

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, March 06, 2024

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Foreman, Senators Lee, Ricks, Hart, Hartgen, Wintrow, and Ruchti

ABSENT/ EXCUSED: Senator Anthon

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 1:33 p.m.

RS 31591C1 **Relating to the Declaration of the Dangers of "Swatting" to both the Public and Private Sectors.**

MOTION: **Senator Hart** moved to send **RS 31591C1** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

INTRODUCTION: **Magistrate Judges Introductions. Senior Magistrate Judge Bryan Murray** introduced the judges that presented in Committee.

PRESENTATION: **The Benefits and Process of Domestic Violence Courts. Magistrate Judge Kira Dale** gave a brief explanation of the statutory structure, guidance received from the Idaho Supreme Court, and how the Ada County Domestic Violence Court operated within the scheme. She explained that not all the models for domestic violence court (DVC) were the same, but they shared four principles; hold offenders accountable, increase victim safety, provide greater judicial monitoring, and coordinate information sharing. She continued to state that although the particular needs in Idaho's jurisdiction had changed, the goals to strengthen families, ensure that children were raised in homes that were violence-free homes, and ensure individuals that had experienced intimate partner abuse had recourse in the courts. Judge Dale gave an overview of probation requirements for the offender, treatment or rehabilitative requirements, evaluation requirements, offender expenses, the probation department, and the probation process. She stated that the courts relied in part on the dedicated docket and reviewed hearings to hold offenders accountable, increased victims' safety, provided greater judicial monitoring, and coordinated information sharing.

DISCUSSION: **Senator Wintrow** asked Judge Dale to describe the case load in domestic violence court and the capacity that Idaho had as far as resources went. **Judge Dale** responded that as of fiscal year 2023, she was unaware of the cases coming in but there were 540 convictions and a total of 1,657 review hearings.

Chairman Lakey asked Judge Dale how potential recidivism was measured and key factors that contributed to the reduction of recidivism. **Judge Dale** responded that it depended on the time frame defined and on the possible additional crimes that were committed. She referenced a specific program, Better Intervention Programming, and explained there were multiple other programs that had proven to be effective in terms of deterrence.

PRESENTATION: **Challenges with Protective Orders in Child Protection Proceedings.** **Magistrate Judge Andrew Ellis** was in Committee to ask for assistance with protective orders in child protective cases and stated the way the statutes were currently constructed made them unusable. **Judge Ellis** identified and gave an overview of the two ways child protective cases started; either law enforcement encountered a situation and removed the children, or law enforcement or the Department of Health and Welfare came to the court with an affidavit saying the children needed to be removed. He proceeded to give an overview of the current statutes in place and, based on the current statutes, there was not the ability to implement keeping children with a safe parent and avoid taking them out of the home while still keeping them safe.

DISCUSSION: **Chairman Lakey** asked what the solution looked like. **Judge Ellis** explained that the solution would be to create a volunteer legislative team to work with him in order for a clear solution that was compatible with other processes in place.

Senator Lee asked why there had been a delay of bringing this issue to the attention of Legislature due to it being a defect that had been reported by the Supreme Court and also asked why he was there to present on this. **Judge Ellis** stated that he did not have an answer and explained his personal journey of why he was selected to present in front of the Committee. **Senator Lee** asked why judges did not receive an immediate transcript prior to rendering their final decision in a termination trial for a child protection case, if transcripts were used, and how could that help get children to permanency so that quicker decisions could be made for magistrate judges. **Judge Ellis** responded that it was a capacity issue, shortage of court reporters, resources issue, and there was a delay because it was done off a recording.

Senator Hartgen asked what the difference would be in a child protection case in reference to the difficulties known of filing domestic violence cases before they had gone through the court system. **Judge Ellis** responded that he believed and urged that the petitioner in these cases would be the State requesting the protection order against the offending parent.

Senator Wintrow asked what Judge Ellis saw as some key elements that were not necessitated when worked in this area. **Judge Ellis** refrained from answering due to not having all the statutes in front him.

PRESENTATION: **The Daily Work of Idaho Magistrate Judges.** **Magistrate Judge Faren Eddins** gave an overview of his typical day in order to present an accurate day of a judge. **Judge Eddins** stated that outside the court was where magistrate judges play the biggest role. He also identified the importance of residing in the county in order to properly identify issues and be involved in the community.

DISCUSSION: **Senator Hart** asked what a workable caseload would look like in order to work about 40 hours a week and how many cases Judge Eddins had. **Judge Eddins** explained that he did not have the exact number of cases that he currently had and did not know what a workable caseload should be. He further explained that a lowered workload would allow the judges to spend more time on the cases they had. **Senator Hart** followed up to ask how the Legislature could help. **Judge Eddins** stated there were issues recruiting candidates for magistrate positions in rural areas and in areas where population had increased. He believed that some of these issues related to finance.

NOTE: **Chairman Lakey** stated there would be a reordering of the agenda and **H 518** would be presented.

H 518 **MEDICAID FRAUD CONTROL UNIT - Amends existing law to revise duties and penalties regarding the Medicaid Fraud Control Unit. Representative Jeff J. Cornilles** presented the bill as a clean up bill from the Attorney General's Office. **Representative Cornilles** explained that the legislation was to align Idaho's Medicaid Fraud Control Unit with the changes made at the Federal Medicaid Fraud Control Unit.

TESTIMONY: **Mr. Nye**, Attorney General's Office, testified in support of the bill. He gave an overview of what the prosecution process was and what it would be with the proposed legislation.

DISCUSSION: **Chairman Lakey** asked Mr. Nye about the typical cases that he saw. **Mr. Nye** responded that the Medicaid Fraud Control Unit was not focused on the recipients of Medicaid, but on the providers who were billing Medicaid.

MOTION: **Senator Hartgen** moved to send **H 518** to the floor with a **do pass** recommendation. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

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

05-0201-2301 **Rules for Residential Treatment Providers (ZBR Chapter Repeal) - Proposed Rule- Proposed Rule P. 60. Monty Prow**, Director, Idaho Department of Juvenile Corrections, presented the proposed rule which would be an update to existing rules that eliminated pages that were no longer necessary, that would be easier to follow in order to ensure the safety of children, and would allow the discretion of the director.

DISCUSSION: **Senator Lee** asked why the Committee would repeal all the rules and asked for clarification as to what was being proposed. **Director Prow** responded that the responsibilities remained the same and it was easier to remove the necessary pages versus annual appearances in order to make an adjustment. **Senator Lee** stated that she authorized to do what Director Prow saw fit, but did not want the rules to be eliminated due to Director Prow not being there forever.

Senator Wintrow asked if there was a middle ground and raised concern over the difficulty to trust in a personnel decision. **Director Prow** reframed that regardless of how standards were written, the response to any violation would be exactly the same. **Senator Wintrow** asked how language could be directed to be put into the contracts in order to know it would go there every time. **Director Prow** referenced Idaho Code § 67-1085 as the holding ground for all contracts statewide and showed all lawsuits during the year.

MOTION: **Senator Lee** moved to reject **Docket No. 05-0201-2301**. **Senator Hart** seconded the motion. The motion carried by **voice vote**.

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

S 1378 **SALARIES OF JUDGES - Amends existing law to revise a provision regarding the salary of the justices of the Supreme Court. Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts, presented the bill which would set the annual salary of a justice of the Supreme Court at \$169,508 which was a 2.6 percent increase of their current salary. He proceeded to give an overview of the different salaries between judges, and the difference of salaries between the public and private sectors.

MOTION: **Senator Ruchti** moved to send **S 1378** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

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

Olivia McDonald
Assistant Secretary