

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, January 25, 2023

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Foreman, Senators Lee, Anthon, Ricks, Vander Feer (substitute - Hart), Hartgen, Wintrow, and Ruchti

**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.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Wintrow** moved to send the Gubernatorial reappointment of Ashley Dowell as the Director of the Department of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Lee** moved to send the Gubernatorial reappointment of Eric Fredericksen as the State Appellate Public Defender to the floor with a recommendation that he be confirmed by the Senate. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

**RS 29927C2** **Regarding Vehicle Window Safety Glazing & Window Tint Standards. Lt. Colonel Bill Gardner**, Idaho State Police, stated he had two recommendations for the changes in the legislation. The first being that using plate glass as a windshield was not allowed. The second change was a result of a grandfather clause from 1992 that issued a card allowing anyone carrying it to drive a car with a windshield tint not in compliance with the statute. Those cards were only good for one year and were very rare now. ISP felt these changes would streamline this legislation.

**MOTION:** **Senator Ricks** moved to send **RS 29927C2** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**RS 29956C1** **Relating to Edits to the Newly-established Office of Administrative Hearings (OAH) Unit. Bryan Nickels** explained there were four substantive changes in the legislation. The first change clarified the setting of the salary of the chief administrative hearing officer. Second, the Office of Administrative Hearings would be included in the department of self-governing agencies. In addition, the OAH would be allowed to use counsel other than just the attorney general's office, and all employees in OAH would be non-classified employees. The third change allowed them to have the ability to represent themselves in certain capacities and consult with and review legal issues with family members. The OAH employees would now be treated at the same level as the judges. The fourth change related to transparency. The records that came into the OAH office when the cases were assigned would retain the character they had upon arrival.

**DISCUSSION:** **Chairman Lakey** asked for clarification on who was restricted on practicing other types of law when employed by the Office of Administrative Hearings. He questioned if it was full time or part time employees. **Mr. Nickels** responded that signing up to be in the contractor pool, they were prohibited from engaging in any other practice of law. The statute provided a waiver so these people could request to be allowed to continue to do other outside work for various reasons. Currently, all who had requested a waiver had been granted one.

**MOTION:** **Chairman Lakey** moved to send **RS 29956C1** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**RS 29959C1** **Relating to Pardons & Parole Commission's Authority to Commute or Pardon a Sentence of Death or Life in Prison.** **Ashley Dowell**, Executive Director, Idaho Commission of Pardons and Parole, explained this legislation clarified language that was already existing in Idaho statute. It was directly related to the Idaho Supreme Court's decision that was raised as one of its death row prisoner's requested his sentence be commuted from death to life without parole. The Commission recommended that request to the Governor and he chose not to do that. This pointed out a concern with the way the statute was written specifically as to whether or not the Commission retained their constitutional authority to issue commutations or pardons. This legislation does not change the commissioners or the governor's processes in any way.

**MOTION:** **Senator Lee** moved to send **RS 29959C1** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

**RS 30003C3** **This Legislation Amends Idaho's Law Regarding Marriage Licensing.** **Senator Herndon** clarified this legislation did not change anything about the qualifications of who marries in the State of Idaho. It removed the requirement to obtain a license from the county clerk. Instead, the two qualified individuals to the marriage contract would locate an officiant who performed the ceremony/solemnization, and then the officiant transmitted fees and a marriage certificate to the county recorder who filed the certificate locally and submitted a copy of the marriage certificate to the state's vital statistics bureau. The result of the legislation was that the two qualified persons to the marriage contract would no longer obtain a license from the county clerk, and the marriage license itself would be eliminated from Idaho Code with the marriage certificate being the proof of the marriage, as it actually was already in Idaho Code.

**DISCUSSION:** **Senator Wintrow** stated her concern was regarding whether gay couples would still be allowed to get married. **Senator Herndon** assured her that the judiciary would continue to use the same interpretations of law that they were currently using. **Senator Ruchti** questioned why it was better to make these changes to this law. **Senator Herndon** responded that there was a duplication of duties and this exempts the use of a recorder in the marriage process. It removes a chapter of Idaho Code. Many people do not like the idea of government involvement in their lives, and these changes will simplify Idahoan's lives by not being required to have a marriage license. **Senator Wintrow** expressed concerns over age requirements being met and incestuous marriage issues. **Senator Herndon** explained that if any marriage violates that section of Idaho law, it was void.

**MOTION:** **Vice Chairman Foreman** moved to send **RS 30003C3** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**RS 30036** **Allowing the Court to Adopt a Rule that Satisfies a Signature Requirement and Allows New Attorneys to take their Oaths and be Sworn in via a Remote Process.** **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, explained the difficulties involved with having these required processes happen in Boise. This fix would insert language into the legislation in accordance with court rule that allowed the signature requirement on a separate page that could then be inserted into the role of attorneys and to create a process whereby the swearing in could occur remotely.

**DISCUSSION:** **Senator Lee** questioned why this legislation would not be clarified in statute rather than in individual courts. **Mr. Spillman** stated that since there were many ways to do the process, it seemed prudent to let each court work with their clerks to make it the easiest for them.

**MOTION:** **Senator Hartgen** moved to send **RS 30036** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

**RS 30037** **Provide that the Court may issue a subpoena to an Interpreter, but no longer requires a Subpoena to be served upon every Appointed Interpreter.** **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, explained that if parties to cases can not hear, speak, or are unable to understand or speak the English language, the court was required to appoint a qualified interpreter for that person. Statute currently required every one of those interpreters be served with a subpoena, not just the necessary ones. Determination of the need for a subpoena was made by the court or the parties may request one.

**MOTION:** **Senator Ruchti** moved to send **RS 30037** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**PRESENTATION:** **Eric Frederickson, Director, Office of the State Appellate Public Defender, 2023 Update.** **Director Frederickson** said the Public Defender's Office was created to handle the extraordinary burden that would come to the counties for litigation in the appellate courts and capital litigation cases. Along with the organization of the State Appellate Public Defender's Office in 1998 came the vision of the Capital Crimes Defense Fund (CCDF). It was basically an insurance fund to cover the costs of capital cases. The office had 25 full time employees with plans to ask for an additional employee in 2023. **Director Frederickson** explained their appellate unit was the largest part of the office. They handled all statewide felony appeals, all appeals in misdemeanors and juvenile cases from the district court. The 2020 legislation allowed them to handle habeas corpus appeals and post-conviction appeals. There was a difference in the terminology when one talked about caseload vs. workload. Caseload measured the number of cases opened in a given fiscal year. Workload measured how big the cases were and the resources it took to cover those cases. He indicated there are 32 active first degree murder cases and four death penalty cases. They were required to budget out approximately 18 months to have the necessary funds available to support these cases. Three of the four death penalty cases will go to trial in the first year unless they are settled within this fiscal year. Two of those three cases will be tried at the same time. The expenses for that particular time period will be high, therefore, the high supplemental budget request. **Director Frederickson** stated this quote summarized his feelings about Public Defense service. "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." (see Attachment 1)

**PRESENTATION:** **Eric Frederickson, Director, Idaho Criminal Justice Commission (ICJC ), 2023 Update.** **Director Frederickson** shared that as he traveled around he had seen how unique Idaho was. Many states did not have a Criminal Justice Commission but had created one based on what they had seen and heard about Idaho's program. The vision of the program was to have a safer Idaho through collaboration with groups from all different walks of life. ICJC had reached out to individual criminal justice agency directors asking what their critical issues were. When they were identified statewide, they would be addressed by the Commission. **Director Frederickson** explained that communicating and cooperating were what made the ICJC work effectively. The Director commented on Subcommittee work and the importance they played. He asked Ashley Dowell, Director of the Commission of Pardons and Parole to speak on the INSIGHT Subcommittee. For further information relating to Director Frederickson's presentation (see Attachment 2).

**Ashley Dowell**, described that INSIGHT was born as the Criminal Justice Integrated Data Systems. The goal was to take four executive branch agencies, other criminal justice stakeholders, combine it into a data warehouse and identify it. The next step was to help policy makers make better, more well informed decisions as a result of the information gleaned from the warehouse. The name was changed to INSIGHT to better reflect the purpose and humanize the project. Due to covid interruptions, the project was just getting off the ground and had only a few data runs. **Ms. Dowell** remarked there was a lot of interest in what INSIGHT could be used for. The more data input into the system the better the outcomes would be.

**DISCUSSION:** **Senator Anthon** asked if the Criminal Justice Commission was collaborating with the Idaho Crimes against Children group. He expressed that in small rural Idaho towns there was an increase in predatory crimes against children. **Mr. Frederickson** responded that there was someone from the Attorney General's Office who sits on the Commission and there were discussions relating to crimes against children. There were some upcoming conversations that were to address some of those issues.

**PRESENTATION:** **Monty Prow, Director, Office of the Department of Juvenile Corrections, 2023 Update.** **Director Prow** updated the Committee on the Juvenile Justice System in Idaho. He indicated that his presentation would be in two parts. The first part would include information relating to the Juvenile Justice System in Idaho. The second half of his presentation would be a video taken inside one of the State facilities. **Director Prow** stated that in 1995 the Juvenile Corrections Act was born, and it focused on two major initiatives. The first was that all juvenile systems be focused on three principles of the balanced approach accountability community protection programs being developed. The second was legislative intent that supported counties with prevention intervention resources that ideally lead to diversion from a formal juvenile justice system to major initiatives (see Attachment 3). The video portion of Director Prow's presentation was filmed at the Juvenile Corrections Center in St. Anthony, Idaho. It followed a typical day spent at the Center and reflected the services offered and the caring staff employed there. One parent commented that the centers were not jails. They were very good programs. It was like the best home away from home one could have. **Chairman Lakey** questioned if there was tracking between overlapping juvenile and adult recidivism rates. **Director Prow** answered that the numbers were in the low double digits. He stated they were very encouraged by the low numbers. **Senator Ricks** asked how long the average length of stays the kids had in the Centers. **Director Prow** emphasized that research had shown that the shorter the length of time the better it was for the kids, but they kept them

as long as their treatment required. Treatment lengths varied depending on their individual needs.

**ADJOURNMENT:** There being no further business, **Chairman Lakey** adjourned the meeting at 2:55 p.m.

---

Senator Lakey  
Chair

---

Sharon Pennington  
Secretary