

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, January 26, 2022

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

**PLACE:** Room WW54

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

**ABSENT/ EXCUSED:** Senator Lee

**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.

**RS 29219** **Relating to Allowing Homeowners or Tenants to Update Housing Covenants in Compliance with the Fair Housing Act.** **Senator Melissa Wintrow** explained that **RS 29219** relates to properties which have restricted covenants attached to them stating that you must be a white person or a servant in order to legally live there. **Senator Wintrow** stated this legislation would allow a homeowner or tenant to go to the county clerk voluntarily to modify the language on their covenant or deed.

**MOTION:** **Vice Chairman Ricks** moved to send **RS 29219** to print. **Senator Lodge** seconded the motion. Motion passed by **voice vote**.

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

**DOCKET NO. 06-0000-2100** **Notice of Proclamation of Omnibus Rulemaking including 06.01.01, 06.02.01, 06.02.02.** **Josh Tewalt**, Director, Idaho Department of Correction, explained that there were no changes to 06.02.01 regarding governing the supervision of offenders on probation and parole. There were also no changes to 06.02.02 relating to rules governing release readiness. **Director Tewalt** stated he would focus on **Docket No. 06.01.01** relating to rules of the Board of Correction. Two chapters were consolidated into one. The rules governing Idaho Correctional Industries, also under the purview of the Board of Correction, were consolidated as a sub-chapter to this rule. It was edited for clarity and simplicity. There were two substantive changes made to this chapter. The first change relates to people permitted to witness executions. It is difficult and overwhelming to the victim's families and the family of the condemned. Liaisons are appointed early in the process to provide help and resources when they are needed. The standard procedure is to allow the liaisons to remain with the parties in the witness areas, if requested, during the execution. This provision is in the rule as well. The second change deals with organ and tissue donation by people sentenced to the custody of the Board of Correction. This was brought to the attention of the Board when a family making end of life decisions for a person in custody and on life support, was denied the chance to donate his organs. The Board agreed that the previous language was too restrictive and opted to make this change so other families would not be denied the same opportunity. The new provision for organ and tissue donation is in accordance with State law, while clarifying neither the Board nor Department may consent on someone's behalf.

**DISCUSSION:** **Senator Wintrow** asked if the only person who could consent to donation would be the inmate who is in custody. **Director Tewalt** explained there are two circumstances where other people can make the decision. The first is a living donation where someone may have a relative who may need an organ. The other instance would be if the inmate is incapacitated and the family or power of attorney is making the end of life decision, and has the ability to consent on the person's behalf.

**DISCUSSION:** A discussion was held regarding execution practices relating to public disclosure, number of people allowed to be present and the general practices involved in executions. **Senators Burgoyne** and **Wintrow** participated in the discussion. **Director Tewalt** addressed their concerns and explained that the public was being informed about executions and information was not being withheld. He indicated that there could be exceptions made to the rule of 2 people attending in some circumstances. **Director Tewalt** summed up his feeling about the Department of Correction and their handling of executions by stating the way they approach this solemn responsibility is as if it is a reflection on them, not as a reflection on the condemned.

**MOTION:** **Chairman Lakey** moved to approve **Docket No. 06-0000-2100**. **Senator Anthon** seconded the motion. Motion carried by **voice vote**.

**DOCKET NO. 57-0101-2100F** **Relating to Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule - Rules of the Sexual Offender Management Board (SOMB)**. **Nancy Volle**, Program Manager, SOMB, explained she would be presenting **Docket No. 57-0101-2100F** which is the omnibus reauthorization for the existing fee rule. This rule making does not impose or increase any fees or charges beyond what was previously approved by the prior rule. Any revisions made were general housekeeping to remove unnecessary references for red tape reduction compliance.

**MOTION:** **Senator Wintrow** moved to approve **Docket No. 57-0101-2100F**. **Chairman Lakey** seconded the motion. Motion carried by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Ricks passed the gavel back to Chairman Lakey.

**ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:00 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary