

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, January 27, 2021

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Ricks, Senators Lodge, Lee, Anthon, Thayn, Zito, Burgoyne, and Wintrow

**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 meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Anthon** moved to send the appointment of Shelly Parker to the Commission of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Thayn** moved to send the appointment of Scott Smith to the Commission of Pardons and Parole to the floor with a recommendation that he be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**S 1027** **Relating to the Idaho Wrongful Conviction Act. Vice Chairman Ricks** indicated that similar legislation was presented to the Legislature last year. The bill passed the House and the Senate, but it was vetoed by the Governor's Office. After minor modifications, the Legislation is before the Committee again this year. Those modifications addressed portions that were referred to as an "unfunded mandate." The changes included removal of medical insurance for up to eight years and tuition waivers for college credits up to 120 hours. Those are now being offset by additional financial compensation. Last year's dollar amount was \$60,000 per year for every year a person was forced to be wrongfully committed. The new amount is \$62,000 per year. The amount for those on death row stayed the same at \$75,000 per year. If one is forced to be wrongfully placed on the sex offender list, the amount will remain \$25,000 per year. The victims will receive these funds in a lump sum rather than an annuity. Transitional services will be provided for anyone who has been exonerated. There is a restriction placed on those receiving an additional financial civil reward. An offset clause has been added to cover that circumstance. A requirement was added requiring a district judge to review the charges to make sure the exoneration is valid. An emergency clause becomes effective as soon as both Legislative bodies and the Governor signs off on **S 1027**, allowing the victims to receive their compensation immediately.

**Chairman Lakey** expressed his appreciation for all the work done on this legislation and for the changes that were made to enable its passage.

**TESTIMONY:** **Christopher Tapp**, wrongfully convicted victim (see Attachment 1).

**Greg Hampikian**, PhD, Co-Director, Idaho Innocence Project and Director, Forensic Justice Project, Boise State University (BSU), stated he agrees that this legislation is about justice in its fullest sense. He said he was proud of his organization and happy to have been able to work on this project with the police and all those involved. He explained that Idaho is a leader in the techniques used to help identify other suspects through DNA evidence.

**Senator Wintrow** asked Mr. Hampikian how he saw Idaho helping to bring justice to all people using a similar kind of evidence. **Dr. Hampikian** responded that he could see the Legislature working with the crime lab to help them adopt some of the new techniques used. He indicated that he had to go to labs outside of Idaho to get the information he needed. **Dr. Hampikian** suggested that he would like to see legislation of uniform rules designed to allow the preservation of biological evidence. There are currently no instructions, rules, or laws about preserving murder evidence.

**Terry Shumway**, sister of Charles Fain, a wrongly convicted man, voiced that much of what Christopher Tapp described was similar to what her brother had suffered. She stated that Charles was on death row for 18 years. So many things had occurred during that time and Charles was totally lost upon his release. He is currently employed in a low income job that is physically taxing on his 73 year old body. His car is old, the room he lives in is as small as his prison cell, and his social security is meager do to his incarceration years. She reiterated nothing can give these men back their lost lives. The compensation offered through this legislation would make the rest of their lives easier. **Ms. Shumway** commented that she was so thankful for all who were involved in proving Charles's innocence.

**Lauren Bramwell**, Policy Strategist, American Civil Liberties Union of Idaho, gave testimony supporting the passage of **S 1027** (see Attachment 2).

**Tom Arkoosh**, Idaho Association of Criminal Defense Lawyers (IACDL). Mr. Arkoosh submitted a statement saying "IACDL Supports **S 1027**."

**MOTION:**

**Senator Anthon** moved to send **S 1027** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman Lakey** adjourned the meeting at 2:45 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary