

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 22, 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 1:35 p.m.

PAGE INTRODUCTION: **Chairman Lakey** introduced Ella Luekenga as the new Judiciary and Rules Committee page. **Ms. Luekenga** introduced herself and indicated her long-time desire to be a page. She is interested in government and this experience will give her a first-hand view of government affairs. She sees the potential for law to be part of a profession she pursues.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Reappointment of Melissa Hultberg** to the Sexual Offender Management Board (Board) for a term commencing January 1, 2021, and expiring on January 1, 2024. **Ms. Hultberg** briefly explained her background and professional experience. She indicated that she felt her employment with the Idaho Department of Juvenile Corrections gave her added perspective for this position.

Senator Lee asked Ms. Hultberg to share a previous challenge or experience she has had with the Board. **Ms. Hultberg** responded that she was pleased with the consistency and certification processes in which she participated.

Chairman Lakey questioned what factors help in the successful transition of juveniles into the community. **Ms. Hultberg** stated families, even those who are not very supportive, are still essential to the success of the programs used for introducing juveniles back into society.

MINUTES APPROVAL: **Senator Zito** moved to approve the Minutes of February 10, 2021. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 28595 **Relating to Judicial Salaries.** **Sara Omundson**, Administrative Director of the Courts, stated that on February 17, 2021, the Joint Finance-Appropriations Committee (JFAC) approved a 2 percent merit increase for the Idaho judiciary based on Change in Employment Compensation (CEC) approval. The judicial salaries are set in Idaho Code 59-502. She listed what percentage and dollar amount each layer of judges would receive.

DISCUSSION: **Senator Burgoyne** questioned why the legislation does not move up each justice's salary a full 2 percent. **Ms. Omundson** replied the differing salary amounts prevent salary compression.

MOTION: **Senator Wintrow** moved to send **RS 28595** to print. **Senator Thayn** seconded the motion.

Senator Lee stated that her husband is a magistrate judge and declared Rule 39 H.

MOTION VOTE: The motion carried by **voice vote**.

S 1119

Relating to Time Line for Unclaimed Property. Vice Chairman Ricks, on behalf of the Idaho Sheriff's Association, brought this bill which asks for time line adjustments. County sheriffs and city police departments are required by law to keep unclaimed property for six months before the item can be auctioned or destroyed. For bicycles, the law requires 90 days. He introduced Murphy Olmstead and indicated that he would present the legislation.

Murphy Olmstead, Idaho Sheriffs Association, said the amount of storage of unclaimed property had almost doubled what it was in 1957 when the original statute was written. The handout (see Attachment 1) shows how Idaho compares to neighboring states. This legislation hopes to bring Idaho Code into alignment with Oregon, Washington and Utah by decreasing its time line. Idaho is retaining property for 6 months and the other noted states' time lines are 90 days.

DISCUSSION:

Chairman Lakey asked from where all of the property comes. **Mr. Olmstead** responded that much of it is abandoned bicycles, backpacks, and miscellaneous items that are found on the Greenbelt in Ada County. **Senator Wintrow** inquired as to what happens to the unclaimed property. **Mr. Olmstead** said most of the property is eventually returned to its owner. In 2020, 91 percent of total bookings were reclaimed.

Senator Lee questioned why this issue wasn't being handled on a local level. **Mr. Olmstead** explained that this legislation would be a starting point where cities and counties could specify how to fit it into their individual needs.

MOTION:

Senator Anthon moved to send **S 1119** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

S 1120

Relating to Motion to Return Legislation to the Floor for Possible Re-Referral. Chairman Lakey announced that **S 1120** was printed in this Committee at the request of Chairman Patrick and was inadvertently referred back to the Committee. **S 1120** was sent back to the floor for possible re-referral to the Commerce and Human Resources Committee.

MOTION:

Senator Anthon moved to send **S 1120** back to the floor for possible re-referral to another committee. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Chairman Lakey passed the gavel to Vice Chairman Ricks.

S 1130

Relating to Commercial Burglary. Chairman Lakey indicated this legislation is an effort to make a language correction to a prior bill relating to commercial burglary. Commercial burglary was defined as burglaries committed in stores during business hours involving theft of property worth less than \$300.00 and was a felony. The 2020 Legislation allowed for a misdemeanor offense if it met the mentioned criteria. Some courts interpreted this to mean that burglary of a commercial establishment outside of those specified in this context was precluded.

MOTION:

Senator Lee moved to send **S 1130** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Vice Chairman Ricks passed the gavel to Chairman Lakey.

S 1131

Relating to Financial Institution Garnishment Fees. **Trent Wright**, President and CEO, Idaho Bankers Association, explained that this legislation makes changes in three different areas. The first area is fees. The bill requires an increase in the financial institution search fees from \$5 to \$7 and execution fees from \$10 to \$12. The second area relates to the amount of time for a look back procedure when served with a garnishment. Look back is defined as the amount of time the financial institution can look into savings, checking, or trust accounts to see if assets are available or if wages are available for continuing garnishments. A change was made in 2017 to the look back time period to say sixty-four days. Financial institutions have asked repeatedly to go back to the original language which states two months, matching the Federal guidelines. The last area provides the judgment creditor with a 30-day provision to accept the answer of the garnishee for insufficiency.

DISCUSSION: **Senator Anthon** asked Mr. Wright when the last time the dollar amounts were changed. **Mr. Wright** stated that it was in 1979.

TESTIMONY: **Ryan Fitzgerald**, Northwest Credit Union, stated the requested changes would significantly impact small financial institutions. Smaller institutions have a hard time keeping up with monthly garnishment requests and the added work they require. **Mr. Fitzgerald** asked for this bill to pass so small institutions will not be burdened with excess paper work.

MOTION: **Senator Anthon** moved to send **S 1131** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

ADJOURNMENT: There being no further business at this time, Chairman Lakey adjourned the meeting at 2:15 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary