

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 16, 2022

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.

MOTION: **Senator Lodge** moved to send **RS 29508**, **RS 29532**, and **RS 29574** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

PRESENTATION & DISCUSSION: **"Operation Underground Railroad" with Newton. Detective Sergeant Sam Cuoha** and **Detective Corporal Travis Freeman**, City of Rupert, Idaho, introduced themselves and K-9 partner Newton to the Committee. **Detective Cuoha** stated Newton was trained to detect electronic storage devices, such as cell phones, computers, and storage disks. He said Newton was one of 66 such dogs in the United States and the only one in Idaho. **Detective Cuoha** reported Newton was obtained through funding from Project Underground Railroad, an organization dedicated to fighting human trafficking.

Chairman Lakey asked for information on situations where Newton was deployed and what he detected. **Detective Cuoha** answered that Newton helped serve search warrants and looked for electronic devices containing illicit content or evidence of a crime. He said Newton could find an item in minutes while an officer might never find it.

Senator Wintrow inquired how many people were held accountable through Newton's efforts. **Detective Cuoha** responded that Newton had only worked a few search warrants but he found something every time. He mentioned that Newton was available to be used statewide.

Chairman Lakey asked about the connection with Operation Underground Railroad. **Detective Cuoha** gave an overview of his interest in the program and Newton's journey to Idaho.

Detective Freeman explained Newton was trained to detect a chemical compound used in the manufacture of storage devices. He added that he and Newton trained three to four times per day so Newton could receive his food reward. Detective Freeman and Newton provided a demonstration of Newton's ability to locate hidden electronic storage items.

Senator Lodge asked about Newton's history. **Detective Freeman** answered that Newton started with an organization that trained service dogs. He said Newton failed as a guide dog but proved to be successful at detection. **Detective Freeman** stated the cost to acquire Newton was \$11,000, including his training. He did not know if Newton's abilities were genetic and would pass down to his offspring.

Senator Anthon recognized the Rupert Police Department as a leader in investigating crimes against children. He added that Newton was paid for by a private donation to the City of Rupert.

GUBERNATORIAL REAPPOINTMENT: Committee Consideration of the Gubernatorial Reappointment of Mike Matthews to the Commission on Pardons and Parole (Commission).

Mr. Matthews introduced himself to the Committee. He advised he had served on the Commission for 18 years.

DISCUSSION: **Senator Wintrow** inquired how Mr. Matthews weighed decisions to return someone to the community. **Mr. Matthews** responded that the Commission received a packet of background information and assessments prior to a hearing. He said the Commission also considered the interview with the offender and testimony from support persons.

Senator Lee asked what the Legislature could do to help the Commission. **Mr. Matthews** replied that the Commission had the resources needed to do their work. He said it would be helpful to have more assistance from supervising personnel and facilities to avoid recidivism. **Mr. Matthews** complimented the other Commissioners for their time and preparation.

Senator Anthon praised Mr. Matthews for his lengthy exemplary work on behalf of the State.

Senator Burgoyne commented on Mr. Matthews' impressive resume and long Commission involvement. He added that it reflected favorably on the Commission when parole was successful. **Senator Burgoyne** commented that recidivism was not always indicative of a bad Commission decision. He suggested that high caseloads and lack of supportive services contributed to a failed parole. He urged the Legislature to increase funding for rehabilitation and behavioral services.

Senator Lodge stated she appreciates Mr. Matthews' excellent work. She added that Senator Darrington made an excellent choice when he recommended Mr. Matthews.

H 451 **JUVENILE CORRECTIONS ACT** - Amends existing law to provide that a juvenile offender shall appear before the Custody Review Board in certain instances.

Monty Prow, Director, Idaho Department of Juvenile Corrections (IDJC), introduced himself to the Committee. **Director Prow** reported positive statistics on rates of youth arrests, probation, and detention as well as probation, diversion, and custody success. He said the proposed legislation would require juveniles approaching their 18-month stay to appear before the IDJC Custody Review Board (CRB). **Director Prow** explained the composition and purpose of the CRB. He stated the CRB could help determine how to improve the chances of success upon the juvenile's release from custody.

DISCUSSION: **Senator Lodge** mentioned she served as a member of the CRB for 10 years and found it rewarding.

MOTION: **Senator Lodge** moved to send **H 451** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion.

DISCUSSION: **Senator Burgoyne** commented that the IDJC statistics were impressive. He said the trend line was moving in the right direction.

VOICE VOTE: The motion to send **H 451** to the floor with a **do pass** recommendation carried by **voice vote**.

H 452 **JUVENILE CORRECTIONS ACT** - Amends existing law to revise provisions regarding detention of a juvenile in a jail or lockup for adults and to revise a provision regarding standards for detention.

Director Prow stated the proposed legislation would provide for youth arrested for certain crimes to be detained in a juvenile facility and not an adult jail. He added that a court would retain jurisdiction to order detention in an adult facility if it was in the interest of justice.

- TESTIMONY:** **Samantha Kennedy**, Boise, Idaho, provided written testimony in support of **H 452** because it is harmful to juveniles to be incarcerated in adult facilities.
- MOTION:** **Senator Ricks** moved to send **H 452** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.
- H 453** **JUVENILE CORRECTIONS ACT** - Amends existing law to revise provisions regarding the diversion process and to provide for an informal adjustment for a juvenile offender.
- Director Prow** advised that the bill would clean up language in the Juvenile Corrections Act by moving an informal adjustment process to the section relating to other post-petition options. He said the revised language reflected stakeholder suggestions to align Idaho Code with current county policy and practices.
- MOTION:** **Senator Ricks** moved to send **H 453** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion.
- DISCUSSION:** **Senator Ricks** thanked Director Prow for proactively working to improve the juvenile justice system.
- Chairman Lakey** said he especially appreciated Director Prow's efforts in diversion to keep youths out of the system.
- VOICE VOTE:** The motion to send **H 453** to the floor with a **do pass** recommendation carried by **voice vote**.
- H 469** **PEACE OFFICERS STANDARDS AND TRAINING FUND** - Amends existing law to distribute money to the Peace Officers Standards and Training Fund and to revert certain moneys to the General Fund.
- Brad Johnson**, Division Administrator, Idaho Peace Officer Standards & Training (POST), introduced himself to the Committee. **Administrator Johnson** gave an overview of POST funding from the time of its inception. He stated the proposed legislation would alleviate ongoing revenue shortfalls to POST's dedicated fund. **Administrator Johnson** advised that POST did not take in sufficient cash to exercise its full spending authority. He reported the bill would alleviate POST's funding shortfall without negatively impacting any other entity receiving a statutory liquor fund distribution. **Administrator Johnson** said the bill would increase POST funding by transferring a small percentage of the liquor fund distribution to the POST dedicated fund after other statutory transfers were made. He observed the POST dedicated fund was limited by statute to a \$1 million balance, with any overage automatically reverting to the General Fund. **Administrator Johnson** listed stakeholders who supported the legislation.
- DISCUSSION:** **Senator Lee** asked if the bill would result in any cost savings for cities and counties. **Administrator Johnson** answered that the legislation would not save costs for local governments because POST did not charge them for basic academy programs. He noted that the bill would provide sufficient funding for POST to fulfill its mission.
- Senator Burgoyne** observed that public safety needed an infusion of resources. He remarked that the bill was a responsible way to address POST funding.
- MOTION:** **Senator Burgoyne** moved to send **H 469** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion.

DISCUSSION: **Chairman Lakey** said he appreciated Administrator Johnson's bringing the bill. He added that POST training was important for public safety.

Senator Lodge asked how many people completed POST training in a year. **Administrator Johnson** responded that POST trained 500 to 600 officers a year. He mentioned POST also coordinated certification and recertification of all officers, as well as in-service training statewide, serving 6,000 to 7,000 officers per year.

Senator Wintrow inquired if POST could assist with certification programs for handling domestic violence and sexual assault cases. **Administrator Johnson** responded that POST had not yet taken a position on that type of training. He remarked that current funding would not allow for adding additional certification training at this time.

VOICE VOTE: The motion to send **H 469** to the floor with a **do pass** recommendation carried by **voice vote**.

S 1279 **COUNTY JAILS** - Adds to existing law to authorize the use of a temporary guard of private security service in certain instances.

Murphy Olmstead, Idaho Sheriff's Association, introduced himself to the Committee. **Mr. Olmstead** reported the proposed legislation would allow sheriffs to contract with private security companies to transport and monitor prisoners. He provided an example of the need to guard a hospitalized inmate. He advised a security service would free up a deputy's time and be more cost effective. **Mr. Olmstead** noted that private security companies would be liable for their own employees. He added that many security guards were retired law enforcement who had previously completed POST training.

DISCUSSION: In response to questions from **Senator Burgoyne** about guard training, **Mr. Olmstead** replied that if a security guard had previously completed POST training, it would likely not be current but would be sufficient to handle most situations. He offered to obtain information about whether the guards would be required to take Prisoner Rape Elimination Act training.

Senator Wintrow asked about the effect of the bill on law enforcement. **Mr. Olmstead** responded that security personnel are typically well trained and trustworthy. He pointed out that private security guards often have much experience. **Mr. Olmstead** reported that Ada County has used the same contract security service for more than 20 years. He said some agencies have used private security when there was a shortage of staff.

Chairman Lakey asked in what situations would contract security guards be used. **Mr. Olmstead** answered they could be used in low risk situations such as when guarding a hospitalized comatose inmate.

Senator Lodge remarked that the federal court building used retired police officers. She said they would be well trained and trusted to handle low risk situations.

Senator Wintrow asked about liability if a guard harmed himself or someone else. **Mr. Olmstead** responded that the Idaho Counties Risk Management Program (ICRMP) would defend a government entity in the event of a lawsuit. The security company would be responsible for its own employees, he added.

Senator Burgoyne stated he had concerns because some security officers seemed undertrained. He advised he would prefer to see guard qualifications and duties spelled out in the bill. **Senator Burgoyne** averred the solution was for the Legislature to properly fund local law enforcement to hire needed staff. He remarked that the county or State could still be liable if private security was negligent.

MOTION: **Senator Thayne** moved to send **S 1279** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion.

Senator Wintrow stated she could not support the bill because of potential liability to a county or the State. She observed the Legislature should provide more funding to hire law enforcement officers.

Chairman Lakey said he appreciated the concerns expressed. He remarked that local officials routinely made decisions that could result in liability. He added that ICRMP provided guidance to local governments in training and supervision techniques.

VOICE VOTE: The motion to send **S 1279** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Wintrow** requested that she be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:50 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Jeanne Jackson-Heim
Assistant Secretary