

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, January 31, 2022

TIME: 1:30 P.M.

PLACE: Room EW42

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

**ABSENT/
EXCUSED:** Representative(s) Ehardt

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

Chairman Chaney called the meeting to order at 1:30 p.m.

**UNANIMOUS
CONSENT
REQUEST:** **Chairman Chaney** made a unanimous consent request to remove **RS 29295** from the January 31, 2022 agenda. There being no objection, the request was granted.

MOTION: **Rep. Cannon** made a motion to approve the January 17 and January 19, 2022 meeting minutes. **Motion carried by voice vote.**

RS 29161: **Rep. Christensen (32)** presented **RS 29161** and explained that this proposed legislation evolved from complaints in his district about lenient sentences for sex offenders. This bill creates a five-year mandatory minimum prison sentence for six specific sex offenses: aggravated sexual battery, sexual abuse of a child under the age of sixteen years, lewd conduct with a minor child under sixteen, sexual battery of a minor child sixteen or seventeen years of age, rape, and forcible penetration by use of a foreign object. Plus, it stipulates a one-year mandatory minimum sentence for any convicted sex offender engaged in forbidden employment or who fails to register with the State Sex Offender Registry. And it assigns a misdemeanor charge with a mandatory 90-day jail sentence to violations that involve convicted sex offenders being in forbidden locations like schools or daycares. This legislation is intended to protect the community from sexual predators by taking them out of Idaho communities for a determined amount of time via incarceration.

Committee members expressed a desire to determine if a serious problem truly exists that requires specific legislation and voiced concerns about the mixed message this committee has heard over the years about mandatory minimums and limiting the discretion of judges and prosecutors. **Rep. Christensen (32)** responded to committee questions about the impact this legislation might have on statutory rape instances, if judges and prosecutors have been consulted, and the fiscal note's accuracy.

MOTION: **Rep. Kerby** made a motion to introduce **RS 29161**. **Motion carried by voice vote.**

Josh Tewalt, Director of the Dept. of Correction (DOC), gave the Committee an agency update. He spoke about significant security staff shortages and the Agency's retention and recruiting efforts. He explained how the pandemic is complicating an already existing security staff shortage, and as of today, 200 staff are unavailable to work due to COVID illnesses or exposure issues. The Governor's Office has mobilized the National Guard assigning 30 to DOC as temporary staff, and these individuals will assist with routine prison operations like serving meals and performing prisoner counts.

The Agency has implemented a new cost-effective team approach to offender supervision, and the results are promising. Helping offenders to be successful on supervision is an important factor reducing the need for prison beds. He spoke about the surging inmate populations and how custody level compression, where hundreds of minimum custody offenders are being held in more expensive medium custody beds, compounding the problem. The 2022 permanent building fund request includes: a new female prison facility, a new medical facility, updating two old housing units, and a new community re-entry center located in eastern Idaho.

In elaborating on the reasons for this year's significant budget request, he explained why a new female prison is needed. Years of bed compression problems due to an increasing number of females sentenced to DOC custody occupy beds originally intended to hold minimum custody male offenders. Having adequate space to house female offenders properly will allow specific areas to be returned to their original intended use. A female prison in Boise will greatly reduce transportation costs due to close proximity to courts and hospitals. **Director Tewalt** provided details about the other four permanent building fund requests.

In response to committee questions, **Director Tewalt** explained that the proposed changes with the female offender population would not change overall operations at the current Pocatello Women's Prison; it is mainly the reception and diagnostic unit that will be located in Boise.

Josh Tewalt, Director of the Dept. of Correction, gave the Committee a report on the Agency's use of the American Rescue Program Appropriation (ARPA) Funds. Explaining that there are two specific areas in the Agency's budget connected to ARPA Funds, one is being used to help with unexpected COVID-related expenses, and another involves the expansion of wastewater lagoons. The expansion of the wastewater lagoons is connected to the permanent building fund requests.

**UNANIMOUS
CONSENT
REQUEST:**

Chairman Chaney made a unanimous consent request to extend meeting adjournment to 3:30 p.m. There being no objection, the request was granted.

Chairman Chaney turned the gavel over to **Vice Chairman Hartgen**.

**DOCKET NO.
06-0000-2100:**

Josh Tewalt, Director of the Dept. of Correction, presented **Docket No. 06-0000-2100** proposed changes. He explained three significant changes – the rules governing correctional industries have been incorporated the current practice of appointing liaisons to assist victims during executions, and the addition of consent for prisoners to donate organs.

MOTION:

Rep. Cannon made a motion to approve Docket No. 06-0000-2100. **Motion carried by voice vote.**

Brad Johnson, Division Administrator from the Peace Officer Standards Training (POST), presented an agency update to the Committee. He explained that POST celebrated its 50th anniversary in 2020, and it presently conducts 19 different academies a year, amounting to the certification of over 700 law enforcement professionals annually. This March, POST will undergo an on-site evaluation for accreditation by the International Association of Directors of Law Enforcement Standards and Training, and accreditation is expected to follow. He explained the different training levels an officer receives, and he emphasized that POST is underfunded, and needs a dependable and consistent funding source. POST's 2022 budget request includes a permanent building fund appropriation to build an additional dormitory, which is expected to save current costs of placing trainees in local housing when existing dormitory beds are full.

Brad Johnson responded to committee questions about staffing. POST is fully staffed, and the Committee found that remarkable. He responded to questions about the current practice of scheduling dormitories in connection to academies.

**DOCKET NO'S.
11-1101-2100F,
11-1101-2100:**

Brad Johnson, Division Administrator, presented **Docket No. 11-1101-2100F** and **Docket No. 11-1101-2100** saying there are only five substantive changes to these dockets. They involve the removal of course evaluation fee, the addition of a biannual mandatory in-service training, clarification on some de-certification guidelines, some language that disqualifies an officer for certification in connection with a violation of the controlled substance act, and the addition of higher certification requirements for misdemeanor probation officers.

MOTION:

Rep. Marshall made a motion to approve **Docket No. 11-1101-2100** and **Docket No. 11-1101-2100F**. **Motion carried by voice vote.**

**DOCKET NO.
11-0000-2100F:**

Lt. Colonel Bill Gardiner, Deputy Director of the Idaho State Police, introduced subject matter experts accompanying him in the room today who are available to answer any Committee questions, and he presented **Docket No. 11-0000-2100F** explaining that there are no changes to the fee rules.

MOTION:

Rep. Marshall made a motion to approve **Docket No. 11-0000-2100F**. **Motion carried by voice vote.**

**DOCKET NO.
11-0000-2100:**

Lt. Colonel Bill Gardiner introduced Chief of the Bureau of Criminal Identification **Leila McNeal** to present **Docket No. 11-0000-2100**, specifically areas of 11.10.03. She stated her Bureau houses the Idaho State Police (ISP) Sex Offender Registry. When an individual listed on the Sex Offender Registry dies, the Sex Offender Registry staff usually receives notification from the Health and Welfare's Dept. of Vital Statistics or a sworn police officer. Currently, the rules are limited to death notification via a certified copy of the death certificate. This proposed rule change would expand the official death notification methods to include a larger range of official sources since obtaining certified copies of death certificates is difficult and allows deceased persons' names to be removed more efficiently from the registry.

In response to committee questions, **Chief Leila McNeal** explained that if this change is approved, it would only remove an individual's name from the Sex Offender Registry. It would not expunge an offender's entire criminal history.

Chief Leila McNeal presented a second change under the same docket, which adds a sentence clarifying that during certain circumstances, a sex offender would qualify for relief from the statutory duty to register as a sex offender. The specific circumstances are that an offender is on active supervision, probation or parole, and the supervision is directly connected to the conviction requiring registration.

Chief Leila McNeal responded to several committee questions. The Committee expressed confusion about the changes, the wording, and the potential effects of the proposed changes.

MOTION:

Rep. McCrostie made a motion to approve **Docket No. 11-0000-2100** with the exception of the changes in 012.06A and 012.06E, which will be rejected. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the Committee the meeting adjourned at 3:32 p.m.

Representative Chaney
Chair

Andrea Blades
Secretary