Richard Eppink, ACLU; Jay Logsdon, Kootenai County Public Defender.

**Vice Chair Hartgen** called the meeting to order at 1:36 p.m.

**RS 28083:** **Rep. Erickson** introduced himself as the RS sponsor and then introduced **Director Monty Prow**, Idaho Dept. of Juvenile Corrections, who presented **RS 28083**. The Juvenile Corrections Act (JCA) has served Idahoans well, but occasionally it is necessary to make changes to its language and content which is being proposed today. The purpose of this proposed legislation is to update the definitions of status offenders being placed in secure facilities and to eliminate the use of habitual status offender definitions in subsequent statutes of the JCA, thereby keeping pace with current practices in Idaho and nationally. There will be no fiscal impact and the RS does not introduce any new obligations on the part of Idaho's Juvenile Justice System.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 28083**.

**Vice Chair Hartgen** called a short recess at 1:41 p.m. to correct sound issues in the room and to obtain some copies. The Meeting resumed at 1:45 p.m. and **Director Prow** was asked to repeat his presentation.

**VOTE ON MOTION:** **Motion carried by voice vote.**

**RS 28096:** **Director Prow** introduced **RS 28096** pertaining to a change to Juvenile Corrections Rules definitions. This RS is mainly for maintaining uniformity of current definitions within the Juvenile Corrections Act (JCA). And ensures that the JCA keeps pace with current practices within the Idaho Juvenile Justice System. There is no fiscal impact, and the RS does not introduce any new obligations on the part of the Juvenile Justice System.

**MOTION:** **Rep. McCrostie** made a motion to introduce **RS 28096**. **Motion carried by voice vote.**

**Vice Chair Hartgen** turned the gavel over to **Rep. Kerby**.

**RS 28087:** **Rep. Hartgen** presented **RS 28087** pertaining to Sex Offender Management Board (SOMB) records. In 2001 the Sex Offender Classification Board was dissolved due to a lawsuit and a court decision, they were no longer allowed to rate or classify violent sexual offenders. All the records from the Sex Offender Classification Board (SOCB) were then transferred to the Sex Offender Management Board (SOMB) and new rules were to be followed. In these changes a clerical error was made when the Bill was printed last year and the acronym SOCB was not replaced with SOMB, **RS 28087** corrects that error.

**MOTION:** **Rep. McCrostie** made a motion to introduce **RS 28087**. **Motion carried by voice vote.**

**RS 28110:** **Rep. Hartgen** presented **RS 28110** pertaining to the State Police Forensic Lab. It is the Forensic Lab's job to collect stats on why people die. This RS is not mandatory but instead it enables Counties who are not funded for non criminal case forensic testing to perform forensic testing in non-criminal cases, and passes the costs of forensic testing to the State Lab.

**MOTION:** **Rep. Nash** made a motion to introduce **RS 28110**. **Motion carried by voice vote.**  
**Rep. Kerby** turned the gavel back over to **Vice Chair Hartgen**.

**RS 28109:** **Rep. Amador** presented **RS 28109** pertaining to the Liquor Account POST Fund. This RS requires the Committee to make a policy decision that effects the budget of the POST Academy which is managed by the Idaho State Police. Over the past 10 years the Legislature has been appropriating dollars to fund POST but the dollars are not materializing in the fees and fines that are used in the dedicated fund. These shortages are resulting in growing reverted appropriations, from \$600,000 to \$800,000 in reversions, essentially the fines and fees are not netting enough to run the POST Academy. This legislation would redirect some dollars that come from the Idaho Liquor Fund, it would divert \$400,000 from the General Fund and \$400,000 from Cities and Counties fund. The Liquor Fund has been growing considerably over the past few years, so the potential impact could be less the expected.

After presenting **Rep. Amador** stood for questions. Committee members had concerns about diverting funds from the Cities and Counties fund. A question was raised if the POST Academy attendees are not coming from Cities and Counties and if fees are involved for their training at POST. **Rep. Amador** yielded to **Brad Johnson**, Administrator of Peace Officer Standards and Training (POST). Mr. Brad Johnson confirmed that the largest percentage of those trained at POST do come from cities and counties and the cities and counties do not pay for POST training. It was asked what average training expenses amount to and Mr. Brad Johnson responded that the costs range from \$2,000 to \$10,000 per person depending on the discipline and the curriculum involved. It was asked why some counties and cities do not use POST for training. Currently there are four agencies who provide their own training program, the State Troopers, Boise Police Dept., Ada County and Nampa/Meridian combined operating their own training academy. This arrangement works out well for them and POST in that it allows those city/counties to customize their training and POST can better accommodate the volume of attendees it currently has. The question was asked if this funding short fall has been taken to JFAC and if there is a reason they are denying them the funding they need. Mr. Brad Johnson answered that POST does not receive any general funds, they solely operate on a dedicated fund and some federal grants. They have been working with JFAC, the Governor's Office and the Legislature to find a sustainable funding source and so far they have not been able to come up with one that is acceptable for everyone. The solution presented in this RS has the Governor's support.

**MOTION:** **Rep. Gannon** made a motion to introduce **RS 28109**.

**ROLL CALL  
VOTE ON  
MOTION:**

A roll call vote was requested. **Motion carried by a vote of 9 AYE, 6 NAY. Voting in favor of the motion: Reps. Hartgen, Kerby, Amador, Ehardt, Troy, Young, Gannon, McCrostie, Nash. Voting in opposition to the motion: Reps. Scott, Marshall, Nate, Cannon, Erickson, Skaug.**

**RS 28245:**

**Rep. Skaug** presented **RS 28245** pertaining to the Third Judicial District Judges, in **Rep. Chaney's** absence. The last new Judge was added in District 3 in 2013, and currently civil cases are backed up two years and criminal cases are also mounting up, making an additional judge imperative.

**MOTION:**

**Rep. McCrostie** made a motion to introduce **RS 28245. Motion carried by voice vote.**

**DOCKET NO'S.  
61-0101-2001,  
61-0102-2001,  
61-0103-2001,  
61-0104-2001,  
61-0106-2001,  
61-0107-2001,  
61-0108-2001**

**Kathleen Elliott**, Executive Director of the Public Defense Commission (PDC) presented **Docket No's.: 61-0101-2001, 61-0102-2001, 61-0103-2001, 61-0104-2001, 61-0106-2001, 61-0107-2001, 61-0108-2001.** Director Elliot explained in 2007 the National Organization for Legal Aid and Defenders Association (NOLADA) did an audit of the State Appellate Public Defender's Office (SAPD) and found that over all the SAPD is providing constitutional representation, but any issues of unconstitutional representation could be remedied by improving the trial level defense system in the State of Idaho.

The Public Defense Commission (PDC) is authorized to implement standards, oversee those standards, and provide resources and training. Idaho Code 19-850 requires the PDC to promulgate rules among other things, and there are ten Standards the PDC oversees and ensure compliance with. Among these eight have already been negotiated and are already in the PDC Rules. The remaining two being presented today after negotiated rule making this year.

The first part of the pending rule changes being considered include the seven repealed chapters and four new chapters, which are not new Rules, but are current rules that have been consolidated and cleaned up. Two new standards have been added in four chapters instead of seven. The PDC has held negotiated rule making sessions in 2019 and 2020 plus a statewide virtual meeting. The PDC has collected written comments, has meet and collaborated independently with counties, Defending Attorneys and Judges.

The rewritten clarifications have made the Rules simpler, clearer, and resulted in the elimination of unnecessary words.

Following the brief overview **Director Kathleen Elliot** went through each Docket, beginning with the repeals (**Docket No's.: 61-0101-2001, 61-0102-2001, 61-0103-2001, 61-0104-2001, 61-0106-2001, 61-0107-2001, 61-0108-2001**), and described the specific chapter changes to the Committee.

**DOCKET  
NO'S.:**

**61-0101-2002,  
61-0102-2002,  
61-0103-2002,  
61-0104-2002**

**Director Kathleen Elliot** presented the proposed four New Chapters.

In answer to Committee questions, **Director Elliot** responded in summation that "efficient" legal representation is not the same thing as "effective" legal representation and does not meet accepted standards. She answered in regard to who participated in the negotiated rule making, the seven Judicial Districts, defending attorneys from around the State, County Commissioners, Judges, Idaho Association of Counties, and members of the Public Defense Council.

**Director Elliot** continued explaining the New Chapters and answered questions regarding the use of independent committees, which are similar to a model that's being used at the federal level. She said the use of independent committees is not meant to take authority from the County Commission, it is intended to be a useful tool when conflict arises, it being a regional committee comprised of lawyers, voluntary members, who have the training and expertise necessary to make informed mediation recommendations.

**ADJOURN:** There being no further business to come before the Committee, the meeting adjourned at 3:35 p.m.

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Representative Hartgen  
Vice Chair

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Andrea Blades  
Secretary