

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

- DATE:** Wednesday, February 09, 2022
- TIME:** 1:30 P.M.
- PLACE:** Room WW54
- MEMBERS PRESENT:** Chairman Lakey, Senators Lodge, Anthon, Thayn, Zito, Burgoyne, and Wintrow
- ABSENT/ EXCUSED:** Senator Lee and Vice Chairman Ricks (Melissa Ricks Substituted)
- 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 to order at 1:30 p.m. **Chairman Lakey** explained that Senator Souza had another commitment and was not able to present **RS 29415** but would do so when she arrived.
- MINUTES APPROVAL:** **Senator Wintrow** moved to approve the Minutes of January 26, 2022. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.
- INTRODUCTION:** **Judge Juneal Kerrick, Senior District Judge, Administrative Office of the Courts**, introduced the court's strategic roles and objectives. They include timely and impartial case resolution through legally fair procedures, ensuring access to justice, promoting effective and innovative services, and increasing public trust and confidence in the courts. **Judge Kerrick** introduced the presenters: Judge Matthew Beaver, Canyon County, on remote access to justice; Judge Stacey DePew, Jerome County, on language access to the courts; and Judge Annie McDevitt, Ada County, on court innovations in Ada County (see Attachment 1).
- PRESENTATION:** **Judge Matthew Beaver, Magistrate Judge, Canyon County**, shared the importance of not adding arbitrary barriers to the justice system, but focusing on customer service. Beginning in spring of 2020, the court system began using remote technologies. Attorneys were now able to appear remotely, allowing them to appear for multiple hearings in multiple courtrooms and different courthouses across the state in a single day. This should create a savings to the clients. It's also allowing cases to be scheduled more quickly and move along faster. Defendants can now appear remotely, regardless of where they are, thus reducing logistical slowdowns and costs. The last example impacts the individual litigants involved in cases, in both criminal and civil cases. Traditionally, litigants were expected to be in-person for all hearings, causing logistics issues, time and travel expenses. Remote technology allows the cases to move forward while avoiding some of those unintended consequences. In addition, court trials could be processed in a meaningful way without delay due to health concerns or logistics concerns.
- DISCUSSION:** **Chairman Lakey** asked about the logistics of handling "bulk things" such as Traffic Day and what was handled in person vs. remote. **Judge Beaver** responded that pre-trial or status conferences were done remotely. The courts are also able to stagger calendars so that people were scheduled to appear during shorter windows of time. For things that must be done in person, the courts will take health considerations into account, but if the facts dictate, there is a preference to do it in person.

A discussion was held among **Chairman Lakey**, and **Senators Burgoyne** and **Wintrow** relating to several aspects of remote vs. in person participation. **Judge Beaver** commented that judges have much discretion in how remote vs. in person was used and zoom meetings were a great improvement over telephones for remote hearings. He stated that remote usage was not available for jury trials and that the constitutional right to a speedy trial was currently suspended by a Supreme Court order.

PRESENTATION: **Judge Stacey DePew, Magistrate Judge, Jerome County**, stated that she would be addressing the request for additional funds for language access in the 3rd, 4th and 6th judicial districts. **Judge DePew** said that the court had a responsibility to ensure that individuals can communicate fully in English regardless of why they are accessing the courts, and there were several federal and state laws relating to that responsibility. Some of the technology and resources that could assist in complying with those regulations were very costly, and some of the small counties have difficulty with those costs. Interpreters who work with the courts undergo specific training and certification requirements to meet the standards set forth by the Idaho Supreme Court. Court interpreters were there to ensure that those appearing before the court could fully communicate and meaningfully participate in the court process. Between March 2021 and September 2021, there were over 8,000 hearings that required interpreters in Idaho, and 43 languages were requested. Zoom had assisted with some of those requests, but it doesn't allow for simultaneous interpretation. The cost for interpreter services continues to increase. Counties try to budget for interpreters, but it takes one case and the need for multiple interpreters, in a language other than Spanish, to completely wipe out a county's budget for these types of resources.

DISCUSSION: **Senator Lee** commented that although someone may consider themselves proficient in the language, it's incumbent upon our judges to recognize that they may need to offer these services even when someone is not requesting them. **Judge DePew** responded that although there was a cost associated and it may take more time, using interpreters could help improve the process.

Senator Burgoyne asked if there was an increasing need for additional language interpreters. **Judge DePew** responded there were very unique languages that required out-of-state interpreters. The judiciary were trying to train in state and encourage certification where they could. She added the more they use certified interpreters and the more education the judiciary had, the more they were able to make the process run smoothly.

Chairman Lakey asked how the additional funding would be used at the ground level. **Judge DePew** responded that the funds would be used to cover the additional costs of hiring interpreters when the county budget was gone. In the 6th district, they were utilizing it to cover technology for deaf and hard of hearing individuals.

Chairman Lakey stated Senator Souza would now present **RS 29415**.

RS 29415 **Senator Mary Souza, District 4**, explained that **RS 29415** gives a right for the Idaho Legislature to intervene in legal challenges on any Idaho statute in the future. The Legislature has the right, not the requirement, to intervene in any case questioning the constitutionality or the federal preemption of a statute in Idaho.

MOTION: **Senator Lee** moved to send **RS 29415** to print. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Judge McDevitt** explained the innovations implemented in Ada County. As population had increased, it had become increasingly difficult to ensure a timely resolution of cases. In warrants court, when a defendant fails to appear in court, the court issues a warrant for the defendant's arrest to appear in court at a future date. The new process was that if a defendant misses court, he or she contacts the courthouse or their attorney. Depending upon what time a person called or came in, they could get before the judge on that same day. The Warrants Court involved a judge, a prosecutor and a defense attorney. Everyone got together, discussed the issues, and at that phase some of the cases could be resolved. The benefits of the Warrants Court were that it moves cases forward, which brings finality for both defendants and crime victims. It reduced jail workload and overcrowding and reduced jail costs to society. The next innovation was interdisciplinary settlement conferences, which were geared towards resolving high conflict custody cases without the need for a trial. It was a voluntary process and had been done virtually. It involved the presiding judge, the parties and their attorney, and a neutral attorney and a clinician with experience in child development or other family areas. It was more of an informal process where litigants got to tell their story and talk to a judge outside of a high conflict trial. There was more opportunity to control the outcome through negotiation. It had reduced conflict for the families, and it had saved time for the courts.

DISCUSSION: **Chairman Lakey** asked questions relating to the warrant courts and interdisciplinary settlement conferences. **Judge McDevitt** stated that judges did have the discretion for someone to participate in warrants court but currently they were only doing misdemeanor cases. Neutral attorneys for the interdisciplinary settlement conferences had been the director of Family Court Services.

Senator Lee asked if a court reporter was used for high conflict custody cases. **Judge McDevitt** responded they did not use court reporters, they rely on audio and notes. The cost of court reporters was prohibitive and were only used when they were specifically requested.

Senator Burgoyne questioned some aspects of the combination roles of judge and mediator working together in the interdisciplinary settlement conferences. **Judge McDevitt** explained that the litigants were aware that mediation was taking place with the judge. Judges do work to bring parties together and often the parties were very anxious to hear what the judge proposed.

Chairman Lakey explained that minutes approval from Senator Lodge would be next on the Agenda.

MINUTES: **Senator Lodge** moved to approve the minutes of January 19, 2022. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL Chairman Lakey passed the gavel to Senator Thayn.

H 444 **Chairman Lakey** explained **H 444** enhances liability protections related to the corona virus and claims against business owners. It provides an enhanced standard for liability instead of negligence. It clarifies that there is no application related to workers compensation. This was another one year extension.

MOTION: **Senator Lodge** moved to send **H 444** to the floor with a **do pass** recommendation. **Senator Burgoyne** stated that he opposed limited liability bills and wished to be recorded as voting **nay**. The motion passed by **voice vote**.

PASSED THE GAVEL Senator Thayn passed the gavel to Chairman Lakey.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:40 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary