

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, January 07, 2020

SUBJECT	DESCRIPTION	PRESENTER
	Organizational Meeting	
	Administrative Rules Review Overview	Dennis Stevenson, Division of Financial Management

COMMITTEE MEMBERS

Chairman Chaney
Rep Monks, Acting Vice
Chairman
Rep Kerby
Rep Amador
Rep Zito
Rep Zollinger

Rep Ehardt
Rep Scott
Rep Goesling
Rep Hartgen
Rep Marshall
Rep Ricks

Rep Troy
Rep Young
Rep Gannon
Rep McCrostie
Rep Wintrow
Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, January 07, 2020
TIME: 1:30 P.M.
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
**ABSENT/
EXCUSED:** Acting Vice Chairman Monks
GUESTS: Dennis Stevenson, and Jay Shaw, Dept. of Financial Management; Eric Fredrickson, SAPD; Jared Larsen, Governor's Office

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

Chairman Chaney welcomed the committee and introduced the page, **Matthew DeMordaunt**.

Rep. Marshall and **Rep. McCrostie** will served as committee proofreaders.

Chairman Chaney reviewed committee processes and procedures. He requested that members discuss bill drafts with him prior to moving to an RS. He introduced the new SOP and Fiscal Note checklist, which will be used by the Committee Secretary to ensure SOPs and Fiscal Notes meet the basic requirements. He asked that all RSs and bills be introduced in committee by a House member/sponsor. He also introduced a new process for hearing testimony, debate and motions, which is intended to give committee members time to research, digest and contemplate their positions outside of committee before debating and voting in committee. This process will be evaluated as the session progresses.

Dennis Stevenson, Administrative Rules Coordinator, Department of Financial Management, provided an overview of the Administrative Rules Review process.

Following questions from the committee, **Mr. Stevenson** clarified that a Proclamation Rule is a very narrow rules process that limits public input during rulemaking and applies to only two agencies, including the Department of Correction. He stated it would be very difficult to reverse a rule that was vacated and explained that most vacated rules are generally incorporated into other chapters, or are obsolete.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:01 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Thursday, January 09, 2020

SUBJECT	DESCRIPTION	PRESENTER
Docket No. 50-0101-1900	Omnibus Rules – Commission of Pardons and Parole	Ashley Dowell, Commission of Pardons & Parole

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, January 09, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Karen Magnelli, Mary Schoeler, Commission of Pardons & Parole; Jay Shaw, DFM; Nancy Volle, SOMB; Jaren Larsen, Governor's Office

Chairman Chaney called the meeting to order at 1:32 p.m.

**DOCKET NO.
50-0101-1900:** **Ashley Dowell**, Executive Director, Commission of Pardons and Parole, presented omnibus administrative rule **Docket No. 50-0101-1900**. She stated the rules were reviewed specifically to eliminate rules that were outdated, obsolete, unnecessary, or contained duplicative language within the rule or exists within statute and/or the constitution. Six pages of rules and 2,947 words were eliminated. Rules were made more readable with plain language, including the elimination of outdated definitions. The Self-initiated Progress Report process was modified to clarify rules that were contradictory and confusing. Additionally, the Commutation and Early Discharge processes were combined to more clearly outline the process as required by law. General and special parole conditions, as well as Parole Revocation processes were clarified.

Several members of the Committee expressed concern about Idaho's prison recidivism rate and questioned what role the state's parole conditions may play in this. **Ms. Dowell** explained that the general requirements for parole are outlined in Idaho statute, but the Parole Commission may require specific treatment as a parole condition. In response to other questions from the Committee, Ms. Dowell stated that all hearings are audio recorded, but that may change in the future because it is labor intensive. However, all hearings are open to the public and written minutes are taken. She clarified that the Parole board is separate and independent from the parole officers who are governed by the Board of Correction. She explained that parole officers are focused on keeping parolees on track. Minor infractions such as drinking occasional alcohol at a social event may not be the sole cause for revocation of parole. However, it could be if there are other behaviors or preexisting infractions that lead a parole officer to take action for a parole violation.

MOTION: **Rep. Zollinger** made a motion to approve **Docket No. 50-0101-1900**.

Ms. Dowell responded further to questions from the Committee by clarifying that parolees are prohibited from living in homes with firearms, regardless of whether the firearms are owned and secured by the homeowner who may be a parent or family member. She explained the Commission rarely makes a recommendation for commutation of a sentence because it modifies a judicial decision.

**SUBSTITUTE
MOTION:** **Rep. Davis** made a substitute motion to approve **Docket No. 50-0101-1900** with the exception of **Section 250, Subsection 03.g.i.** She stated since anyone over the age of 21 can legally consume alcohol this rule seems overly restrictive for all parolees if their conviction is totally unrelated to drug or alcohol offenses.

For the record, no one indicated a desire to testify.

Reps. Zollinger and McCrostie spoke in opposition to the substitute motion. Rep. Zollinger stated he was not comfortable striking the language if it is in statute, and didn't know whether that is true at this time. Rep. McCrostie related a family member's story and stated he believes this can be a motivator for parolees to stay on the path to reform.

Rep. Gannon spoke in support of the substitute motion. He stated it makes sense if a conviction is related to felony DUI, but it seems overly restrictive when it is not strictly enforced, nor productive to apply it to all parolees if they do not have a problem with alcohol.

In response to committee members who expressed an interest in changing or "cleaning up" sections of the rule related to weapons and certain other conditions for parole, **Rep. Scott** explained the time to do this is during the rulemaking period in the fall. She commended the agency's good faith effort to do what was asked of them by going through their rules to streamline them.

Ms. Dowell responded to a question from a Committee member by stating the alcohol restriction is a relatively new rule that was adopted in 2016 and does act as a motivator.

**VOTE ON
SUBSTITUTE
MOTION:**

Chairman Chaney called for a vote on the substitute motion to approve **Docket No. 50-0101-1900** with the exception of **Section 250, Subsection 03.g.i.** **Motion failed by voice vote.**

**VOTE ON
MOTION:**

Chairman Chaney called for a vote on the motion to approve **Docket No. 50-0101-1900.** **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 2:42 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Monday, January 13, 2020

SUBJECT	DESCRIPTION	PRESENTER
	Family Law	Rick Bollar, Magistrate Judge, Fifth Judicial District
Docket No. 61-0000-1900	Public Defense Commission	Kathleen Elliott, Executive Director
RS27266	State Appellate Public Defender	Representative Wintrow
RS27270	Criminal Justice Data System	Representative Troy

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

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 Chairman
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 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, January 13, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador (Malek), Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis (Burns)

**ABSENT/
EXCUSED:** None

GUESTS: Tony Geddes, Ada PD; Darrell Bolz, PDC; Barry Wood, Rick Bollor, Diane Walker, ISC; Jared Larsen, Governor's Office

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

MOTION: **Rep. Marshall** made a motion to approve the minutes of the January 9, 2020 meeting. **Motion carried by voice vote.**

Chairman Chaney welcomed **Rep. Burns** who will be substituting for **Rep. Davis** and **Rep. Malek** who will be substituting for **Rep. Amador**.

Chairman Chaney reviewed the Cannon of Judicial Ethics for Judges.

Judge Barry Wood, Senior Judge, Administrative Office of the Courts introduced **Judge Rick Bollar**, Magistrate Judge, Fifth Judicial District who presented on child custody determinations. Judge Bollar explained that some of the most difficult cases are those of family law. They tend to be very emotional and have enormous consequences for the parents and children. Judge Bollar provided an overview of the court resources available to help avoid custody litigation and he highlighted the terms and legal standards outlined in Idaho statute that are used in these cases. He stated there are seven standards that are used for determining child custody and one is not necessarily weighted more than another, but all are taken into consideration with the priority being the best interests of the children. He stated the shortest amount of time to get a court date is approximately 60 days, but it is not uncommon for it to take six months, and the need for resources continues to grow.

In answer to questions from the Committee, **Judge Bollar** stated the Guardian Ad Litims participate in a different role than the attorneys and they are important, but there is not much availability of this resource beyond CASA and child protection cases. Grandparent rights are also covered under Idaho code 32-719 as it relates to the best interest of the children. He explained that family law used to be ensconced in the administrative rules of civil procedure, but due to the increasing number of self-represented litigants who had difficulty navigating these rules, family law issues were separated out. He stated that in his experience, there is not any preconception that mothers are entitled to more custodial time than fathers, but there are cases where disparate resources create a disadvantage. Some of the law helps level the playing field, but it is still difficult.

DOCKET NO. 61-0000-1900: **Kathleen Elliott**, Executive Director, Public Defense Commission presented **Docket No. 61-0000-1900**. She introduced herself, and members of the board and provided a brief overview of how the Commission came into existence. She explained the Commission provides training for defending attorneys, collects data, provides master contracts, but does not represent clients. While the Commission intends to bring new rules forward next year, the goal for this year was to meet the requirements under the Governor's Red Tape Reduction Act. The rule changes were simple and non-substantive but included: removing redundant information; clarifying interpretation and incorporation by reference; replacing the word "grant" with "financial assistance," pursuant to last year's legislation; consolidating definitions; removing unnecessary lettering; and removing the word "shall" in two places because it was unnecessary and did not affect the rule.

For the record, no one indicated a desire to testify.

MOTION: **Rep. Wintrow** made a motion to approve **Docket No. 61-0000-1900**.

To clarify, **Ms. Elliott** stated the word "grant" was changed to "financial assistance" because the word "grant" is perceived as temporary and it caused some concern on the part of the counties. The word financial assistance is a more accurate description of the funds available to the counties for the representation of indigent clients.

VOTE ON MOTION: **Chairman Chaney** called for a vote on the motion to approve **Docket No. 61-0000-1900**. **Motion carried by voice vote**.

RS 27266: **Rep. Wintrow** presented **RS 27266** on behalf of the State Appellate Public Defender (SAPD). This proposed legislation would allow the SAPD to take indigent defendants in juvenile and misdemeanor appeals cases instead of the county public defenders. Currently, the SAPD consults, and/or assists on many of these cases. It would affect approximately 30 cases over a three year period.

Rep. Wintrow explained she will go through the specifics of the financial numbers during the bill hearing, but the Governor has committed additional financial means and it will provide some relief to the counties.

MOTION: **Rep. McCrostie** made a motion to introduce **RS 27266**. **Motion carried by voice vote**.

RS 27270: **Rep. Troy** presented **RS 27270**. This proposed legislation will facilitate information sharing to provide a more comprehensive view of what is going on in Idaho's criminal justice environment. The intent is to see what is working and what might not be working, with the goal of reducing recidivism rates and costs. First, the proposed legislation creates a legal frame work to link systems together through the state Controller's office, while being done in a way that protects an individual's identity. It will require a MOU between the participating agencies to ensure everyone is clear about how it will work. Second, it will create a data oversight council. Third, it will ensure each agency owns its own data, and the information within the data center will be protected from public information requests.

MOTION: **Rep. Kerby** made a motion to introduce **RS 27270**.

In answer to questions from the Committee, **Rep. Troy** explained the state has already invested in the data system at the Controller's office, but it is not being used to its fullest capacity. The goal of the system is to gather information that can lead to a better understanding of what is transpiring within Idaho's criminal justice system so it can lead to better outcomes, and ultimately a cost savings in the form of lowering the demand for more prison beds. She stated it may save Idahoans from more time in prison.

Rep. Troy deferred to **Eric Frederickson**, Chairman of the Idaho Criminal Justice Commission, to answer a question from the Committee. He stated the contributing agencies would initially be voluntary, but he expects the Governor's Office would issue an executive order identifying specific contributing agencies at some point in the future.

VOTE ON MOTION:

Chairman Chaney called for a vote on the motion to introduce **RS 27270**. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 2:45 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Wednesday, January 15, 2020

SUBJECT	DESCRIPTION	PRESENTER
Docket No. 11-0000-1900	Idaho State Police Omnibus Pending Rule	Major Charlie Spencer, Rule Review Officer
Docket No. 11-0301-1901	Idaho State Police, Forensic Services, Rules Governing Alcohol Testing	Matthew Gamette, Lab Director
Docket No. 11-0000-1900F	Idaho State Police, Omnibus Pending Fee Rule	Major Charlie Spencer, Rule Review Officer
Docket No. 11-1001-1900F	Idaho State Police, Public Safety & Security Information System	Leila McNeil, Bureau Chief
Docket No. 11-1101-1900F	Idaho State Police, Peace Officer Standards & Training Council	Brad Johnson, Division Administrator

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

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 Rep Kerby
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 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis(Burns)

COMMITTEE SECRETARY

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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Wednesday, January 15, 2020
TIME: 1:30 P.M.
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador (Malek), Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Charlie Spencer, Leila McNeill, Gill Gardiner, Brad Doty, Scott Hanson, Matthew Gamette, ISP; Cheryl Rambo, Patrick Denton, DAG-ISP; Jeremy Johnston, ISP Forensics; Brad Johnson, Idaho P.O.S.T.; Tom Arkoosh, IACDL; Holly Koole Rebholtz, IPAA;

Chairman Chaney called the meeting to order at 1:31 p.m.

DOCKET NO. 11-0000-1900: **Major Charlie Spencer**, Rules Review Officer, Idaho State Police (ISP), presented Omnibus **Docket No. 11-0000-1900**. Major Spencer stated this docket encompasses seven chapters and each was previously reviewed and approved by the Legislature. As directed under the Red Tape Reduction Act, seven pages of rules and 2,734 words were removed. He explained most of the reduction involved removal of office addresses, business hours, written interpretation sections and public record act compliance sections. ISP did not receive any requests for public comment or hearings. Major Spencer briefly reviewed each chapter under this docket and stated there were no substantive changes.

In answer to a question from the Committee, **Major Spencer** stated the new law that requires vehicles to yield to accidents along highways is helpful, but officers and first responders are still at great risk.

For the record, no one indicated a desire to testify.

MOTION: **Rep. Wintrow** made a motion to approve **Docket No. 11-0000-1900**. **Motion carried by voice vote.**

DOCKET NO. 11-0301-1901: **Matthew Gamette**, Lab Director, Idaho State Police Forensic Services, presented **Docket No. 11-0301-1901**. Mr. Gamette stated that in addition to eliminating things that were obsolete, outdated or unnecessary, this rule updated and clarified the number and types of breath samples required to be considered a valid test for court purposes. There were no public comments submitted, and there were no requests for public hearings.

In answer to questions from the Committee, **Mr. Gamette** explained there are two breath analyzing instruments approved for use in Idaho, and both are on the Federal Register. ISP Forensic Services oversees officer training to ensure the proper use of the instruments.

Tom Arkoosh, Idaho Association of Criminal Defense Attorneys, testified by stating there is concern about changes in the rules as they relate to the monitoring and observation periods for evidentiary breath alcohol testing and the elimination of the 15 minute monitoring period if there two tests. He stated it is assumed the change occurred to prevent the exclusion of the test in testimony if someone fails to watch the subject for 15 minutes. Rather than solving the problem, he stated it may create bigger problems that will lead to increased litigation.

Jeremy Johnston, Discipline Leader, Idaho State Police Forensic Laboratory, responded to the testimony by explaining there are different terms often used synonymously in court for the 15 minute monitoring period. The purpose of the change was to clarify and define the terminology specifically as it relates to the 15 minute pretest period. The rule now defines this as the 15 minute monitoring period. A 15 minute observation period commences simultaneously during the monitoring period prior to a breath test. If two valid breath samples are collected, they are considered as a scientific objective measurement, and therefore, the subjective observations are not necessary for the evidentiary record.

In answer to a question from the Committee, **Mr. Arkoosh** stated that burping or regurgitating into the machine can invalidate the test and this can only be determined with observation. Therefore, he does not see a need for the change.

MOTION: **Rep. Gannon** made a motion to approve **Docket No. 11-0301-1901**. Speaking to the motion, Rep. Gannon stated he is sure ISP wants to make sure the rule functions properly and if there is a problem with the process ISP will come back to correct the rule in the future. **Motion carried by voice vote.**

DOCKET NO. 11-0000-1900F: **Major Charlie Spencer**, Idaho State Police, presented the Omnibus Fee **Docket No. 11-0000-1900F**. Major Spencer explained there are two chapters in this docket and each existed previously and were approved by the Legislature. This docket eliminated three pages and 634 words and involved removal of office addresses, business hours, written interpretation sections and public record act compliance sections. Major Spencer briefly reviewed each chapter under this docket and stated no one submitted public comment or requested a public hearing.

In answer to questions from the Committee about **chapter 11.05.01**, **Major Spencer** stated the delegation of authority outlined in the rule has not changed. He deferred to **Captain Brad Doty**, Idaho State Police Bureau Chief of Alcohol Control, to respond to questions from the Committee. Captain Doty clarified it is state law, not this rules docket, that requires non-profits to secure a permit when including alcohol in gift baskets. This applies to all alcohol except beer and wine. He explained the transfer of liquor licenses is also governed by law and not rule.

In answer to questions about **chapter 11.10.02**, **Major Spencer** stated the agency's criminal history records are agency records, not court records.

For the record, no one indicated a desire to testify.

MOTION: **Rep. Monks** made a motion to approve **Docket No. 11-0000-1900F**. **Motion carried by voice vote.**

DOCKET NO. 11-1001-1900F: **Leila McNeil**, Criminal Identification Bureau Chief, Idaho State Police, presented the Omnibus Fee **Docket No. 11-1001-1900F**. She explained that the Idaho Public Safety and Security Information System, or ILETS, connects all Idaho law enforcement agencies to state and federal criminal history databases. It allows officers access to critical information necessary to perform their duties. This rule was previously reviewed and approved by the Legislature. She stated one page of rules was eliminated; however there were no substantive changes.

For the record, no one indicated a desire to testify.

MOTION: **Rep. Troy** made a motion to approve **Docket No. 11-1001-1900F**. **Motion carried by voice vote.**

DOCKET NO. 11-1101-1900F: **Brad Johnson**, Division Administrator, Idaho State Police, Peace Officer Standards and Training (POST) Council, presented the Omnibus Fee **Docket No. 11-1101-1900F**. Mr. Johnson stated that efforts to update these rules began nearly two years ago at the direction of the POST Council. He highlighted a few specific changes that include: consolidating six sets of rules into one; standardizing terms; standardizing requirements across disciplines for certification, training, renewing certification and challenging certification; eliminating discretionary disqualifiers for certification by removing ambiguity and subjectivity; and updating and adding definitions to improve clarity.

For the record, no one indicated a desire to testify.

MOTION: **Rep. Zollinger** made a motion to approve **Docket No. 11-1101-1900F**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 2:29 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, January 21, 2020

SUBJECT	DESCRIPTION	PRESENTER
	Magistrate Judges Presentations / Introduction	Judge Barry Wood, Administrative Office of the Courts
	Mentor Judge Program	Judge David Epis, 4th Judicial District
	Education for New Judges	Judge Annie McDevitt, 4th Judicial District
	Challenges on Civil Commitments	Judge John Lothspeich, 5th Judicial District
Docket No. <u>57-0101-1900F</u>	Sexual Offender Management Board	Nancy Volle, Program Manager
Docket No. <u>57-0101-1901</u>	Sexual Offender Management Board	Nancy Volle
<u>RS27275</u>	Electronic Recording Commission	Representative Hartgen
<u>RS27240</u>	Board of Correction / Training Programs	Representative Ricks
<u>RS27276</u>	Marriage License / Application	Representative Ricks

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

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 Rep Davis

COMMITTEE SECRETARY

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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, January 21, 2020
TIME: 1:30 P.M.
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
ABSENT/EXCUSED: Chairman Chaney, Representative(s) Davis, Amador
GUESTS: Barry Wood, ISC; John Lothspeich, Annie McDevitt, Dave Epis, Courts; Thomas Campbell, AFL-CIO; Nancy Volle, SOMB; Melinda Merrill, Idaho Bail Coalition; Brody Aston, Westerborg Assoc.; Hollie Lawrence, Avery Robinson, LSO

Chairman Monks called the meeting to order at 1:32 p.m.

Judge Barry Wood, Senior Judge, Administrative Office of the Courts, introduced the panel of Magistrate Judges. The germane committees requested the courts come each year to review previously approved programs.

Judge David Epis, Magistrate Judge, Fourth Judicial District, presented on the history and objectives of the judge's mentor program and judicial performance evaluations. He stated the goal is to maintain a better trial bench and help users of the courts through measurable and meaningful objectives and outcomes. The performance evaluations occur every three years; identifying areas in need of improvement make the judges better public servants. He thanked the Legislature for their funding and support.

Judge Annie McDevitt, Magistrate Judge, Fourth Judicial District, presented on education for new judges. There is a big percentage of new judges, so the focus on mentoring and training is critical. The goal of new judge training is to ensure fair due process and impartial resolution of cases. Instructors are judges throughout the state. She discussed available conferences on topics including drug and mental health courts, children and families and domestic violence. She noted the judicial performance evaluations may identify an area where more training is needed and there are funds available to send judges to such conferences.

In response to Committee questions regarding Odyssey, **Judge McDevitt** stated it is extremely efficient and eliminates the need for transporting volumes of records for court use. She acknowledged concerns about taking the concerns of practitioners into consideration.

Judge John Lothspeich, Magistrate Judge, Fifth Judicial District, presented on the challenges of civil commitments. He discussed involuntary holds and the lack of psychologist examiners. He stated jails may not be used to hold mentally ill patients, even temporarily, and there is a significant and reoccurring problem with bed availability in state facilities. Over the last five years there has been a large increase in mental commitments. He noted Idaho has a very high suicide rate; St. Luke's was awarded a federal grant to do a suicide study. He discussed Assisted Outpatient Treatment and its benefits, including cost savings.

In response to Committee questions, **Judge Lothspeich** noted counties are responsible for ensuring the initial treatment is followed. He stated his support as a judge for programs and policies that help prevent people with mental illness from reentering the court system.

DOCKET NO. 57-0101-1900F: **Nancy Volle**, Program Director, Sexual Offender Management Board (SOMB), presented Omnibus **Docket No. 57-0101-1900F**. She stated this docket eliminated an outdated rule.

MOTION: **Rep. Wintrow** made a motion to approve **Docket No. 57-0101-1900F**. **Motion carried by voice vote.**

DOCKET NO. 57-0101-1901: **Nancy Volle**, Program Director, Sexual Offender Management Board (SOMB), presented **Docket No. 57-0101-1901**. She gave an overview of SOMB; it is an eleven member board that is separate from the Idaho Department of Correction. This rule streamlines processes, creates a quality assurance process for polygraph examiners and updates incorporated by reference documents.

In response to Committee questions, **Ms. Volle** explained a typical treatment plan; the provider is required to submit a template of their treatment plan, but makes decisions based on their own recommendations. SOMB does have oversight of providers and their work product is reviewed as part of the quality assurance process. This rule also allows providers to seek an extension of time to complete their continuing education, without delaying their renewal application. Ms. Volle noted SOMB plans to continue discussions about the provider certification process to make it more accessible, while preserving the quality of service.

MOTION: **Rep. Kerby** made a motion to approve **Docket No. 57-0101-1901**. **Motion carried by voice vote.**

RS 27275: **Rep. Hartgen** presented **RS 27275**, which repeals the Electronic Reporting Commission; its functions will be carried on by the Secretary of State. There is no fiscal note because the Commission's business occurred when the members were already in Boise attending conferences.

MOTION: **Rep. Kerby** made a motion to introduce **RS 27275**. **Motion carried by voice vote.**

RS 27240: The sponsor requested to hold **RS 27240** for future consideration.

RS 27276: **Rep. Ricks** presented **RS 27276**, which removes a reference to an unknown department in the section of code related to marriage licenses.

In response to Committee questions, **Rep. Ricks** clarified this does not change the requirements to obtain a marriage license.

MOTION: **Rep. Wintrow** made a motion to **introduce RS 27276**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 2:52 p.m.

Representative Monks
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Thursday, January 23, 2020

SUBJECT	DESCRIPTION	PRESENTER
	Child Protection Services Panel – The Courts	Magistrate Judge Bryan Murray, 6th Judicial District
	Child Protection Services Panel – Family & Child Services, Dept. of Health & Welfare	Roxanne Printz, Deputy Division Administrator
	Child Protection Services Panel – Prosecution	Brent Ferguson, Deputy Prosecutor, Ada County
	Child Protection Services Panel – Defense	Aaron Bazzoli, Chief Public Defender, Canyon County
Docket No. 05-0000-1900	Omnibus Pending Rule – Idaho Department of Juvenile Correction	Monty Prow, Director

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt

Rep Scott

Rep Goesling

Rep Hartgen

Rep Marshall

Rep Ricks

Rep Troy

Rep Young

Rep Gannon

Rep McCrostie

Rep Wintrow

Rep Davis(Burns)

COMMITTEE SECRETARY

Wendy Carver-Herbert

Room: EW56

Phone: 332-1127

email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, January 23, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney (Chaney), Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis (Burns)

**ABSENT/
EXCUSED:** Representative Amador

GUESTS: The sign-in sheets will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

Chairman Monks called the meeting to order at 1:31 p.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of the January 13, 2020 meeting. **Motion carried by voice vote.**

Chairman Monks introduced the panel on Child Protection Services.

Judge Bryan Murray, Magistrate Judge, Sixth Judicial District, presented an overview of the process and court proceedings that occur when a child protection referral is made. The Child Protection Act and Family First Act are the foundation for Idaho's child protection system. The Idaho Department of Health and Welfare (IDHW) oversees the welfare of families and children, with the ideal of family support coming from the community. He explained the mission of the system is to keep kids in safe, stable homes; to intercede when the health and safety of children is at apparent risk; and to balance the rights of children with the rights of parents. Under Federal law, there is a list of who must report suspected child neglect or abuse, but Idaho is a mandatory reporting state. About 23,000 cases are reported each year, but most do not result in a formal investigation. Children from 1,400 cases come into agency care. Judge Murray explained DUI, drug offenses, children wandering streets, sex abuse allegations, parents involving children in their crimes, substitute care takers and chronic neglect are all causes for which a police officer may remove children from a parent's custody. He stated there are a growing number of children born under the influence and officers will respond to the hospital to declare a child is in imminent danger. He explained Idaho is a positive example nationally for limiting appeals by sending cases directly to the Idaho Supreme Court so the question of permanency is not drawn out.

Roxanne Prinz, Deputy Administrator, Family and Community Services, Idaho Department of Health and Welfare, provided an overview of the role the department takes in child protection cases. She explained all reports are received at a centralized unit in Boise. Safety assessments are often done in coordination with law enforcement. She acknowledged the assessment can be confusing, and the department has developed materials explaining parents' rights in response to proposed legislation last year. She explained there are only three ways to remove a child: law enforcement can find a child in imminent danger, a social worker can file a petition which is decided by a judge, and some juvenile justice cases can be extended into child protection cases. The act of coming into care can be traumatizing, so the goal is to place children in the care of a family member and keep siblings together. Ongoing case management continues with a plan

that outlines the needs and services required for children and parents in order to support reunification.

Brent Ferguson, Deputy Prosecutor, Ada County, explained how the county prosecutors are involved in child protection cases. Prosecutors initiate cases by filing a petition with the courts and have 30 days to make a case for child protective custody. The role of prosecutors is somewhat passive until cases come up for permanency hearings 12 months later. If reunification isn't feasible, the focus turns to other options that are determined in the best interests of the children. Mr. Ferguson explained child protection case information cannot be used against parents in criminal cases.

Aaron Bazzoli, Chief Public Defender, Canyon County, described the child protection hearing process as messy and emotional. The court hearing can include attorneys for the parents, attorneys for the children, the prosecutors, guardian ad litem and judge. While the time frames and process seem reasonable and orderly, it's difficult for the children and parents. He explained that defense attorneys are the voice for parents, but attorneys only get the information provided in the case reports, which often doesn't arrive in a timely manner. Speeding up communication would be a process improvement. Canyon County case workers have 150 cases a year and many are open approximately two years. Mr. Bazzoli explained there are Federal dollars available to support social workers, but access requires state matching funds.

In answer to questions from the Committee the panel members reiterated that child removal is prompted by cause that shows a child's health or safety is in danger. A dirty home is not a sole reason for cause unless it is unsafe or considered unsanitary for human habitation. The child protection system uses nationally recognized safety and risk factors in the assessment of complaints. Charges of sexual abuse are carefully evaluated and IDHW relies on forensically trained interviewers. However, imminent safety is the primary focus rather than risk. In 2019 in Idaho, the average amount of time children in the system were separated from their parents was 8.5 months. The national average is 12 to 18 months. The child protection system is working on a process for handling juvenile justice cases that have probable underlying child protection issues. The panel members agreed that lack of access to affordable, stable housing was a barrier to reuniting families faster. They also stated better funding and training for guardian ad litem, increased mental health support for children and parents, and better support for rural communities were all important.

**DOCKET NO.
05-0000-1900:**

Monty Prow, Director, Idaho Department of Juvenile Correction, presented **Docket No. 05-0000-1900**. This is an omnibus reauthorization of existing rules and each were previously reviewed and approved by the Legislature. The rules were reviewed under the direction of the Red Tape Reduction Act. Rules that were outdated, redundant or unnecessary were eliminated. One chapter was eliminated and three others chapters were consolidated. Thirty-five pages of rules and 451 restrictions were removed, resulting in a 35 percent reduction in restrictions.

MOTION:

Rep. Wintrow made a motion to approve **Docket No. 05-0000-1900**. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 3:40 p.m.

Representative Monks
Chair

Wendy Carver-Herbert
Secretary

JOINT AGENDA
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
AND
SENATE JUDICIARY & RULES COMMITTEE**
1:30 P.M.
Lincoln Auditorium, WW02
Monday, January 27, 2020

SUBJECT	DESCRIPTION	PRESENTER
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	Presentation / Update from the Idaho Department of Correction	Josh Tewalt, Director
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Upon Adjournment the House Judiciary, Rules & Administration Committee will meet in EW42 to take up Committee Business.

COMMITTEE MEMBERS

Chairman Chaney(Chaney)	Rep Ehardt
Rep Monks, Acting Vice Chairman	Rep Scott
Rep Kerby	Rep Goesling
Rep Amador	Rep Hartgen
Rep Zito	Rep Marshall
Rep Zollinger	Rep Ricks

Rep Troy
Rep Young
Rep Gannon
Rep McCrostie
Rep Wintrow
Rep Davis(Burns)

COMMITTEE SECRETARY

Wendy Carver-Herbert
Room: EW56
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MINUTES
JOINT MEETING

**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
SENATE JUDICIARY & RULES COMMITTEE**

DATE: Monday, January 27, 2020

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium, WW02

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, Nye

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

Chairman Chaney called the meeting to order at 1:32 p.m.

Josh Tewalt, Director of the Idaho Department of Correction (IDOC), gave an update on the corrections system in Idaho, beginning with an overview. The flow of inmates starts in the county jails where almost all enter the system. They come in as newly sentenced, violators, and retained jurisdiction. They are assessed on entry to know how to help them and where to place them. The department offers programs for; thinking through a change, substance abuse, sex offender, aggression replacement, and advanced skills practice. Nothing helps more than education to deter recidivism. IDOC's goals are to reduce crime, improve success for staff and people in their care, reduce spending and increase confidence in IDOC. They are working on a balance of accountability and intervention.

IDOC faces the challenge of how difficult the environment is on staff. PTSD is ten times greater with correctional employees than with combat veterans. Other challenges faced are revolving clientele, unprecedented prison growth, and aging infrastructure not meeting prisoners needs. One solution that is not a long-term solution is out of state placement.

IDOC's first goal is to improve community outcomes with connection and intervention stations that provide intervention and accountability at the cost of \$4.5 million investment. New positions have been made, probation and parole specialists, that will provide administrative support to keeps officers connected with people they supervise. IDOC is piloting dosage probation, expanding a GPS monitoring program, contracting urinalysis testing, creating reentry savings accounts and helping with targeted transitional funding. The transitional funding is being piloted to provide housing solutions. IDOC is also working to prepare them better to adjust from prison environment to real world experiences.

The next part of IDOC's goal is to increase bed capacity. The short-term plan is to add 810 new beds. Mid-term plan is to continue to increase bed capacity. The long-term goal is to invest in infrastructure improvements to enhance efficiency of existing facilities. From a policy standpoint the best way for legislatures to be involved is to come and see the facilities, the reentry centers, and meet the staff and the people in IDOC's supervision.

Chairman Chaney explained this is the first of two meetings. Public testimony will be considered on Wednesday. Today was designed to be a conversation between the committee and the director.

Answering the committees concerns, **Mr. Tewalt** explained that 98% of people are returning into the community, so the question shouldn't be if they are coming, but when and how can we help them transition. There are policy decisions that need to be done to give offenders tools to be successful. In answer to committee concerns, Mr. Tewalt discussed the issue of using county beds, instead of state facilities for long-term prisoners. Unless there is a change in state law, counties cannot refuse inmates.

Mr. Tewalt explained to the committee that he does not know the impact that Medicaid expansion will have in the correctional department, but they are hopeful it will be beneficial. In answer to committee concerns of sexual assault in incarceration, IDOC has zero tolerance and has increased training opportunities, and has made it clear that there is an avenue for confidential reporting. With committee concerns that county jails are being under-utilized while IDOC is increasing out of state placements, Mr. Tewalt explained they are working to evaluate what how counties would like their beds to be used. The other discussion is if it is cheaper out of state than in county jails, that issue needs to be discussed. IDOC is also trying to watch quality control with contracts outside of the state. In answer to concerns of Idaho Correctional Industries, Mr. Tewalt feels that the right people are being hired, focusing on outcome instead of bottom line and they are preparing people to leave the correctional facilities and transition into the community.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:55 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
Upon Adjournment of Joint Judiciary Rules Mtg
Room EW42
Monday, January 27, 2020

SUBJECT	DESCRIPTION	PRESENTER
RS27240	Board of Correction / Training Programs	Representative Ricks
H 348	Electronic Recording Commission*	Representative Hartgen

* Public Testimony Only

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney(Chaney) Rep Ehardt

Rep Monks, Acting Vice Chairman Rep Scott

Rep Kerby Rep Goesling

Rep Amador Rep Hartgen

Rep Zito Rep Marshall

Rep Zollinger Rep Ricks

Rep Troy

Rep Young

Rep Gannon

Rep McCrostie

Rep Wintrow

Rep Davis(Burns)

COMMITTEE SECRETARY

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Phone: 332-1127

email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, January 27, 2020
TIME: Upon Adjournment of Joint Judiciary Rules Mtg
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
**ABSENT/
EXCUSED:** Representatives Young, Gannon, McCrostie
GUESTS: Thomas Campbell, AFL-CIO; Jared Larsen, Governor's Office
Chairman Chaney called the meeting to order at 3:15 p.m.
RS 27240: **Rep. Ricks** presented **RS 27240** which clarifies the programs offered through Idaho Correctional Industries (ICI) are training programs. It also makes technical corrections and expands the type of work ICI trainees can do. He explained the goal of this proposed legislation is to expand the program so more inmates can learn a marketable skill and earn money that can help cover their expenses and pay fees and commitments once they are released.
Rep. Wintrow requested **Rep. Ricks** come prepared to address labor wages in agriculture versus other industries, and workers compensation for injured workers.
MOTION: **Rep. Scott** made a motion to introduce **RS 27240. Motion carried by voice vote.**
H 348: **Rep. Hartgen** presented **H 348** and stated it is a simple bill that repeals the Electronic Recording Commission. She explained the Secretary of State will absorb the costs of this function so there will be no fiscal impact.
Jared Larsen, Criminal Justice Adviser, Office of the Governor, spoke **in support** of this bill.
Chairman Chaney stated **H 348** will be scheduled for a vote at a later date.
ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 3:23 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

JOINT AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
AND
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Lincoln Auditorium WW02
Wednesday, January 29, 2020

SUBJECT	DESCRIPTION	PRESENTER
	Presentation from the Office of Performance Evaluation / Managing Correctional Capacity	Rekesh Mohan, Director Lance McCleve, Team Lead
Docket No. <u>06-0000-1900</u>	Omnibus Proclamation Rule – Board of Correction	Josh Tewalt, Director, Idaho Department of Correction
Docket No. <u>06-0202-1901</u>	Pending Proclamation Rule – Board of Correction	Josh Tewalt
	Upon Adjournment the House Judiciary, Rules & Administration Committee will meet in EW42 to take up Committee Business	

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney(Chaney)
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis(Burns)

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES
JOINT MEETING
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
SENATE JUDICIARY & RULES COMMITTEE**

DATE: Wednesday, January 29, 2020
TIME: 1:30 P.M.
PLACE: Lincoln Auditorium WW02
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, Nye
**ABSENT/
EXCUSED:** Representative Goesling
GUESTS:

The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

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

Rekesh Mohan, Director Office of Performance Evaluations, introduced the team who worked on the analysis of the state's correctional system and its capacity. He stated the analysis shows that inadequate planning over the past decade is the contributing cause of many of the problems faced by the Idaho Department of Correction (IDOC).

Lance McCleve, Team Lead, Office of Performance Evaluations, provided an overview of the evaluation, but focused on growth and forecasting. He explained the reasons for prison population growth are complex. However, growth factors are related to increasing term admissions from parole revocations; inmate releases not keeping pace with inmate population; and new term commitments increasing faster than the Idaho population. It is recommended IDOC develop a long-term forecast.

Casey Petti, Office of Performance Evaluations, provided a statistical overview and update on facility condition and capacity issues. He explained over half the housing units in Idaho do not meet standards because of overcrowding. They also are outdated so they limit efficient, continuous observation of inmates. This is a safety issue for staff and inmates. It also impacts the ability to offer programs that can support rehabilitation. It is recommended IDOC do a facility condition assessment.

Suzie Bursheron, Office of Performance Evaluations, discussed alternative housing options and explained the cost differences of housing inmates at IDOC prisons, out-of-state facilities and county jails. She stated the cost of constructing a new prison is projected to save the State money over the long-term because it would lower daily operational costs, which could offset construction costs.

Bob Thomas consulted with the Office of Performance Evaluations. He explained many of the issues that were identified in the evaluation 10 years ago have been addressed. However, it is still recommended the department conduct a staffing analysis and work with outside organizations to create a staffing model.

In answer to questions from the Committee, **Mr. Lance** stated the cost comparisons for housing inmates in various types of state, out-of-state and county facilities are the fully load costs and not the per diem reimbursement rates allowed by statute. He clarified that most of the services provided to inmates in counties are handled by the department including medical care. He stated the cost comparisons do not include consideration for Medicaid expansion.

Chairman Lakey turned the gavel over to **Vice Chairman Lee** to conduct the rules review.

**DOCKET NO.
06-0000-1900:**

Josh Tewalt, Director, Idaho Department of Correction, presented the Omnibus docket where five chapters were consolidated into four and 18 pages were removed to eliminate repetitive language. Most of the changes were not substantive. He explained most public concern has been focused on the section related to executions. The department recognizes there are many shared interests in making sure the integrity of the process is maintained. He stated there is a clearly defined process for how executions are handled, including testing the drug compounds used in lethal injections. He stated those procedures are available for public review. The board went to extra lengths to reduce the list of topics that would be exempt from public disclosure.

**DOCKET NO.
06-0202-1901:**

In discussing this docket, **Mr. Tewalt** stated the changes related to the rules governing release readiness were non-substantive and focused on the removal of unnecessary definitions and clean up.

Vice Chairman Lee directed **Mr. Tewalt** and the Committee to consider **Docket No. 06-0000-1900**.

In answer to Committee questions, **Karen Magnelli**, Deputy Attorney General explained that I.C. 75-105.4.a.i. is the statutory basis for the IDOC's disclosure rules relating to executions.

Mr. Tewalt addressed additional questions from the Committee regarding the state's pending litigation regarding disclosure and execution drugs, and the reasons for implementing the rule changes at this point in time. He explained the department took many things into consideration, including the controversies surrounding the efficacy of execution drugs in other states, the current environment, the department's highest commitment to maintaining an integrous process.

Aliza Cover, Law Professor at University of Idaho testified on behalf of herself and not the university. She stated she is a petitioner in a public records law suit seeking to obtain information from the IDOC. She spoke **in opposition** to the docket as it relates to non-disclosure of execution related information because it undermines democratic participation and public confidence in a matter of high public concern. She explained that public execution policy is supported by the people of Idaho through a democratic process, therefore the people of Idaho have the right to know whether the process is done in a transparent, humane and dignified way. She stated public disclosure can ensure accountability.

In answer to questions from the Committee, **Ms. Cover** stated that regardless of public criticism, secrecy creates many other issues far beyond the risk of discouraging companies from providing drugs for lethal injections.

Kathy Griesmeyer, Policy Director, for ACLU of Idaho, spoke **in opposition** to section **06.02.02.135.05.b.** of the docket. Ms Griesmeyer's testimony addressed similar concerns voiced by **Ms. Cover**, but she spoke specifically to recent district court findings against the IDOC regarding public disclosures involving past execution cases. She also stated the department's proposed non-disclosure rules will jeopardize the State's contractual integrity. It increases the risk for future litigation by instituting secrecy rules that make it difficult for pharmaceutical companies to monitor the supply chain for the misuse of drugs that have been restricted against use in executions. She explained that several large federally regulated pharmaceutical companies have communicated with the department regarding the prohibited use of their products in lethal injections. She stated transparency across the supply chain is important to protect public health and the commercial interest of health companies.

In answer to questions from the Committee, **Ms. Griesmeyer** stated it isn't the expertise or role of the ACLU to provide a list of acceptable pharmaceuticals for lethal injections that could withstand ACLU litigation. Instead, the ACLU is committed to holding the IDOC accountable by not allowing its practices to be done in secrecy. She also explained chemical compounds used in capitol punishment cases should be obtained both legally and transparently.

Ken Burgess, on behalf of the Idaho Press Club, spoke **in opposition** to any action that limits public access. He stated as long as the state uses execution as a punishment then all actions related to that should be transparent. He also explained concerns about this setting precedent on other issues of public concern.

Mr. Tewalt responded to the testimony by stating the execution drugs are lawfully acquired.

Vice Chairman Lee returned the gavel to **Chairman Lakey** to close the meeting. He explained the Senate and House Committees will return to their own meeting rooms to consider the dockets.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 2:46 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
 Upon Adjournment of Joint Judiciary, Rules Mtg
 Room EW42
 Wednesday, January 29, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration, public testimony previously taken:	
Docket No. <u>06-0000-1900</u>	Vote on Omnibus Proclamation Rule – Board of Correction*	
Docket No. <u>06-0202-1901</u>	Vote on Pending Proclamation Rule – Board of Correction*	
<u>H 348</u>	Electronic Recording Commission	
	For public hearing, testimony will be taken, Committee consideration will be scheduled for a later date:	
<u>H 319</u>	State Appellate Public Defender	Representative Wintrow
	For introduction:	
<u>RS27471C1</u>	Sexual Assault Protection Act	Representative Wintrow
<u>RS27493</u>	Wrongful Conviction Act	Representative Ricks

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney(Chaney)
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis(Burns)

COMMITTEE SECRETARY

Wendy Carver-Herbert
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 Phone: 332-1127
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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Wednesday, January 29, 2020

TIME: Upon Adjournment of Joint Judiciary, Rules Mtg

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Kelli D. Brassfield, IAC; Annie Hightower, ICASDV; Eric Fredericksen, Eric Lefitinen, SAPD; Jaren Larsen, Governor's Office; Kevin Mickelson, ICI; Greg Hampikian, Idaho Innocence Project; Emilee Jackson-Edney, Kacee O'Connor, Alexandra Caval

Chairman Chaney called the meeting to order at 3:05 p.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of the January 9, 2020 and January 15, 2020 meetings. **Motion carried by voice vote.**

**DOCKET NO.
06-0000-1900:** **Chairman Chaney** returned the docket to the Committee for consideration.

MOTION: **Rep. Kerby** made a motion to approve **Docket No. 06-0000-1900.**

**SUBSTITUTE
MOTION:** **Rep. McCrostie** made a substitute motion to approve **Docket No. 06-0000-1900** with the exception of **06.01.01.135.05.b.iii.**

Speaking to the substitute motion, **Rep. McCrostie** stated the motion supports testimony previously provided. He also explained that in comparing the Omnibus rule to the redline comparison of the old rule, it looked as if this section was expanded and new language was added. This is contrary to the goal of the Red Tape Reduction Act.

Speaking **in support** of the original motion, **Rep. Monks** stated the redline version is not an official document and the Department of Correction had the ability to hold back that information previously. He also stated the rule explains that the department is only exempt from disclosing information if it jeopardizes the department's ability to carry out the execution, and he would expect if it does not meet this standard, information will be released.

Rep. Gannon spoke **in support** of the substitute motion. He stated Idaho has already lost a lawsuit related to this issue and although it is being appealed, he is concerned it will cost the state more in the long run and the best thing to do is to follow the court decision.

Rep. Wintrow stated this raises the question of whether it is time to review the state's position on the death penalty. She claimed it is not cost effective, and perhaps there needs to be more thorough conversations about it. If it is the public's desire to continue executions, then it raises the questions of whether they should have access to relative information and how that should be addressed.

VOTE ON SUBSTITUTE MOTION: **Rep. McCrostie** called for a roll-call vote on the substitute motion to approve **Docket No. 06-0000-1900** with the exception of **06.01.01.135.05.b.iii**. **Motion failed by a vote of 7 AYE and 11 NAY**. **Voting in favor** of the substitute motion: **Reps. Amador, Zito, Zollinger, Gannon, McCrostie, Wintrow, Davis**. **Voting in opposition** to the substitute motion: **Chairman Chaney, Reps. Monks, Kerby, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young**.

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for a vote on the original motion to approve **Docket No. 06-0000-19000**. **Motion carried by voice vote**.

DOCKET NO. 06-0202-1901: **Chairman Chaney** returned the docket to the Committee for consideration.

MOTION: **Rep. McCrostie** made a motion to approve **Docket No. 06-0202-1901**. **Motion carried by voice vote**.

H 348: **Chairman Chaney** returned the bill to the Committee for consideration.

MOTION: **Rep. Monks** made a motion to send **H 348** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote**. **Rep. Hartgen** will sponsor the bill on the floor.

H 319: **Rep. Wintrow** presented the bill from the State Appellate Public Defender (SAPD). She stated this bill enlarges the jurisdiction of the SAPD to handle second level misdemeanor and juvenile appeals cases for indigent defendants. This will lift some burden off the counties by turning over certain appeals to the SAPD. In speaking to the Fiscal Note, she explained the SAPD has budgeted for another attorney to handle the additional case load. She yielded her time to **Eric Frederickson**.

Eric Frederickson, State Appellate Public Defender, described how these cases flow through the courts. The SAPD already spends a lot of time consulting with the counties because its extensive appellate experience. He explained this move will also put these cases on more equal footing to the benefit of the defendants, since they are prosecuted by the Attorney General.

In answer to questions from the Committee, **Mr. Frederickson** explained about nine cases would be taken over by the SAPD. These cases will be handled with the addition of another attorney, which will actually result in a net reduction in current case load.

Kelly Brassfield, Idaho Association of Counties, spoke **in support of H 319**.

Chairman Chaney stated this bill will be placed on the agenda for consideration, February 3, 2020.

RS 27471C1: **Rep. Wintrow** presented **RS 27471C1**, which proposes to create a new law to protect victims of sexual assault by allowing them to seek a civil protection order. This proposed bill has gone through months of extensive vetting with input from a broad base of stakeholders. She described the purpose of this proposed legislation versus the Domestic Violence Act, which only covers victims of abuse from long-term, intimate partners.

In answer to questions from the Committee, **Rep. Wintrow** explained the plan was originally to add language into the existing domestic violence law because the rules and processes were already in place. However, concerns about the possible revocation of firearm rights, which is allowed under the Domestic Violence Act, prompted the creation of this RS as stand alone legislation. She stated the Attorney General has reviewed and issued an opinion that this proposed law will not invoke a firearm restriction, but will go a long way in providing protection for victims.

MOTION: **Rep. Davis** made a motion to introduce **RS 27471C1**.

In response to an additional question from the Committee, **Rep. Wintrow** described the process victims must go through to secure a protection order and how the due process rights of the accused are also addressed. She reiterated that the language in this proposed legislation mirrors much of the existing domestic violence law.

**VOTE ON
MOTION:**

Motion carried by voice vote.

RS 27493:

Rep. Ricks presented **RS 27493**, which would allow for financial compensation to the wrongfully convicted. Idaho is one of 15 states with no compensation mechanisms or resources for wrongfully convicted individuals to integrate back into society. He described the compensation structure, including a two-year window to make a claim, and it will be retroactive. There are mechanisms to prevent double dipping if their are civil awards. Six people have been wrongfully convicted in Idaho in past 30 years.

MOTION:

Rep. Kerby made a motion to introduce **RS 27493**. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 3:58 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Monday, February 03, 2020

SUBJECT	DESCRIPTION	PRESENTER
<u>H 319</u>	For Committee consideration, public testimony previously taken: State Appellate Public Defender	
<u>H 373</u>	For public hearing, testimony will be taken, Committee consideration will be scheduled for a later date: Board of Correction / Training Programs	Representative Ricks
<u>RS27322</u>	For Introduction: Sexual Offenders / Distance from Daycares	Representative Christensen
<u>RS27324</u>	Child Protection Training	Representative Scott
<u>RS27348</u>	Child Protection Parental Rights	Representative Scott
<u>RS27295C1</u>	Financial Exploitation of and Elder	Representative Zito
<u>RS27534</u>	DUI Diversion Program	Representative Kerby
<u>RS27528</u>	Property Tax Disclosure / Lessor, Lessee	Representatives Gannon/Young
<u>RS27299</u>	Female Child Genitalia Mutilation	Representative Troy

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Monday, February 03, 2020
- TIME:** 1:30 P.M.
- PLACE:** Room EW42
- MEMBERS:** Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
- ABSENT/
EXCUSED:** Representative Davis
- GUESTS:** Eric Fredericksen, SAPD; Carmen Willis, Andee Brown, Lynda Mickelson, Kevin Mickelson, ICI; Jaren Larsen, Governor's Office; Chyla Wilson, Idaho Farm Bureau; Hollie Lawrence, LSO; Steve Cherry, Sean Garland, Karen Farland, Kaitlyn Cornford, CS Beef Packers
- Chairman Chaney** called the meeting to order at 1:30 p.m.
- H 319:** **Chairman Chaney** returned the bill to Committee for consideration. This bill expands the State Public Defender's authority to represent indigent defendants in misdemeanors and juvenile appeals.
- MOTION:** **Rep. Zollinger** made a motion to send **H 319** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.
- H 373:** **Rep. Ricks** presented **H 373**, the bill updates language to identify Idaho Correctional Industries (ICI) as a training program for inmates. It also expands the program to other agricultural job types. Rep. Ricks stated this will help educate and train inmates to give them a greater chance of becoming productive citizens. Trainees earn stipends, which can be used for expenses and saved for when they are released. He yielded his time to **Kevin Mickelson**, General Manager, Idaho Correctional Industries. Mr. Mickelson yielded his time to **Steve Cherry** and **Shawn Garland** to discuss the benefits of the program.
- Steve Cherry**, Manager, CS Beef Packers. His company has been part of the ICI program since 2018 and uses trainees to supplement its workforce in a very challenging employment market. The company offers a training wage of \$12 per hour, well above the standard required minimum. The company intends to transition 100 percent of its ICI trainees to full-time employment upon release. Overall, this program has helped the company establish greater employment stabilization.
- Shawn Garland**, a former inmate and ICI training recipient. He stated the program taught him new skills and as a result of a recommendation from CS Beef Packers, he was able to secure release from prison three years early. He explained it is difficult to get a job with a prison record, but he was able to go straight to work to earn a living wage.

In answer to questions from the Committee, **Mr. Mickelson** stated this bill ensures the focus remains on the training aspects of the program to prepare participants for gainful employment following their terms rather than the business aspects of running the program. He explained the programs operate as apprenticeships ranging in 2,000 to 8,000 hours. If participants complete an apprenticeship before release, they can participate in another program, or serve as a mentor. He described the different types of pay structures, but for agricultural programs where work is performed off-site, wages are based on the prevailing wage set by the Department of Labor. Fees such as transportation, security, administration, restitution, room and board are deducted from their hourly stipends, but inmates keep the rest. Mr. Mickelson explained inmates are not eligible for worker's comp, but ICI provides accident and accidental death insurance coverage at a rate commensurate with market rates. Injured inmates are also eligible for Federal disability upon release. He said they are looking to expand training opportunities to women inmates.

MOTION: **Rep. Scott** made a motion to send **H 373** to the floor with a **DO PASS** recommendation.

Chairman Chaney reiterated the Committee process for hearing and considering bills, and the vote for **H 373** will be taken up at a later date.

Chyla Wilson, Idaho Farm Bureau, spoke **in support** of the bill. In answer to a Committee question, she stated the concerns about worker's comp have been addressed.

RS27322: **Chairman Chaney** asked for Unanimous Consent to return **RS 27322** to the sponsor at the sponsor's request. There being no objection, the request was granted.

RS 27324: **Rep. Scott** presented **RS 27324**, which adds language to code that outlines the training Health and Welfare child protection services (CPS) employees will receive to ensure they know the Constitutional rights of parents. This will not add any costs to the training already received by CPS employees.

MOTION: **Rep. Zollinger** made a motion to introduce **RS 27324**.

In answer to questions from the Committee, **Rep. Scott** explained CPS workers cannot enter a person's home without permission, or law enforcement with a warrant. A request was made to have a Health and Welfare representative available during the bill hearing to answer questions.

VOTE ON MOTION: **Rep. Chaney** called for a vote on the motion. **Motion carried by voice vote.**

RS 27348: **Rep. Scott** presented **RS 27348**, which provides cross referencing between the Federal Child Protection Act and newer sections of Idaho Code relating to parental rights outlined in sections 32-1010 through 32-1012.

MOTION: **Rep. Zollinger** made a motion to introduce **RS 27348**. **Motion carried by voice vote.**

RS 27295C1: **Rep. Zito** presented **RS 27295C1**, which relates to financial exploitation of an elder by making it a felony for financial fraud of more than \$1,000. She explained this came about as a result of an older family member in her district that unknowingly signed over the family farm to a home care worker without knowledge of any family members.

MOTION: **Rep. Kerby** made a motion to introduce **RS 27295C1**.

Discussion among Committee members included requesting the proposed bill be reviewed by the Attorney General's office to ensure all the language is well vetted and is not too broad as it relates to charging a felony, defining misuse of power of attorney and taking of assets. **Rep. Hargten** stated most felonies involved crimes of \$10,000 or more.

Rep. Marshall expressed concern that there may be other statutory language that covers this crime. It is too broad and is not clearly written. He stated he is **in opposition** to introducing the RS.

Rep. McCrostie stated he was in support of introducing the RS, but when it comes back before Committee for the bill hearing, he asked **Rep. Zito** to address **H 347** that was passed by the Legislature in 2018.

VOTE ON MOTION:

Chairman Chaney called for vote on the motion. **Motion carried by voice vote.** **Rep. Marshall** requested he be recorded as voting **NAY**.

RS 27534:

Rep. Kerby presented **RS 27534**. He explained a DUI diversion program was adopted by the Legislature in 2019, but it mistakenly included commercial drivers, which are prohibited by Federal law to participate in these types of programs. This RS removes CDL drivers from being eligible. He stated a typo in the Statement of Purpose will be corrected to read insure and not ensure.

VOTE ON MOTION:

Rep. Zollinger made a motion to introduce **RS 27534**. **Motion carried by voice vote.**

RS 27528:

Rep. Gannon presented **RS 27528** to provide for more transparency so the renters know a portion of their rent includes property taxes. He explained it is important for landlords to give accurate information to renters regarding property taxes and their impact on rents. A draft of the proposed legislation was shared with the Apartment Owners Association and it received positive feedback as long as the required detail was not excessive. Therefore, property owners will only need to provide renters with an accounting of the total property tax paid, not a per unit break down.

MOTION:

Rep. McCrostie made a motion to introduce **RS 27528**.

Rep. Marshall spoke **in opposition** to introducing the RS because it was unclear about how it would be applied.

Discussion among Committee members included concern about how it would be applied on farms and ranches where room and board are a part of a worker's total compensation. It also raised questions about how it would be applied to commercial versus residential properties, short-term rentals, college dormitories and care facilities.

SUBSTITUTE MOTION:

Rep. Ricks made a substitute motion to return **RS 27528** to the sponsor. Speaking to the motion, he said he supports the intention of the bill, but there are some issues that need to be addressed before it is ready for a bill hearing.

Rep. Gannon stated he supported holding the RS to work out more details.

VOTE ON SUBSTITUTE MOTION:

Chairman Chaney called for a vote on the substitute motion. **Motion carried by voice vote.**

RS 27299:

Rep. Troy presented **RS 27299**. This proposed legislation expands the law regarding female genital mutilation to prohibit such a procedure on a child and makes it a crime to allow such a procedure to be done out of state. It also adds the crime to the list of violent felonies eligible for \$5,000 victim compensation.

MOTION:

Rep. Kerby made a motion to introduce **RS 27299**.

Rep. Marshall, raised his concern that laws should not pronounce guilt. Therefore, the Legislature should not perpetuate the common problem in existing law of stating "shall be guilty" of a felony. The proposed legislation should only define the felony.

**VOTE ON
MOTION:**

Chairman Chaney called for a vote on the motion. **Motion carried by voice vote.**
Rep. Marshall requested he be recorded as voting **NAY**.

ADJOURN:

There being no further business to come before the Committee. The meeting adjourned at 3:06 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Wednesday, February 05, 2020

SUBJECT	DESCRIPTION	PRESENTER
	Administrative Office of the Courts Introduction	Judge Wood, Admin. Office of the Courts
	Need for Additional Judges in the First District	Judge Christensen, 1st Judicial District
	Floating Court Reporter	Judge Moody, 4th Judicial District
	Odyssey / Judges Edition	Judge Simpson, 7th Judicial District
	Mental Health Courts	Judge Petty, 3rd Judicial District
	For Committee consideration, public testimony previously taken:	
<u>H 373</u>	Board of Correction / Training Programs	
	For Introduction:	
<u>RS27236C1</u>	Pardons and Commutations	Rep. Chaney
<u>RS27487</u>	Reckless or Willful Misconduct	Rep. Chaney
<u>RS27587</u>	Public Defense Commission	Rep. Chaney
<u>RS27590</u>	Public Employees / Adverse Actions	Rep. Chaney
<u>RS27494</u>	Charitable Assets Protection Act	Rep. Troy
<u>RS27542</u>	Criminal Justice Data Systems Act	Rep. Troy
<u>RS27563</u>	Family Law / Driver's License Suspension	Rep. Troy
<u>RS27309C1</u>	Marriage Licenses / Repeal / Amendment	Rep. Zito
<u>RS27553</u>	Adult Adoption	Rep. Zito

COMMITTEE MEMBERS

Chairman Chaney	Rep Zito	Rep Hartgen	Rep Gannon
Rep Monks,			
Acting Vice Chairman	Rep Zollinger	Rep Marshall	Rep McCrostie
Rep Kerby	Rep Ehardt	Rep Ricks	Rep Wintrow
Rep Amador	Rep Scott	Rep Troy	Rep Davis
	Rep Goesling	Rep Young	

COMMITTEE SECRETARY

Wendy Carver-Herbert
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email:
hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Wednesday, February 05, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

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

**UNANIMOUS
CONSENT
REQUEST:** **Chairman Chaney** made a unanimous consent request to take up the RSs on the agenda first. There being no objection, the request was granted.

MOTION: **Rep. Troy** made a motion to introduce **RS 27236C1, RS 27487, RS 27587, RS 27590, RS 27494, RS 27542, RS 27563, RS 27309C1, and RS 27553. Motion carried by voice vote.**

Judge Barry Wood, Senior Judge Administrative Office of the Courts, introduced the panel of Administrative Court judges.

Judge Rich Christensen, Administrative District Judge, First Judicial District, presented on the need for an additional judge in the First Judicial District. The volume of cases has increased commensurate with the population growth. For example, Kootenai County has grown 25 percent between 2006 and 2018. He explained the judges work long days and handle more cases on average than any other Idaho Judicial District. This impacts offenders and victims, is burdensome on defenders, prosecutors and law enforcement, and is costly for litigants in civil cases. **Chairman Chaney** explained the relevance of this presentation to the Committee, as the number of district court judges is set by statute, and requires more than a budget approval through the JFAC process.

Judge Melissa Moody, Administrative District Judge, Fourth Judicial District, presented on the need for a floating court reporter to be shared between the Third and Fourth Judicial Districts. This court reporter will provide coverage for conflicting jury trials and for Grand Jury proceedings. The Third Judicial District is not able to have Grand Jury proceedings because of the lack of court reporters. She explained it is critical to capture the proceedings accurately and even though more than one court reporter is needed, the courts are only asking for one at this time.

In answer to questions from the Committee, **Judge Moody** explained audio recordings are used in all Magistrate court proceedings except capital murder and termination of parental right proceedings. Recording District court proceedings are so important the Idaho Legislature has determined, through policy, that these cases require court reporters. Audio recordings do not have the ability to discern inaudible testimony and there is a risk of technology failures.

Judge Darren Simpson, District Judge, Seventh Judicial District, praised the Odyssey Case management system because it improves productivity and efficiency. The system also makes it easier to access and track case information across multiple counties, which is especially helpful for judges that serve multiple counties.

Judge Gene Petty, District Judge, Third Judicial District, presented on the mental health courts, which are based on the problem solving court model. Strong evidence of matching treatment with close court supervision can keep offenders out of prison and reduce recidivism. To qualify for mental health court, offenders must have a serious mental illness and be considered high risk and need. Several offenses prevent participation such as felony sex offenses, violent crimes, and crimes with firearms or deadly weapons. He described the four phases of the program, including weekly court hearings and access to a range of services like drug addiction support and mental health counseling. Defendants must pass each phase successfully in 18 months to reach graduation. Participants generally remain on probation for a period of time after graduating.

In answer to questions from the Committee, **Judge Petty** explained candidates are tested prior to coming to the problem solving courts to determine if mental health or drug courts best suit their needs. He discussed the need for resources in rural counties. While Senior judges could choose to participate in smaller counties, the lack of other supporting resources such as counselors and treatment options would make it difficult to administer the problem solving courts. Judge Petty emphasized that judges participate voluntarily and do not receive relief from their traditional dockets.

H 373: **Chairman Chaney** returned the bill regarding the expansion of inmate training programs to the Committee for consideration.

MOTION: **Rep. Kerby** made a motion to send **H 373** to the floor with a **DO PASS** recommendation.

Speaking to the motion, **Rep. Kerby** stated it is important to provide training to inmates to give them an opportunity for employment after prison and reduce recidivism.

Rep. Wintrow stated she agreed with the overall goals of the program, but had concerns about the level of compensation if someone is permanently disabled or dies while on the job. She voiced concern that the maximum cap on compensation seems well below cost estimates she received from the Idaho Industrial Commission for similar injuries.

Rep. Ricks stated this bill only expands the work training program. There are inherent risks to individuals in prison regardless of what can happen on a job. He stated this program is a great way to build self-esteem and earn money to pay for obligations. While he understands the concerns raised, he said perhaps they could be addressed in ongoing discussion once the bill passes.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Ricks** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 2:37 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
 Upon Adjournment of House Floor Session
 Room EW42
 Friday, February 07, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Introduction:	
<u>RS27540</u>	Child Protection Neglect	Rep. Dixon
<u>RS27674</u>	House Rules & Policies	Rep. Dixon
<u>RS27621</u>	Child Protection Reporting	Rep. Scott
<u>RS27564C1</u>	Pardons & Commutations / Remission	Rep. Troy
<u>RS27322C1</u>	Sexual Offenders / Daycares	Rep. Christensen
<u>RS27637</u>	Battery / Healthcare workers	Reps. Necochea/Zollinger
<u>RS27599</u>	Fair Warning Act	Reps. Rubel/Wagoner
<u>RS27647</u>	Service of Garnishment	Rep. Barbieri
<u>RS27615</u>	Tenant Property / Removal	Rep. Ricks
<u>RS27641</u>	Landlord Requirements / Security Deposits	Rep. Wintrow
<u>RS27583</u>	Court Fees / Costs	Rep. Hartgen
<u>RS27595</u>	Debt Collection Exemptions	Rep. Hartgen/Zollinger
<u>RS27630</u>	Genital Mutilation / Gender Perception	Rep. Zito
<u>RS27489</u>	Marriage Age	Reps. Ehardt/Zollinger
<u>RS27623C1</u>	Arrests, Assault, Stalking, Battery	Rep. Zollinger
<u>RS27633</u>	Criminal Records / Felony Firearms	Rep. Chaney
<u>RS27654</u>	Heroin Fentanyl Trafficking	Rep. Chaney

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt

Rep Scott

Rep Goesling

Rep Hartgen

Rep Marshall

Rep Ricks

Rep Troy

Rep Young

Rep Gannon

Rep McCrostie

Rep Wintrow

Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert

Room: EW56

Phone: 332-1127

email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Friday, February 07, 2020
TIME: Upon Adjournment of House Floor Session
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
**ABSENT/
EXCUSED:** Representatives Zito, Zollinger, Ehardt, Scott, Hartgen, Young, Wintrow
GUESTS: Ahniah Selene, Metropolitan Community; Lori Burelle, SWIDNOW; Jared Larsen, Governor's Office; Kendra Knighten, Lisa Young, Idaho Voices for Children; Francoise Cleveland, AARP-Idaho; Jim Baugh, Emilie Jackson-Edney
Chairman Chaney called the meeting to order at 11:44 a.m.
MOTION: **Rep. Troy** made a motion for unanimous consent to introduce **RS 27540, RS 27674, RS 27621, RS 27564C1, RS 27322C1, RS 27637, RS 27599, RS 27647, RS 27615, RS 27641, RS 27583, RS 27595, RS 27630, RS 27489, RS 27623C1, RS 27633,** and **RS 27654.**
Rep. McCrostie objected to the unanimous consent motion.
VOTE ON MOTION: **Rep. Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Rep. McCrostie** requested he be recorded as voting **NAY.**
ADJOURN: There being no further business to come before the committee, the meeting adjourned at 11:46 a.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, February 11, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For public hearing, testimony will be taken, Committee consideration will be scheduled for a later date:	
<u>H 405</u>	DUI Diversion Program / Commercial Drivers	Representative Kerby
<u>H 427</u>	Pardons & Commutations	Representative Chaney
<u>H 456</u>	Pardons & Commutations / Remission	Representative Troy
<u>H 384</u>	Wrongful Conviction Act	Representative Ricks
<u>H 432</u>	Criminal Justice Data System Act	Representative Troy

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 11, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Brendan Floyd, IDT; Greg Hampikian, Rick Visser, BSU Idaho Innocence Project; Kathy Griesmeyer, ACLU Idaho; Eric Fredericksen, SAPD/ICJC; Melinda Merrill, Idaho Bail Coalition; Monty Prow, IDJC; Ashley Dowell, Commission Pardons & Parole; Kathleen Elliott, PDC; Chris Tapp, Charles Fain

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

MOTION: **Rep. McCrostie** made a motion to approve the minutes from January 27, 2020 (Joint Meeting With Senate), January 27, 2020, January 29, 2020 (Joint Meeting With Senate) and January 29, 2020 meetings. **Motion carried by voice vote.**

H 405: **Rep. Kerby** presented **H 405**. This bill clarifies commercial drivers are not eligible to participate in Idaho's new DUI diversion program, which was passed by the Legislature in 2019. He described it as a clean up bill. The Idaho Department of Transportation was notified by the Federal Government that the state couldn't allow drivers with commercial driver's licenses (CDL) to enter the program.

In answer to questions from the Committee, **Rep. Kerby** stated that individuals who no longer use a CDL but possess one could not participate in the diversion program.

Brendan Floyd, DMV Specialist, Idaho Department of Transportation, the Federal Motor Carrier Safety Administration notified the state explaining the DUI diversion program for CDL drivers was not in compliance and it could result in a reduction in highway funds. In answer to a question from the Committee, he did not know whether there needed to be an emergency clause in the bill, but he would assume the state would be out of compliance until the law goes into effect on July 1, 2020, if the bill passes.

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

H 427: **Chairman Chaney** presented **H 427** for the Commission of Pardons and Parole. He explained there is a list of eligible crimes that could go before the Governor and Parole Board for consideration for pardons and commutations. This list has not been updated as new criminal codes were added. This bill identifies the offenses the parole board can approve and those that require the Governor's approval.

Ashley Dowell, Executive Director, Commission on Pardons and Parole, explained the Governor would need to sign off on any crimes with a maximum punishment of life imprisonment or death with the exception of drug crimes and persistent violators. In answer to a question from the Committee, she explained the bill is written in a way that will allow it to be updated without requiring future amendments.

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

H 456: **Rep. Troy** presented **H 456**. She explained pardons are not recognized on a person's permanent court record. Only 20-40 pardons are granted each year and commutations and remissions of fines and forfeitures are even more rare. She explained the process of where all the notices are filed. This bill will codify the process. Additionally, this bill requires the Commission of Pardons and Parole to file an original copy of the petitioner's documents with the state courts..

Ashley Dowell, Executive Director, Commission on Pardons and Parole, spoke **in support of H 456**. She explained a person can be pardoned in Idaho and that information is filed on the Idaho State Police database, but it is not recognized nationally. This will allow a pardon to be on filed with the original court records and more easily found.

H 384: **Rep. Ricks** presented **H 384**, which provides compensation to individuals who have been wrongfully convicted. He stated he has faith in Idaho's judicial system, but when a person is exonerated, it is important for the state to take some responsibility. Idaho is one of 15 states without any restitution for those wrongfully convicted. He explained the financial compensation structure. **Rep. Ricks** explained that a person has two years to make a claim. The bill also provides for offsets to state compensation with any civil awards or settlements are awarded to exonerees. Currently, six people would qualify for the compensation.

In answer to questions from the Committee, **Rep. Ricks** stated the Innocence Project provided guidance on the amount of compensation based on an average of what other states are paying. In the event a person dies while incarcerated, there is an opportunity for restitution to the family as a claim from the estate.

Charles Fein, and **Christopher Tapp** spoke **in support of H 384**. Both shared their stories of being wrongfully incarcerated for nearly 20 years each. They explained the difficulty in making the transition to life outside of prison and finding jobs. Even though they were exonerated, the felony murder charges remain on their records. They stated it is important to have resources to help the wrongfully convicted rebuild their lives.

Greg Hampikian and **Rick Visser** Idaho Innocence Project and **Kathy Griesmeyer**, Policy Director, ACLU Idaho spoke **in support of H 384**. It was explained that inmates released from prison have access to more support and services than those who are wrongfully convicted. They spoke of the extreme injustice suffered by these individuals for the time lost while incarcerated, and for the lifelong impacts once released. Growing progress toward the use of DNA and the challenges with having records expunged was also discussed.

In answer to questions from the Committee, **Mr. Hampikian** explained the work of the Innocence Project focuses on individuals serving sentences for major crimes of 10 or more years. The organization is funded by Federal and private grants and private donations. He explained a \$600,070 grant from the Department of Justice is available to states but Idaho doesn't participate because it requires the Attorney General to sign a testament that Idaho takes reasonable measures to collect and preserve biological forensic evidence in murder and forcible rape. He explained Idaho has a statute that requires preservation of forensic evidence for rape cases, but there currently is not a statute that requires it for murder.

Kate Haas, Kestrel West on behalf of the Innocence Project, answered committee questions about the Fiscal Note. She explained the funding process was created with input from the Controller's office, LSO and JFAC and it will create a fund, which is the mechanism for the money to flow and the courts will administer process. The bill sets up a continuous appropriation that allows the Controller to pay claims made through the Board of Examiners. JFAC and the Legislature will then see and approve the claim as a supplemental appropriation. In the future, if there are an impending number of claims, JFAC will have the option to pre-fund, or continue operating it as a supplemental appropriation.

Chairman Chaney called for a recess at 2:40 p.m.

Chairman Chaney reconvened the meeting at 2:50 p.m.

H 432:

Rep. Troy presented **H 432**. She explained the bill is a priority in the Governor's budget and is designed to see what is working and not working well within Idaho's criminal justice system. Creation of the bill takes advantage of extra capacity within the Controller's data system by providing a legal framework to link the various criminal justice systems to that system. It allows for the creation of a data oversight council that would provide direction on how the data is used and the bill ensures the participating agencies maintain control of how their data is used. She yielded her time to Eric Fredericksen.

Eric Fredericksen, State Appellate Public Defender, presented additional detail about the bill and explained it was brought forward on behalf of the Idaho Criminal Justice Commission. Currently agencies can analyze their own data, but the state has no way of looking at Idaho's criminal justice system holistically. This bill would help the state compile and analyze cross agency criminal justice trends, which could identify possible solutions, efficiencies and save costs. Final reports created by the system will be available for public information requests, but requests for agency specific data would continue to be managed by the germane agency.

In answer to questions from the Committee **Jared Larsen**, Governor's Office, clarified that many of the public records request exemptions shown in the bill are already written in existing code. Subsection 19 is the new public records exemption that would be added to I.C. 74-105 if the bill passed.

Monty Prow, Director, Department of Juvenile Corrections, **Ashley Dowell**, Executive Director, Commission of Pardon's and Parole and **Kathleen Elliott**, Executive Director, Public Defense Commission, spoke **in support of H 432**. They each spoke of the value of having data that can help their agencies operate more efficiently and effectively and identify new solutions to complex problems with Idaho's criminal justice system.

Chairman Chaney stated he will present to JFAC regarding Legislative priorities for the Committee's germane agencies. He asked members to let him know about issues of importance to the Committee.

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 3:36 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Thursday, February 13, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 405</u>	DUI Diversion Program / Commercial Drivers	
<u>H 427</u>	Pardons & Commutations	
<u>H 456</u>	Pardons & Commutations / Remission	
<u>H 384</u>	Wrongful Conviction Act	
<u>H 432</u>	Criminal Justice Data System Act	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>H 469</u>	Trafficking / Heroin, Fentanyl	Representative Chaney
<u>H 457</u>	Sexual Offenders / Daycares	Representative Christensen
<u>H 467</u>	Arrests / Assault, Stalking, Battery	Representative Zollinger
<u>H 406</u>	Female Child Genital Mutilation	Representative Troy
<u>H 383</u>	Sexual Assault Protection Act	Representative Wintrow

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, February 13, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

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

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

Chairman Chaney reviewed options for Committee motions.

H 405: **Chairman Chaney** returned the bill to Committee for consideration. This bill amends the DUI diversion program law to exclude commercial drivers from participating due to Federal requirements.

MOTION: **Rep. McCrostie** made a motion to send **H 405** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** requested that she be recorded as voting **NAY.** **Rep. Kerby** will sponsor the bill on the floor.

H 427: **Chairman Chaney** returned the bill to Committee for consideration. This bill updates the crimes the Governor must review for final approval of commutations and pardons.

MOTION: **Rep. Wintrow** made a motion to send **H 427** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Chaney** will sponsor the bill on the floor.

H 456: **Chairman Chaney** returned the bill to Committee for consideration. This bill requires the Commission of Pardons and Parole to retain an original copy of the pardon, commutation or remission of fines and forfeitures at the Commission and file an original with courts and provide a copy to the petitioner.

MOTION: **Rep. Wintrow** made a motion to send **H 456** to floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Troy** will sponsor the bill on the floor.

H 384: **Chairman Chaney** returned the bill to Committee for consideration. This bill provides compensation and other benefits for wrongfully convicted exonerees.

MOTION: **Rep. McCrostie** made a motion to send **H 384** to floor with a **DO PASS** recommendation.

Rep. Amador spoke in support of the motion, but he suggested the sponsor adjust the Fiscal Note to address the flow of funds by asking JFAC to appropriate some money to the fund so a claimant isn't left waiting for compensation until the Legislature convenes.

Rep. Monks spoke in support, of the motion, he stated concern about accountability of local jurisdictions not being addressed and perhaps it could be considered in the future.

Rep. Ricks, explained this bill does not prevent a person from filing a civil claim, but it does limit payouts from the State at a maximum amount if the claimant receives an award from another jurisdiction. He said he would also work with **Rep. Amador** to address the Fiscal Note.

VOTE ON MOTION:

Chairman Chaney called for a vote on the motion. **Motion carried by voice vote.** **Rep. Ricks** will sponsor the bill on the floor.

H 432:

Chairman Chaney returned the bill to Committee for consideration. This bill allows for the creation of a Criminal Justice Integrated Data System through the state Controller's Office.

Rep. Marshall stated he had concerns about the voluntary nature of the program and the possibility data would not be complete enough to generate valid outcomes. He was also concerned about the cost.

MOTION:

Rep. Wintrow made a motion to send **H 432** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION:

Rep. Scott made a substitute motion to **HOLD H 432** in committee. Speaking to the motion she said it is important to understand what is being shared, how it is being shared and it needed to be reviewed further.

Rep. Young stated she opposed taxpayer dollars supporting priority access to data by participating non-governmental agencies. She explained she would not support the bill as written, but would support it if these concerns could be addressed.

Rep. Zollinger spoke **in support** of the substitute motion. He stated he supported the overall goal of the bill, but shared the concerns stated by **Reps. Marshall, Scott** and **Young**.

Reps. Wintrow and **Hartgen** spoke **in support** of the original motion. They reiterated the data being used is not new data, there are provisions to protect it and it could help the state address serious challenges in the criminal justice system.

Rep. Troy, stated the price tag for such a system would be extraordinarily high if the state wasn't piggybacking on the Controller's office data system. The cost of the data analysts is small in comparison to the amount of money the state could save in the long run.

AMENDED SUBSTITUTE MOTION:

Rep. Kerby made an amended substitute motion to send **H 432** to General Orders. Speaking to the motion, Rep. Kerby said he liked the intent of the bill. However, he shared some concerns mentioned by other Committee members.

Reps. Troy and **Scott** spoke **in support** of the amended substitute motion.

VOTE ON AMENDED SUBSTITUTE MOTION:

Chairman Chaney called for a vote on the amended substitute motion to send **H 432** to General Orders. **Motion carried by voice vote.** **Rep. Troy** will sponsor the bill on the floor.

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

H 469:

Chairman Chaney presented the bill which amends the drug trafficking statute as it relates to minimum amounts of heroin that can be possessed without triggering mandatory minimum sentences, and it adds specified quantities and sentencing time frames for possession of fentanyl. Chairman Chaney explained the current law sets the amount of heroine too low for many personal users. It could result in trafficking charges rather than just possession charge. Fentanyl is a new compound that is being cut into other drugs as a filler and the quantities for drug trafficking possession are similar to what is being proposed for heroin. Chairman Chaney recapped the recent Legislative history regarding the drug trafficking statute and stated this bill is the result of much discussion and compromise among stakeholders. Although this bill does not address marijuana, Chairman Chaney explained a recent district court opinion on how weight measurement of marijuana laced edibles would likely be considered when determining mandatory drug trafficking sentences.

In answer to questions from the Committee, **Chairman Chaney** provided an example that one pound of marijuana laced gummy edibles would not be measured as one pound of marijuana, and therefore would not trigger a mandatory sentence. He said he couldn't speculate on whether a higher court would interpret the district court opinion differently.

Holly Koole Rebholtz, Idaho Prosecuting Attorneys Association; **Murphy Olmstead**, Idaho Sheriff's Association; and **Paul Jagosh**, Idaho Fraternal Order of Police, spoke **in support** of **H 469**. It was explained that past public testimony on mandatory minimum sentencing bills was focused on defendants getting caught up in mandatory sentences for possession of heroin in the lowest tier. This bill addresses the biggest area of concern and is a reasonable compromise. In answer to Committee questions, Mr. Jagosh stated five grams of heroin has a \$1,000 street value and is 50 to 75 doses and is still considered a dealers amount.

Gary Dawson, self-employed forensic toxicologist, testified about fentanyl's potency. He stated that five grams of fentanyl is enough to overdose 50 to 100,000 people. In answer to Committee questions, he explained how fentanyl is used for medical purposes and how it is being abused illicitly and described the physical symptoms from overdosing, which generally result in respiratory failure and cardiac arrest.

Tom Arkoosh, Idaho Association of Criminal Defense Council (IACDC), spoke **in opposition** to the bill. He stated giving judges discretion in uniform sentencing rather than mandatory sentencing would be more effective if the real intent of this legislation is to distinguish between trafficking and personal use. He questioned why only heroin was addressed since the IACDC proposed to reduce the lower tiers of marijuana. In answer to questions from the Committee, Mr. Arkoosh clarified his organization is supportive of the bill's intent to increase the heroin possession amount, but it falls short of separating traffickers from addicts.

Scott McKay, attorney with Nevin, Benjamin, McKay & Bartlett, reiterated the history of past bills addressing mandatory minimum sentencing. He said this bill is a step in the right direction, but it still endorses mandatory minimum sentences and does not get to the fundamental issue of letting judges determine fair sentences. He suggested the bill be referred to the amending order to address marijuana quantities and define edibles.

Eric Parker spoke **in support** of the bill.

In response to testimony regarding the addition of marijuana and edibles, **Chairman Chaney** explained this bill, as written, has the best chance of moving forward. He stated if marijuana edibles become a sentencing issue, it could be addressed in the future.

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

H 457: **Rep. Christensen** presented the bill to prohibit registered sex offenders from living within 500 feet of licensed daycares. It grandfathered those who may already live within 500 feet, and it will not apply if a daycare opens within 500 feet of an offenders established residence. He requested the Committee send the bill to General Orders to correct some errors in the existing sex offender registry code. Rep. Christensen yielded his time to **Frank Lee** to explain the amendment.

Frank Lee, Givens Pursley, representing Boise Rescue Mission, explained the error relates to exemptions for certain residential shelters and facilities that may house registered sex offenders. He explained the goal is to retain the exception, but make sure the prohibition against loitering around school grounds and day cares continues.

H 467: **Rep. Zollinger** explained this bill would reverse the law that allowed warrantless arrests for certain misdemeanors, which the Idaho Supreme Court (ISC) has ruled unconstitutional. He requested the Committee send the bill to General Orders to delete the section discussing felonies because it is covered in a previous section and to make some technical corrections in the Statement of Purpose. In answer to Committee questions, he stated he did not have the bill reviewed by the judiciary, but the ISC findings are clear. He said this bill is consistent with about 38 other states and he worked with prosecutors.

Jamie Richmond spoke about her experience regarding protection orders.

Von Killeen, Idaho Sheriff's Association, spoke **in opposition** to the bill. He requested the Committee hold the bill for one year because the association is working with **Sen. Burgoyne** and other stakeholders on a constitutional amendment. He explained it would be time consuming to bring these protections back if the constitutional amendment was successful. He stated this will take away protections, primarily for women.

In answer to questions from the Committee, **Rep. Zollinger** stated constitutional amendments are difficult to adopt. He said it is important to balance probable cause and due process rights, and obtaining a warrant is not that difficult.

Chairman Chaney called a 10-minute recess at 3:20 p.m.

Chairman Chaney reconvened the meeting at 3:28 p.m.

**UNANIMOUS
CONSENT
REQUEST:**

Chairman Chaney made a unanimous consent request to move **H 406** to the end of the agenda. There being no objection, the request was granted.

H 383: **Rep. Wintrow** presented the bill to allow for civil protection orders in cases of sexual assault. She emphasized the bill does not trigger removal of firearm rights, as that is only allowed under the Domestic Violence Act. She explained this is needed because current law only allows protection orders in cases where the victim has a domestic or intimate partner relationship with the alleged offender. She stated the bill offers a balanced approach to offering some peace of mind to victims and due process rights to alleged perpetrators. Rep. Wintrow yielded her time to **Annie Hightower**, **Aleshea Boals** and **Sheriff Donahue** to provide details.

Annie Hightower, Director of Law and Policy for Idaho Coalition Against Sexual and Domestic Violence, explained 2018 data indicated that 67 percent of sexual assault victims would not qualify for a civil protection order under current law. She said it is disappointing that judges can issue protection orders for telephone harassment, but not for one of the most intimate and invasive crimes outside of homicide. She shared her personal story of being sexual assaulted, and how fear can impact a victim's ability to function.

Aleshea Boals, Victim Witness Coordinator, Canyon County, stated protection orders are needed because most sexual assault crimes are not quickly investigated. She shared the story of a 13-year old victim that needed to move out of state until criminal charges were filed.

Sheriff Kieran Donahue, Canyon County Sheriff explained that law enforcement doesn't have immediate protection tools available. He described the complexity of these cases and the time it takes to investigate. He reiterated both the victim and offender have rights, but this legislation provides a little bit of a time out to give victims some peace of mind so they can try to put their lives back together.

Coleen Zahn, Deputy Attorney General and Chief of the Criminal Division, responded to Committee questions by explaining the process for obtaining a civil protection order. She explained the method of service as outlined in I.C. 39-6310. She stated the preponderance of the evidence standard would be used rather than the clear and convincing evidence standard. She explained the Federal firearm restriction as outlined in the Lautenberg Amendment only applies to protection orders involving an intimate partner relationship. The law defines an intimate partner.

Terry Durden, Chief Legal Advisor, Ada County Sheriff's Office; **Julie Custer**, AAUW; **Christine Beckstead**; **Dr. Scott Smith**, Executive Director, Bingham Crisis Center; **Lori Burrelle**, Southwest National Organization for Women; **Sue Canfield**, retired victim advocate, spoke **in support** of **H 383**. They spoke of the ability to better serve sexual assault victims by giving them time to process their experiences with some peace of mind and freedom from fear of violence. It was stated that false reports of sexual assault are rare because of the intimate nature of the crime.

Jinny Peterson, and **Andrea Parker** spoke **in opposition** to **H 383**. They stated concerns about ex parte proceedings infringing on a person's Constitutional rights to due process. They spoke of the cost and reputational damage that alleged perpetrators can incur and this matter should be dealt with in the criminal court, not civil court.

Danielle Swerin, Women's and Children's Alliance Court Advocate and Research Analyst at Idaho State Police, responded to questions from the Committee. She explained data is not publicly available on the respondent when a protection order is issued against them. Respondents can request a termination of a protection order if it is determined false claims are made against them. Judges have the flexibility to establish different boundary distances for different environments when the applicant and respondent work or go to school together.

Chairman Chaney thanked the page, **Matthew DeMordaunt** for his service.

H 406:

Rep. Troy explained this bill closes some gaps in the female genital mutilation (FMG) law adopted last year. The bill prohibits FMG on a child and a child cannot be taken out of state for the procedure. This also adds the crime to the list of violent felonies eligible for \$5,000 victim compensation.

Lori Burrelle, Southwest Idaho National Organization for Women, requested clarification on whether this bill would prohibit a parent from taking a child out of state for medical treatment if **H 465** were to pass. **Chairman Chaney** explained they are separate issues and it would not.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 5:09 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AMENDED AGENDA #2
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Monday, February 17, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 457</u>	Sexual Offenders / Daycares	
<u>H 467</u>	Arrests / Assault, Stalking, Battery	
<u>H 406</u>	Female Child Genital Mutilation	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>H 454</u>	Child Protection / Neglect	Representative Dixon
<u>H 402</u>	Child Protection / Training	Representative Scott
<u>H 403</u>	Child Protection / Parental Rights	Representative Scott
<u>H 455</u>	Child Protection / Reporting	Representative Scott
<u>H 429</u>	Public Defense Commission	Representative Chaney
<u>H 458</u>	Battery / Health Care Workers	Representative Necochea

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, February 17, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

Chairman Chaney called the meeting to order at 1:32 p.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of the January 21, 2020 and January 23, 2020 meetings. **Motion carried by voice vote.**

Chairman Chaney introduced the new Committee Page, **Ashlyn Young**.

H 457: **Chairman Chaney** returned the bill to the Committee for consideration. It amends statute to include daycares on the list of restrictions for convicted sex offenders. The sponsor requested the bill be sent to General Orders to provide for allowed residential facilities.

MOTION: **Rep. Zollinger** made a motion to send **H 457** to General Orders. **Motion carried by voice vote.** **Rep. Christensen** will sponsor the bill on the floor.

H 467: **Chairman Chaney** returned the bill to the Committee for consideration. This bill would reverse the law allowing warrantless arrests for certain misdemeanors, which the Idaho Supreme Court ruled unconstitutional. The sponsor requested the bill be sent to General Orders to correct a typo on the Statement of Purpose and remove a redundant subsection on certain felony offenses.

MOTION: **Rep. Kerby** made a motion to send **H 467** to General Orders.

**SUBSTITUTE
MOTION:** **Rep. Wintrow** made a substitute motion to **HOLD H 467** in committee. Speaking to the motion, she questioned the harm which could occur if it were left in place until a decision was reached on a proposed Constitutional amendment to address warrantless arrests.

**AMENDED
SUBSTITUTE
MOTION:** **Rep. Gannon** made an amended substitute motion to **HOLD H 467** in committee, subject to call of the chair.

Reps. Zollinger and Zito spoke in support of the original motion, citing legal and executive confusion of an unconstitutional law, and stated bills should not be judged in relation to other bills, but on each bill's individual merit. **Reps. McCrostie and Gannon** spoke in support of the amended substitute motion, stating there may be virtue in protecting some of the community's most vulnerable.

**VOTE ON
AMENDED
SUBSTITUTE
MOTION:**

Chairman Chaney called for a roll call vote on the amended substitute motion. **Motion failed by a vote of 7 AYE, 10 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Amador, Goesling, Ricks, Gannon, McCrostie, Wintrow, and Davis. Voting in opposition** to the motion: **Reps. Kerby, Zito, Zollinger, Ehardt, Scott, Hartgen, Marshall, Troy, Young and Chairman Chaney. Rep. Monks** was absent/excused.

The committee deliberated on the substitute motion, citing the responsibility of the courts to decide the constitutionality of laws and the legislature's responsibility to uphold the constitutionality. Concerns such as severe crimes going unpunished because of a lapse in legal framework, impact on felonies, misunderstanding about the actual meaning of the bill, and whether this would affect schools negatively were discussed.

Rep. Amador spoke in support of the substitute motion, concerned the proposed legislation removes any standing to challenge court opinions in the future.

**VOTE ON
SUBSTITUTE
MOTION:**

Chairman Chaney called for a roll call vote on the substitute motion. **Motion failed by a vote of 6 AYE, 11 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Amador, Goesling, Gannon, McCrostie, Wintrow, and Davis. Voting in opposition** to the motion: **Reps. Kerby, Zito, Zollinger, Ehardt, Scott, Hartgen, Marshall, Ricks, Troy, Young and Chairman Chaney. Rep. Monks** was absent/excused.

**VOTE ON
ORIGINAL
MOTION:**

Chairman Chaney called for a vote on the original motion to send **H 457** to General Orders. **Motion carried by voice vote. Rep. Zollinger** will sponsor the bill on the floor.

H 406:

Chairman Chaney returned the bill to the Committee for consideration. This legislation prohibits female genital mutilation to be performed on children and makes it a crime to allow such a procedure to be done out of state. The legislation also adds the crime to the list of violent felonies eligible for \$5,000 victim compensation.

MOTION:

Rep. Amador made a motion to send **H 406** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Troy** will sponsor the bill on the floor.

H 454:

Rep. Dixon presented a bill to refine the law around child protection neglect. He asserted the law is too broad, so this bill hopes to decrease unsubstantiated calls. The bill language comes from federal law and was vetted through various county prosecutors. In response to committee questions and concerns about bill language, Rep. Dixon claimed the current statute is not working well, offered to clarify "unsubstantiated" in the offered stats for the committee before they vote, and clarified this bill does not change who would be a mandated reporter. He stated he is willing to further define the word "serious" and clarified his intent. Rep Dixon expressed his desire to protect children and the family unit, but acknowledged there are disagreements in society about acceptable parenting methods. The bill would also eliminate use of resources by CPS.

Rep. Gannon spoke in opposition to this legislation, citing incomplete and unsatisfactory language of the bill.

Ivy Smith testified in opposition to the bill as a former foster youth and as a member of the Idaho Foster Youth Advisory Board. She stated this bill and the following bills do not center on the best interests of youth, but are taking away the protections of children. She claims not all important stakeholders were at the table for this decision and this change is too critical without involving these groups.

Jenny Peterson, Arlene Herndon, Scott Herndon and Misty Carfeld testified in support of this bill. Their points focused on respecting parental rights to decide how to care for their children and to provide more clarity on cases from a prosecuting and liability perspective. They also stated this bill would help families feel more secure, as some parents are afraid of CPS intervention traumatizing their children.

Robert Jones, former foster child testified of his involvement in 200 cases, which has shown him examples of seemingly absurd reasons for neglect. He stated it does not hurt to define this further, and by reducing nuisance calls CPS can focus on serious abuse cases. He also noted intervention can sometimes be worse than what the child is living through.

Mirin Unsworth, Department of Health & Welfare, stated out of 23,000 referrals, 12,000 were not assigned because they did not cross the threshold of abuse. Home Health and Safety issues include feces, drug paraphernalia, and exposed wiring. 506 cases last year were unsubstantiated or had insufficient evidence. She stated a majority of referrals are from licensed or school resources. Only twelve percent of reports are parents calling against another parent. There are 403 CPS employees across the whole system, all of whom are exceptionally busy and held to specific time lines. This bill's impact is too difficult to estimate.

H 402: **Rep. Scott** presented **H 402** which adds language to a section to enhance CPS training, including specific language of what training they will receive. Four rights are specifically added to the language.

Scott Herndon, Jenny Peterson, Robert Jones, Arlene Herndon and Misty Carfeld testified in support of this bill, emphasizing the importance of clarifying and communicating parental rights. A few shared personal stories, explaining parental stress would be lessened if they understood and acted within their rights.

H 403: **Rep. Scott** presented **H 403**. In 2015, a bill on parental rights was passed. This legislation would complete this cross referencing of the CPA and parental rights. In response to committee questions, Rep. Scott stated she knows someone who was impacted for educational neglect so she made sure it was covered in the bill language.

H 455: **Rep. Scott** presented **H 455**, which removes the term "other person" from the list of individuals who can report child neglect. Rep. Scott stated this change would not alter Idaho's status as a mandatory reporting state, nor removes the ability and requirement of professionals to report abuse. She stated it would remain a misdemeanor for professionals who do not report abuse. In response to committee questions, Rep. Scott clarified the roles of guardian ad litem and church representative are not included as professionals, but all should report abuse if witnessed. The committee expressed concern with not listing every possible person who could report abuse, expressing the view as children are an extremely vulnerable population which cannot report for themselves, they would like to go above and beyond to protect them.

Scott Herndon testified in support of the legislation. He stated Idaho is one of 18 states requiring everyone to be a mandated reporter. Referring to the Governor's executive order to govern more efficiently and effectively, Mr. Herndon stated CPS seemed like a good focus based on the number of calls coming into the system. Answering committee questions, Mr. Herndon explained guardian ad litem individuals belong in the volunteer field rather than the professional field. He stated the list was vetted by Health and Welfare with little push back.

Christine Tiddens, Co-Director, Idaho Voices for Children, spoke **in opposition** to **H455**. She stated this bill will dismantle the Child Protection Act and gut mandatory reporting. Community members report in good faith, with fewer than 1% of reports made in error. The faster neglect is identified the faster it can be rectified. Health and well being must be considered in all policy discussion.

Charlye Hahn and Ivy Smith testified **in opposition** to the bill. They are in favor of keeping mandatory reporting. They each shared personal stories of reporting abuse, explaining professionals are not enough. The public needs to be responsible not for investigating, but reporting abusive situations. Both expressed their dismay at regarding parental rights over the rights of the child.

Rep. Scott closed the testimony stating the community is not getting it right—angry neighbors and ex-spouses dominate claims. This bill will not stop everyone else from reporting. In response to committee questions, she stated the removal of the misdemeanor charge is a reflection of our community values. She claims we are overburdening a system which is broken.

Chairman Chaney called a five-minute recess at 4:28 p.m.

Chairman Monks reconvened the meeting at 4:33 p.m.

H 429:

Rep. Chaney presented the bill which addresses how the Public Defense Commission (PDC) judicial districts are managed. The current system is based on a population center and allows for economy of scale, but three members of the second judicial district have asked to pilot a judicial district project. The PDC has no true oversight in this program, but they will set standards and assist in training. If this program works it would lead to a realignment of the PDC. In response to committee questions, Rep. Chaney shared an ongoing discussion on the best ways to model public defense and a simple overview of how the program would be run. The committee deliberated on bill structure, funding, and the post-legislation process.

Jeremy Chou, Givens Pursley represented the counties and answered committee questions. The funding model will be decided by 2021.

Seth Grigg, Executive Director, Idaho Association of Counties stated some counties provide public defense through an institutional office, and others prefer to administer public defense the way proposed in this bill. The counties would pool resources to offer the program. Five counties in the second judicial district received funding under \$300,000 and contributed over \$1.8 million. Around \$2.2 million would go to support this program, which means there are more than sufficient funds to support benefits. In response to committee questions, Mr. Grigg stated instead of allowing counties to handle this themselves, PDC will help remove conflict as counties fund prosecution and defense.

Patty Weeks testified Nez Perce county has been talking about this program for years and believe it will improve the public defense services. Currently, counties do not have the legal experience needed to provide defense services, and are comfortable with relinquishing local control of these services.

Kathleen Elliott, Executive Director, Public Defense Commission stated the commission is neutral toward the bill. The Commission has the experience to accomplish the intent. The capital outlay will be more than \$5000. There are differences in FTE between counties and the commission, and questions of ethics must be addressed.

Chairman Monks turned the gavel over to **Chairman Chaney**.

H 458:

Rep. Necochea presented **H 458**, which changes the enhanced misdemeanor charge from a felony if the charge occurs in a health care setting. The bill does not lessen the charges of alcohol or drug influence. This change addresses stakeholder concerns, contains limitations of certain definitions, and will include an amendment to address unlawful touching.

Amy Johnson, Jim Baugh, Marv Quenton, Joe Witherby, Karena Youtz, Ian Bott, Suzanne McKinney, Mel Leviton and Gail Wetherby testified **in support** of the bill. Many recounted personal histories with this law, emphasizing the difficulty in recovering from mental health crises, and facing felony charges compounds the hardship as a felony remains on individuals' records forever. Many expressed understanding battery against health care workers is a real problem. Another point was mental illness is one of the top issues affecting the burdens on jails, courts, and prisons. The current statute creates an enhanced penalty for people experiencing a major health crisis. They pleaded with the Committee not to criminalize mental illness.

Joe Miller of the Idaho Association of Criminal Defense Lawyers and **Mel Leviton** of the Idaho State Independent Living Council testified **in support** of the bill. They want health care workers to be safe, but also wants safety and justice for the mentally ill. Some are victims of the current law and are now stuck with a felony even though there was no injury.

Justin Korneck and Ashley Brown testified **in opposition** to the bill, stating it is too broad and subjective. They shared personal stories of being attacked as health care professionals, and claimed this bill does not address the real need for individuals with mental illness.

Tyler Kerns, Violence Prevention, St. Alphonsus; **Claudia Miewould**, Director of Behavioral Health, Kootenai Health; **Michael McGrane** of Idaho Nurses Association and Nurse Leaders of Idaho; **Jeff Morell**, CEO, Intermountain Hospital; **Randall Hutspeth**, Executive Director, Idaho Center of Nursing; and **Emily McClure**, Idaho Medical Association testified **in opposition** to the bill. According to these witnesses, the language of the bill, though on the surface it seems like a good idea, could make the law unenforceable and is too broad to provide the protection health care workers need. Nurses suffer a high rate of injury and sexual advances. The current statute has been an active deterrent to violence. There is a discrepancy between charges in mental health facilities and in emergency rooms, but the bill does not address the difference, nor does it take into account court findings. Many offered to work with the sponsor to help find a mutually beneficial solution.

Holly Koole-Rebholtz stated she was available for questions.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 6:47 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Wednesday, February 19, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 454</u>	Child Protection Neglect	
<u>H 402</u>	Child Protection Training	
<u>H 403</u>	Child Protection Parental Rights	
<u>H 455</u>	Child Protection Reporting	
<u>H 429</u>	Public Defense Commission	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>H 460</u>	Service of Garnishment	Representative Barbieri
<u>H 464</u>	Bankruptcy Exemptions	Representative Zollinger
<u>H 462</u>	Landlord Requirements / Security Deposits	Representative Wintrow
<u>H 461</u>	Tenant Property / Removal	Representative Ricks
<u>H 459</u>	Fair Warning Act	Representatives Rubel & Wagoner
<u>H 431</u>	Charitable Assets Protection Act	Representative Troy

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Wednesday, February 19, 2020
- TIME:** 1:30 P.M.
- PLACE:** Room EW42
- MEMBERS:** Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
- ABSENT/
EXCUSED:** Acting Vice Chairman Monks
- GUESTS:** The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.
- Chairman Chaney** called the meeting to order at 1:30 p.m.
- H 454:** **Chairman Chaney** returned **H454** to the Committee for consideration. This legislation would amend the definition of "neglect" within the current child protection statutes.
- MOTION:** **Rep. Young** made a motion to send **H 454** to the floor with a **DO PASS** recommendation.
- Rep. Marshall** voiced concerns that the language concerning "imminent serious harm to a child" may set too high a standard and the language related to parental rights to seek a second opinion was unclear.
- SUBSTITUTE MOTION:** **Rep. McCrostie** made a substitute motion to **HOLD H 454** in Committee.
- Speaking **in support** of the substitute motion, **Reps. Amador, Hartgen, Goesling, Wintrow, and Troy** echoed the concerns about unclear language and further pointed out that the large number of erroneous calls was an indication that the current law works well. Rep. Hartgen stated the number of unfounded calls are entirely worth the time and cost if even one child's life is saved by the current statute. Rep. Wintrow echoed the feeling and added there are cases in which a parent may not be equipped to properly care for a child or may not have a child's best interests at heart and thereby should be reported.
- Speaking **in opposition** to the substitute motion, **Reps. Kerby, Young, Ehardt, and Zito** voiced support for the original motion as a measure to reduce time and money spent on erroneous calls to CPS. Rep. Young pointed out the Committee must consider the risk of causing family trauma due to unfounded calls, as well as the parental right to seek a secondary medical opinion for their child without fear of a CPS report.
- ROLL CALL VOTE ON SUBSTITUTE MOTION:** A roll call vote was requested on the substitute motion. **Motion carried by a vote of 10 AYE, 6 NAY, with 2 Absent/Excused. Voting in Favor** of the motion: **Reps. Chaney, Amador, Goesling, Hartgen, Marshall, Ricks, Troy, McCrostie, Wintrow, Davis. Voting in Opposition** to the motion: **Reps. Kerby, Zito, Zollinger, Ehardt, Scott, Young. Reps. Monks and Gannon** were Absent/Excused.
- H 402:** **Chairman Chaney** returned **H 402** to the Committee for consideration. This legislation would require CPS employees to be trained on the constitutional rights of parents.

MOTION: **Rep. Zollinger** made a motion to send **H 402** to the floor with a **DO PASS** recommendation.

In support of the motion, **Rep. Marshall** said he felt this legislation contained some hard decisions for lawmakers, but he believed it to contain the proper balance between the rights of children and the rights of parents.

VOTE ON MOTION: **Motion carried by voice vote. Reps. Davis, Wintrow, and McCrostie** requested to be recorded as voting **NAY. Rep. Scott** will sponsor this bill on the floor.

H 403: **Chairman Chaney** returned **H 403** to the Committee for consideration. This legislation would cross reference the Child Protection Act with the sections of Idaho Code relating to parental rights.

MOTION: **Rep. Hartgen** made a motion to send **H 403** to the House floor with a **DO PASS** recommendation.

Rep. Young noted that people often speak as if the rights of the child and the rights of the parents oppose each other. She asserted when the rights of the parents are upheld, the safety, health, and happiness of children are being upheld as well. She noted that there are exceptions where abuse or neglect take place.

VOTE ON MOTION: **Motion carried by voice vote. Reps. Davis, Wintrow, and McCrostie** requested to be recorded as voting **NAY. Rep. Scott** will sponsor this bill on the floor.

H 455: **Chairman Chaney** returned **H 455** to the Committee for consideration. This legislation would remove the term "other person" from the section of the Child Protection Act listing mandatory reporters.

MOTION: **Rep. Zollinger** made a motion to send **H 455** to the House floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Wintrow** made a substitute motion to **HOLD H 455** in Committee. She stated her belief of everybody's responsibility to report acts of child abuse or neglect.

Reps. Troy, Hartgen, and Amador spoke **in support** of the substitute motion. They stated friends and neighbors often notice instances of abuse before professionals and should be required to report because everyone should be responsible for the safety of children. Many false reports are filed out of a desire for revenge or vindication and those reports would still be filed under the new legislation.

Reps. Scott, Ehardt, Zollinger, Young, and Kerby spoke **in opposition** to the substitute motion. It was a consensus that people may still report instances of child abuse and this legislation would simply remove the penalty for people not in professions which are required to report and the law is not a reasonable expectation for citizens. It serves only to make people afraid of punishment and add to the false report rate. They stated people should report child abuse or neglect because it is the right thing to do, not because they are afraid of breaking the law.

ROLL CALL VOTE FOR SUBSTITUTE MOTION: A roll call vote was requested on the substitute motion. **Motion failed by a vote of 8 AYE, 9 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Amador, Goesling, Hartgen, Troy, Gannon, McCrostie, Wintrow, and Davis. Voting in opposition** to the motion: **Reps. Chaney, Kerby, Zito, Zollinger, Ehardt, Scott, Marshall, Ricks, and Young. Rep. Monks** was Absent/Excused.

ROLL CALL VOTE ON ORIGINAL MOTION: A roll call vote was requested on the original motion. **Motion carried by a vote of 9 AYE, 8 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Chaney, Kerby, Zito, Zollinger, Ehardt, Scott, Marshall, Ricks, and Young. Voting in opposition** to the motion: **Reps. Amador, Goesling, Hartgen, Troy, Gannon, McCrostie, Wintrow, and Davis. Rep. Monks** was Absent/Excused. **Rep. Scott** will sponsor this bill on the floor.

H 429: **Chairman Chaney** returned **H 429** to the Committee for consideration and requested the Committee send this legislation to General Orders. This legislation would create a pilot project that would give the Public Defense Commission supervision of public defenders in participating counties. This would allow under served counties better access to public defenders.

MOTION: **Rep. Zollinger** made a motion to send **H 429** to General Orders. He commented he found the legislation both useful and interesting as a pilot program and would like to see if it could be amended.

Committee discussion focused on the fiscal note as the biggest concern of this legislation. They did not feel they had enough information about the fiscal impact to make a decision.

SUBSTITUTE MOTION: **Rep. Zito** made a motion to **HOLD H 429** in Committee for a time certain of February 25, 2020 to allow the sponsor time to fix the fiscal note.

The Committee discussed the need for public defenders, especially in the more rural areas of the state.

VOTE ON SUBSTITUTE MOTION: **Chairman Chaney** was in doubt regarding the voice vote and called for a roll call vote on the substitute motion. **Motion failed by a vote of 7 AYE, 10 NAY, 1 Absent/Excused. Voting in favor of the motion: Reps. Zito, Ehardt, Hartgen, Troy, Young, McCrostie, and Wintrow. Voting in opposition to the motion: Reps. Chaney, Kerby, Amador, Zollinger, Scott, Goesling, Marshall, Ricks, Gannon, and Davis. Rep. Monks** was absent/excused.

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for a vote on the original motion to send **H 429** to General Orders. **Motion carried by voice vote.** Chairman Chaney will sponsor the bill on the floor.

H 460: **Rep. Barbieri** presented **H 460** to the Committee, regarding garnishment from a bank account for money owed. He explained Idaho currently only allows garnishments to be served through a sheriff's office and this legislation would allow lawyers to process garnishments and streamline the process. This change would reduce fees and taxes, and would bring Idaho into alignment with the rest of the nation.

Speaking **in support** of **H 460** were: **Kate Hass**, Kestrel West; **William Mark**, Johnson Mark LLC; and **Trent Wright**, Idaho Bankers Association. They mentioned the current system is unnecessarily time consuming, and since most garnishments have a 90 day period of activity, most expire without being acted upon while in the Sheriff's possession. They stated any fees outside of those listed within this legislation could not be charged without a court order. Additionally, Mr. Wright explained banks take the brunt of changes to the garnishment system, and the banks are in favor of this bill.

Speaking **in opposition** to **H 460** were: **Terry Derden**, Idaho Sheriffs Association and Ada County Sheriff's office; **Shirley Featherston**, Bingham County Sheriff's Office; **Sheriff Steve Bartlett**, Ada County Sheriff's Office; **Elizabeth Lloyd**, Supervisor of Civil Division of Ada County Sheriff's Office; and **Sheriff Vaughn Killeen**, Idaho Sheriff's Association. They stated the Sheriffs' offices currently handle garnishments due to the need for a neutral party to mediate and serve garnishments. They explained the fee charged by Sheriffs' Offices is cost based and Sheriffs' Offices do not make a profit on them, but all services provided are covered. They voiced concern for the implementation of this new system would cause confusion.

Rep. Barbieri summarized the biggest concern with this legislation seemed to be about fairness. He stated the issue of garnishments is the concern of banks, employers, and debtors, not the sheriffs. The legislation would streamline garnishments in a fair manner for all concerned parties and reduce the burden on banks.

Chairman Chaney called a recess of the committee at 3:35 p.m.

Chairman Chaney reconvened the meeting at 3:51 p.m.

H 464:

Rep. Hartgen introduced **H 464** stating the intention of this legislation is to revise the homestead exemption and adjust for inflation. She then introduced **Alexandra Caval**, representing herself, to further explain the legislation. Ms. Caval stated that this bill would address the bankruptcy exemption and the assets that may be removed from consideration of payment, she further explained that the homestead exemption is currently fixed on the date when the case is filed and contains unclear language that doesn't protect the appreciation of homes. The legislation would remove that language and make the cap amount a static number as well as increase the amount on the homestead, personal property, vehicle, firearm, and tools of the trade exemptions in order to adjust for inflation. In response to Committee questions, **Ms. Caval** clarified that Idaho opted out of the Federal Exemption Code in order to create it's own, and that all exemptions used in Idaho come from this code. She also stated that medically necessary equipment is exempted in a different part of code and that it has no cap. **Rep. Hartgen** concluded by stating that it was probably time to bring this part of code up to standard.

H 459:

Rep. Rubel introduced **H 459**, stating that the intention of this legislation was to protect renters in Idaho from unscrupulous practices by landlords who seek to take advantage of the growing market and current housing crisis by raising rent prices in large amounts with no warning. She stated the legislation would simply require landlords to give 45 days notice of a rent increase of 10% or more to tenants with a 12 month lease or 30 days for tenants with a month to month lease. She believed this would give renters enough time to decide if the increase would fit in their budgets or find new housing if necessary, helping to reduce the current housing crisis. **Rep. Wagoner**, the cosponsor, explained statistics for the Committee, showing how housing prices in his district of Caldwell have risen. The numbers constitute a very real housing crisis, and he stated this legislation could go far toward helping to alleviate that crisis.

Speaking in support for **H 459** were: **Lupe Wissel**, State Director AARP; **Kendra Knighten**, Idaho Voices for Children; **Zoe Olson**, Idaho Fair Housing Council; **Monica Fabbi**, Intermountain Fair Housing Council; **Mel Leviton**, **Anthony Yenason**, IFHC; **Jodie Peterson Stigers**, Interfaith Sanctuary; **Issa Mtakarutimauna**, IFHC. They stated the requirement would not be burdensome for landlords, but being given little to no notice is onerous for renters especially those with mobility issues. They pointed out this is not rent control, but simply gives renters reasonable time to find new housing or to get an additional job to afford the increase. Idaho rents have grown at a rate three times faster than wage increases, putting a considerable strain on households. Supporters called attention to the many people, including a large number of families with children, who face the choice of unaffordable rent or homelessness. They pointed out while this may seem like a problem only affecting the Treasure Valley, it is an issue state wide. Additional comments addressed out-of-state rental management companies which only care about the money and have no investment in Idaho or Idahoans.

Jane Williams testified in support of the bill. She shared her personal experience, stating that when her apartment complex was sold to an out of state company her rent was significantly raised with no warning, she inquired about a month-to-month rate as a short term solution, only to be told that it would be twice what she originally paid. She emphasized that she and her children are one minor problem away from homelessness.

Rep. Rubel stated a significant portion of Idaho's residents are living one small problem away from homelessness, including many children and people with disabilities. This legislation would not solve the problem, but would at least provide some extra time for those most vulnerable to find housing. In response to a Committee question, she explained in any case where a landlord is unable to provide 45-days warning before a lease expires, the lease would simply roll over into a month-to-month format at the current rate, after which the landlord would only be required to issue 30-days notice.

H 461:

Rep. Ricks introduced **H 461**, explaining Idaho currently has no state-wide process for landlords to follow after winning an eviction case. The counties and local governments currently set the rules a landlord must follow after successful eviction proceedings, leading to statewide disparities. The proposed legislation would set a uniform state-wide standard for these proceedings. **Rep. Ricks** introduced co-sponsor **Brian Stutzman**, representing himself, for further explanation. **Mr. Stutzman** explained the variability in requirements that landlords across the state face after a successful eviction. In many cases the landlords are responsible for any property left behind. He further stated any belongings left by an evicted tenant are largely trash, sharing his personal experience. In response to Committee questions, **Mr. Stutzman** explained the language in the legislation giving an evicted person 72 hours to vacate the premises would not take effect until after a court order had been issued. Because eviction processes can take up to a month the tenants would have much longer than 72 hours to prepare to move.

Speaking in opposition to **H 461** were: **Ms. Olson, Christine Pisaini**, Council of Developmental Disabilities, **Mr. Yenason, Ms. Fabbi**, and **Melissa Morales**. They stated tenants do not often have legal representation during eviction proceedings and this bill provides no requirements for representation or even notification. They added it is nearly impossible for a person to move in 72 hours and noted this bill has no provision for extenuating circumstances such as disability. It was further stated this bill seems to give landlords the power to carry out their own evictions without any direction for how to do so, and attention was drawn to the dangerous situations this could cause.

Rep. Ricks and **Mr. Stutzman** returned to the podium and clarified only a judge may issue an eviction order and the eviction process must be completed before this bill would come into play. This legislation is not intended to change the eviction process itself; it simply provides a unified statute for the whole state. The intention of this legislation is to reduce costs to landlords, preventing them from passing additional costs on to responsible tenants.

H 462:

Rep. Wintrow introduced **H 462** and **Jim Jones**, representing himself, to provide a thorough explanation of the bill. **Mr. Jones** shared a story about past clients who's landlord never walked through at move in or move out, but refused to return their security deposit due to damages. He mentioned the Ada County Housing Association had done a walkthrough with the couple and found the apartment had been in very poor shape at move-in. This legislation would require landlords to do a walkthrough at move in and move out when requested by a tenant, and provide documentation to the tenant as a measure to increase transparency and accountability for both parties.

Chairman Chaney called a recess of the committee at 5:45 P.M.

Chairman Chaney reconvened the meeting at 6:04 P.M.

Rep. Wintrow added the legislative intent of this bill is to increase transparency and remove surprise charges to tenants. The bill would also require landlords to provide an itemized receipt of expenses taken out of the security deposit and eliminate late fees after two charges limited to \$75.

In response to Committee questions **Rep. Wintrow** clarified landlords would be required by this legislation to make time for walkthroughs, and agreed to an amendment stating that move out walkthroughs would be on the established move out date.

Speaking **in support** were: **Ms. Fabbi**, **Ms. Pisaini**, and **Mr. Yenason**, sharing stories of situations where a walk through would have prevented problems and disputes over security deposits. They also shared examples of landlords who either refused or charged for walkthroughs. They stated this bill will benefit landlords and tenants by increasing transparency and fairness between parties.

Rep. Wintrow concluded by reiterating the bill is simply intended to increase transparency and protect both tenants and landlords.

H 431:

Rep. Troy presented **H 431** to the Committee, stating the transference of wealth from one generation to the next is the largest transfer of wealth in the history of the world. She stated these individuals have a strong desire not to leave all their wealth to family, but to give their money to charities. She stated this bill would amend existing code to require closing charity programs with 501(c)3 status to turn any leftover donated funds to another charity to comply with the charitable intent of the donor. They should also disclose this disbursement to the Attorney General of Idaho. **Rep. Troy** then introduced **Fred Delaine**, Deputy Attorney General, to explain. He reiterated this legislation would define the Attorney General's authority and the distinction of charitable trusts and assets compared to private trusts. The new language would also define the consequences of misappropriation of charitable assets. He stated most charitable organizations handle this process correctly, but some have not which prompted this bill. He concluded the bill is simpler than it looks and protects assets for the benefit of communities.

In response to Committee questions, **Mr. Delaine** stated the Attorney General's office would notify all charities in Idaho with a 501(c)3 status, including churches or faith-based charities if they hold 501(c)3 status. **Rep. Troy** reiterated this bill is meant to protect donor intent.

ADJOURN:

There being no further business to come before the Committee, the meeting was adjourned at 6:57 P.M.

Representative Chaney
Chair

Emma Wall
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
12:30 P.M.
Room EW42
Friday, February 21, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 460</u>	Service of Garnishment	
<u>H 464</u>	Bankruptcy Exemptions	
<u>H 462</u>	Landlord Requirements / Security Deposits	
<u>H 461</u>	Tenant Property / Removal	
<u>H 459</u>	Fair Warning Act	
<u>H 431</u>	Charitable Assets Protection Act	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>H 433</u>	Family Law / Driver's License Suspension	Representative Troy
<u>H 435</u>	Adult Adoption	Representative Zito
<u>H 404</u>	Financial Exploitation of an Elder	Representative Zito
<u>H 466</u>	Marriage Age	Representative Ehardt & Zollinger
<u>H 434</u>	Marriage Licenses / Repeal, Amendment	Representative Zito

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
Rep Monks, Acting Vice
Chairman
Rep Kerby
Rep Amador
Rep Zito
Rep Zollinger

Rep Ehardt

Rep Scott

Rep Goesling

Rep Hartgen

Rep Marshall

Rep Ricks

Rep Troy

Rep Young

Rep Gannon

Rep McCrostie

Rep Wintrow

Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert

Room: EW56

Phone: 332-1127

email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Friday, February 21, 2020

TIME: 12:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Representatives Goesling, Marshall

GUESTS: Francoise Cleveland, AARP Idaho; Carmen Bulovsky, IFHC; Lori Burelle, SW ID NOW; Brandon Morgan, Morgan PM; Annie Hightower ICASDV; Nicole Fitzgerald, Council on Domestic Violence & Victim Assistance

Chairman Chaney called the meeting to order at 12:32 p.m.

H 460: **Chairman Chaney** returned the bill to Committee for consideration. This bill allows for a creditor's attorney to serve garnishments on an employer or bank. The sponsor requested the bill be sent to General Orders.

MOTION: **Rep. Scott** made a motion to send **H 460** to General Orders. Speaking to the motion, Rep. Scott stated she supported the bill, but was sending it to General Orders at the sponsor's request.

Rep. Monks stated he was absent for the bill hearings and would support the Committee's vote on the bills being considered, but reserved his ability to vote differently when the bills come up for a floor vote.

VOTE ON MOTION: **Chairman Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Reps. McCrostie** and **Wintrow** requested they be recorded as voting **NAY**. **Rep. Barbiari** will sponsor the bill on the floor.

H 464: **Chairman Chaney** returned the bill to Committee for consideration. This bill allows for certain bankruptcy exemptions and adjusts for inflation.

MOTION: **Rep. Hartgen** made a motion to send the bill to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Hartgen** and **Zollinger** will sponsor the bill on the floor.

H 462: **Chairman Chaney** returned the bill to Committee for consideration. This bill allows for a tenant/landlord walk through and requires a landlord to provide a receipt of charges against the security deposit.

MOTION: **Rep. Gannon** made a motion to send the bill to the floor with a **DO PASS** recommendation. Speaking to the motion, he stated the walk through is incumbent on the tenant to request, and it could go a long way to resolving disputes.

Rep. Young said she thought the language could be improved because it did not seem necessary to provide a receipt if the whole deposit is returned.

VOTE ON MOTION: **Rep. Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Reps. Zollinger** and **Young** requested to be recorded as voting **NAY**. **Rep. Wintrow** will sponsor the bill on the floor.

H 461: **Chairman Chaney** returned the bill to Committee for consideration. This bill provides a uniform process for counties and sheriffs to follow regarding evictions and removal of a tenant's property.

Rep. Ricks spoke in support of the bill.

MOTION: **Rep. Zollinger** made a motion to send the bill to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Gannon** made a motion to send **H 461** to General Orders. Speaking to the motion, he agreed the bill fixes a problem that needs to be addressed, but the bill provides judges discretion to allow more time for commercial tenants who may need more time to vacate a property, but there is not a similar provision for residential renters. He stated the bill needed a relief valve to allow more than three days in cases of renters with extenuating circumstances such as disabilities, calamities or domestic abuse.

Chairman Chaney stated Rule 80 declarations apply in Committee considerations.

Reps. Troy and **Ricks** invoked Rule 80.

Reps. Hartgen and **Troy** spoke in support of the original motion. They stated the eviction process is lengthy and renters know it is coming and have the time to prepare to vacate the property.

Rep. Davis spoke in support of the substitute motion. She stated it should be left up to the judge to allow for more time for people with challenges, particularly disabilities.

Further debate among Committee members focused on the language in Section 2, paragraph 2 as it states a judge "may" grant a commercial tenant more time to remove their property, but a residential tenant "shall" have seventy-two hours. **Rep. Ricks** stated the bill stakeholders discussed this and some we're not comfortable with the three days because current law allows for immediate eviction, but this bill is a compromise. He explained it takes longer for commercial businesses because they have more equipment. **Rep. Gannon** explained under current law, a tenant can still get their belongings from the sheriff before auction, but this process puts the property in the hands of landlords.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman Chaney** called for a roll call vote to send **H 461** to General Orders. **Motion failed by a vote of 4 AYE, 12 NAY and 2 Absent/Excused. Voting in favor of the motion: Reps. Gannon, McCrostie, Wintrow and Davis. Voting in opposition to the motion: Reps. Monks, Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Hartgen, Ricks, Troy, Young and Chairman Chaney. Reps. Goesling and Marshall** were Absent/Excused.

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for vote on the motion to send **H 461** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Davis** requested to be recorded as voting **NAY. Rep. Ricks** will sponsor the bill on the floor.

H 459: **Chairman Chaney** returned the bill to Committee for consideration. This bill requires landlords to provide 45-days written notice on annual leases and 30-days notice on month-to-month leases when rent is raised 10 percent or more.

MOTION: **Rep. Davis** made a motion to send the bill to the floor with a **DO PASS** recommendation.

Reps. Kerby and **Zollinger** spoke in support of the bill, but **Rep. Zollinger** stated he had a few questions about the language and reserved the right to change his mind on the floor vote.

VOTE ON MOTION: **Rep. Chaney** called for a vote on the motion. **Motion carried by voice vote. Rep. Rubel** and **Wagoner** will sponsor the bill on the floor.

H 431: **Chairman Chaney** returned the bill to Committee for consideration. This bill defines the Attorney General's duties to protect charitable assets from misuse or misappropriation and ensure donors' intent is followed.

MOTION: **Rep. Wintrow** made a motion to send bill to the floor with a **DO PASS** recommendation.

Reps. Ehardt and **Young** spoke **in support** of the bill, but stated they had questions about how this bill related to church assets, so they reserved the right to change their votes on the floor once they learned more. **Chairman Chaney** stated it would be difficult for religious institutions to misuse proceeds unless it was a religious institution that was set up fraudulently. He explained the difference between personal trust instruments and charitable trusts. Charitable trusts have no options for establishing standing for claims against the trust if it fails.

VOTE ON MOTION: **Chairman Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Reps. Zollinger** and **Scott** voted **NAY**. **Rep. Zollinger** stated he reserved the right to change his vote on the floor after talking with the sponsor regarding questions. **Rep. Troy** will sponsor the bill on the floor.

H 433: **Rep. Troy** presented **H 433**, which allow citizens who have lost their driver's license because of non-payment of child support to petition the courts for a temporary restricted license for good cause.

For the record, no one indicated a desire to testify.

H 435: **Rep. Zito** presented **H 435**. This bill clarifies the consent necessary for the adoption of an adult by removing the requirement of parental consent because the adult adoptee is over the age of 18. This will make adoptions easier. **Rep. Zito** yielded her time to **Stephanie Stout**.

Stephanie Stout, a family law attorney, explained this is a clean up bill that treats married parents and unmarried parents differently. For the past 25 years, the court has been treating them the same, but a recent court appeal prompted a closer look at the plain language, so this bill seeks to clear this up.

H 404: **Rep. Zito** presented **H 404**. This bill targets financial exploitation of a person 60 years of age or older by establishing a felony penalty for any caregiver convicted of exploiting an victim for \$1,000 or more. She explained the idea for this bill came to her from a constituent.

Denise McManna-Gustafson spoke **in support** of the bill. She shared a story of an elderly family member who was exploited by a neighbor. In answer to questions from the Committee, she explained the family contacted elder abuse and a case was opened, but the relative passed away before the case was resolved.

Francoise Cleveland, AARP Idaho, spoke **in support** of the bill. She explained financial abuse is one of the biggest areas of elder abuse and it is expected to grow as the baby boomer population ages. In answer to questions from the Committee, she stated one in 10 people over the age of 50 are victims of abuse.

Committee members questioned whether sections of statute regarding theft and vulnerable adults could provide the desired protection. **Rep. Zito** stated this bill expands the definition to included any adult over the age of 60 and is intended to cover victims who may not yet fully meet the definition of vulnerable adult, but are in the early stages of mental decline. In answer to questions from the Committee, **Rep. Zito** explained LSO modeled the bill after similar statues in other states. It was suggested by **Rep. Zollinger** that some of the language from this bill be moved to I.C. 18-1505, which addresses exploitation of a vulnerable adult.

H 466: **Reps. Ehardt and Zollinger** presented the bill that was drafted for the purpose of preventing forced or coerced marriage and abuse. This legislation creates a minimum age requirement of 16 years old and provides for a maximum age difference between parties of three years for children under the age of 18. Rep. Ehardt emphasized the bill retains parental consent rights and eliminates the possibility of marriage for individuals under the age of 16. Rep. Zollinger stated the bill is similar to one introduced last year, but it eliminates the need for court approval.

Lori Burrelle, Southwest Chapter National Organization for Women, testified that her organization cautiously endorsed the bill. She stated concerns that the bill did not require the consent of the boy or girl and they would have preferred to see the minimum age set at 18, but viewed this bill as step in the right direction.

In answer to questions from the Committee, **Rep. Zollinger** stated this bill was drafted to address the difficult balance between protecting children and recognizing the sanctity of parental rights.

H 434: **Rep. Zito and Zollinger** presented the bill to eliminate the requirement for a marriage license. She explained it would take the state out of the marriage license business and turn the responsibility over to the counties by establishing a process for solemnizing the marriage and filing for a \$15 certificate. This change would allow money collected to be used directly in the counties. She explained the funds currently generated by marriage licenses and used to support programs sponsored by the Idaho Council on Domestic Violence & Victim Assistance could be replaced by allowing the Council to apply for funding from the General Fund or double the filing fee for divorce.

In answer to questions from the Committee, **Rep. Zito** stated she did not collaborate with the Domestic Violence Council or members of JFAC when drafting the bill. **Rep. Zollinger** explained a person shouldn't need to ask the state for permission to marry as the policy reason for changing the requirement from a license to a certificate. He stated the certificate would meet all requirements for proof of marriage for such things as insurance as long as it is written in statute.

Annie Hightower, Director of Law and Policy, Idaho Coalition Against Sexual & Domestic Violence, spoke **in opposition to H 434**. She testified that 16 of the agency's programs are funded by the Idaho Council on Domestic Violence & Victim Assistance. She described the types of services provided and explained that redirecting funds to the counties for undefined programs would immediately impact important programs that service constituents across county lines. She also stated concerns about the conflicts created if both **H 434** and **H 466** pass. In answer to Committee questions, she stated this bill would be harmful to rural areas.

Nicole Fitzgerald, The Idaho Council on Domestic Violence & Victim Assistance, requested her letter to Committee members be entered into the record. (Attachment)

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 2:52 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary



IDAHO COUNCIL ON DOMESTIC VIOLENCE & VICTIM ASSISTANCE

304 North 8th Street, Suite 140

Boise, ID 83702

February 21, 2020

Re: H434 Marriage Licenses/Repeal, Amendment

Dear Judiciary, Rules & Administration Committee,

The Council on Domestic Violence and Victim Assistance (Council) writes to inform the committee about a consequence of H434 that is not addressed in the fiscal note of the bill. The bill strikes marriage licenses from Sections 39-5210, 39-5212, and 39-5213. In 1982, these sections established the Domestic Violence Project account. The purpose was to create a dedicated fund derived from fees for marriage licenses (\$15 per license) and divorce actions (\$20 per filing) to be perpetually appropriated to the Council to distribute grants for domestic violence projects and to meet the costs of maintaining operations of the Council. The removal of marriage license fees from this dedicated fund severely impacts the Council's ability to meet its mission.

Revenue from this fund for state fiscal years 2011-2019 ranged from \$289,691 to \$332,123, respectively. The Council distributes \$171,800 of this fund to domestic violence programs in Idaho communities, in proportion to marriage licenses filed in each region. The remainder is utilized for Council operations. Marriage licenses makes up approximately 70 percent of this revenue. If this fee is taken out of the dedicated fund, it leaves the Council and the domestic violence programs it funds in a deficit. Because of the dedicated fee structure, the Council receives a small amount of general fund revenue, approximately \$16,000 annually. In short, it would be impossible to maintain current levels of operations without increasing the state's general fund appropriation to the Council significantly.

While H434 directs counties to continue to collect the \$15 fee and distribute to domestic violence projects within the county, the bill does not establish eligibility criteria for domestic violence projects. Currently, there are not domestic violence programs and services in every county. There are 16 domestic violence programs that meet the eligibility criteria set forth in Section 39-5210. These programs serve citizens residing in neighboring counties. Since H434 does not include a regional provision for the marriage license fees, these programs will not receive funding at the level they currently receive from the State. Additionally, this funding shift will benefit larger counties and leave very little funding for less populated counties.

For these reasons the Council opposes H434 and wishes to inform committee members of the full consequences of advancing H434. We welcome any questions regarding the Council's concerns.

Sincerely,

Nicole Fitzgerald
Executive Director

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, February 25, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 433</u>	Family Law / Driver's License Suspension	
<u>H 435</u>	Adult Adoption	
<u>H 404</u>	Financial Exploitation of an Elder	
<u>H 466</u>	Marriage Age	
<u>H 434</u>	Marriage Licenses / Repeal, Amendment	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>H 468</u>	Criminal Records / Felony Firearms	Representative Chaney
<u>H 463</u>	Court Fees, Costs	Representative Hartgen
<u>H 546</u>	Patronizing Prostitution / Penalty	Representative Crane
<u>H 465</u>	Genital Mutilation / Gender Preference	Representative Zito

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 25, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Representative Monks

GUESTS: The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

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

MOTION: **Rep. McCrostie** made a motion to approve the minutes of the February 5, 2020 meeting. **Motion carried by voice vote.**

H 433: **Chairman Chaney** brought the bill back to Committee for consideration. This bill allows citizens who have lost their driver's license because of non-payment of child support to petition the courts and show good cause for a restricted driver's license.

MOTION: **Rep. Scott** made a motion to send **H 433** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Troy** will sponsor the bill on the floor.

H 435: **Chairman Chaney** brought the bill back to Committee for consideration. This bill clarifies the consent necessary for adoption of an adult.

MOTION: **Rep. Zollinger** made a motion to send **H 435** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Zito** will sponsor the bill on the floor.

H 404: **Chairman Chaney** brought the bill back to Committee for consideration. This bill addresses financial exploitation of an elder.

MOTION: **Rep. McCrostie** made a motion to send **H 404** to General Orders. Speaking to the motion Rep. McCrostie said he spoke with the sponsor about a recommended amendment and incorporating the bill's language into the section of Title 18 that was discussed during the hearing.

Rep. Kerby expressed concern the bill did not provide allowances for situations where a person with dementia or Alzheimer's may have authorized a family member to manage their financial affairs and then forgets. He stated he would support the bill going to General Orders, but reserved his right to not support it on the floor if these concerns weren't addressed.

Rep. Zito, explained the purpose of the bill is to support people who are in the early stages of dementia when they are most vulnerable, and would expect there to be a burden of proof for family members. She stated she supported **Rep. McCrostie's** amendments and sending the bill to General Orders.

**VOTE ON
MOTION:** **Chairman Chaney** called for a vote on the motion to send **H 404** to General Orders. **Motion carried by voice vote.** **Rep. Zito** will sponsor the bill on the floor.

H 466: **Chairman Chaney** brought the bill back to Committee for consideration. This bill sets the minimum age for marriage at 16 years old, and provides for a maximum age difference of three years, if one of the parties is under the age of 18.

MOTION: **Rep. Davis** made a motion to send **H 466** to the floor with a **DO PASS** recommendation. Speaking to the motion, she stated she had reservations about the lack of written consent from the children, but this bill is a step in the right direction.

Debate among Committee members focused on the issue of consent, same sex marriage and possible conflict with **H 434** if both bills were to be adopted. Committee members agreed it was better to have a minimum age restriction of 16 years old rather than no age restriction.

VOTE ON MOTION: **Chairman Chaney** called for vote on the motion. **Motion carried by voice vote.** **Reps. Ehardt** and **Zollinger** will sponsor the bill on the floor.

H 434: **Chairman Chaney** brought the bill back to Committee for consideration. This bill repeals the marriage license requirement and replaces it with a certificate of solemnization.

MOTION: **Rep. Scott** made a motion to send **H 434** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Gannon** made a substitute motion to **HOLD H 434** in committee.

Reps. Hartgen, Troy and **Wintrow** spoke **in support** of the substitute motion. Concerns were discussed about eliminating funding for the Council on Domestic Violence & Victim Assistance, the impact it would have on services to Idahoans, especially in small counties, and no need for change.

Rep. Zito spoke **in support** of the bill and explained she would like to send it to General Orders. She stated smaller counties are having difficulty getting the support they need. It's an imposition for victims to travel to bigger cities because that is where the domestic violence shelters are. She proposed increasing the divorce fee by \$15 to compensate for the funds lost from marriage licenses.

AMENDED SUBSTITUTE MOTION: **Rep. Zito** made an amended substitute motion to send **H 434** to General Orders.

Reps. Amador, Ricks, McCrostie, Marshall and **Gannon** spoke **in support** of the substitute motion. Committee members discussed the need for maintaining the sanctity of the marriage license for historical purposes and protecting Idahoans from fraud. **Rep. Gannon** explained current law for marriage licenses requires the parties to provide their social security number and applicants to swear to the accuracy of the information provided. This language would be repealed under the bill and could put people at risk for fraud.

Rep. Zollinger spoke **in support** of sending the bill to General Orders. He stated people shouldn't need to ask the government to enter into private contracts for marriage. He said he was open to separating the funding portion from the certificate portion and leaving the funding as it is in current law.

ROLL CALL VOTE ON AMENDED SUBSTITUTE MOTION: **Chairman Chaney** called for a roll call vote to send **H 434** to General Orders. **Motion failed by a vote of 6 AYE, 11 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Kerby, Zito, Zollinger, Ehardt, Scott** and **Young. Voting in opposition** to the motion: **Reps. Amador, Goesling, Hartgen, Marshall, Ricks, Troy, Gannon, McCrostie, Wintrow, Davis** and **Chairman Chaney. Rep. Monks** was **Absent/Excused.**

**ROLL CALL
VOTE ON
SUBSTITUTE
MOTION:**

Chairman Chaney called for a roll call vote to **HOLD H 434** in Committee. **Motion carried by a vote of 11 AYE, 6 NAY, 1 Absent Excused. Voting in favor** of the motion: **Reps. Amador, Goesling, Hartgen, Marshall, Ricks, Troy, Gannon, McCrostie, Wintrow, Davis** and **Chairman Chaney**. **Voting in opposition** to the motion: **Reps. Kerby, Zito, Zollinger, Ehardt, Scott** and **Young**. **Rep. Monks** was **Absent/Excused**.

Chairman Chaney turned over the gavel to senior Majority Committee member **Rep. Kerby**.

H 468:

Chairman Chaney presented the bill that provides a mechanism for the restoration of rights under certain instances in a manner that conforms with federal firearms statutes. He explained many stakeholders have been involved with the bill and have reached agreement on some aspects, but there is more work to be done as it relates to expungement. Therefore, he requested the bill be sent to General Orders to remove Section 2 of the bill and make a few language changes. In answer to Committee questions, Chairman Chaney explained currently there is no provision for firearms restoration for convictions of misdemeanor offenses and yet there is for certain felonies as a matter of right. The current process requires a request for restoration through the Commission on Pardons and Parole, which is excessive for misdemeanors.

Mark Manweiler, attorney, and **Tom Arkoosh**, Idaho Association of Criminal Defense Lawyers, spoke **in support** of the bill, but stated their disappointment in the proposed removal of the section detailing provisions for expungement. They explained it could go a long way in reducing recidivism and helping those with misdemeanors find gainful employment.

Holly Koole Rebholtz, Idaho Prosecuting Attorney's Association, testified the association could not support the bill as written. She stated they hoped the bill could be supported with the amendments, but the association would not commit support until a final bill is presented. She yielded her time to **Jeff Phillips** to answer Committee questions.

Jeff Phillips, Owyhee County Prosecutor, explained the three sections of the bill which have conflicts. The bill drafters are working to bring state law into congruence with federal law as it relates to felony firearms restoration. The second section needs further clarification around victim rights and addressing concerns from the courts. The third section deals with post conviction relief. He stated restoration of firearms related to domestic abuse has been discussed, but it was not the focus at this time.

Judge Barry Wood, Administrative Office of the Courts, Idaho Supreme Court, explained the concerns of the courts relating to language throughout the bill. He stated the removal of Section 2 addresses some concern, but language regarding "by reason of insanity," and the provision regarding juveniles are problematic. The section regarding discharge of defendant is concerning and he encouraged a policy statement on whether eligibility for relief requires a defendant to have met all legal, financial obligations. Judge Wood stated he would provide a list of his concerns to the Committee, as requested.

Chairman Chaney emphasized that amending from a felony down to a misdemeanor will not necessarily lead to restoration of firearms rights. He said there is attention to ensuring the bill does not run afoul of federal law.

Rep. Kerby turned the gavel over to **Chairman Chaney**.

H 463: **Rep. Hartgen** presented the bill to create a new section in the juvenile corrections code authorizing counties to create a juvenile pretrial supervision program and to collect associated fees. The legislation also authorizes counties to collect other fees such as electronic monitoring and drug and alcohol testing fees and adult pretrial supervision fees for a withheld judgement. Some of these fees have already been authorized to be collected by the counties, but they currently are collected outside of Odyssey. This bill authorizes these fees to be collected within Odyssey. She yielded her time to **Kelli Brassfield**.

Kelli Brassfield, Idaho Association of Counties, stated this is a clean up bill to clarify the counties could collect certain fees through the court's Odyssey system and it clarified county authority to collect fees for juvenile pretrial supervision. The counties worked with the courts on the language.

Angela Barkell, Owyhee County Clerk, spoke in support of **H 463**.

Chairman Chaney called for a recess at 2:45 p.m.

Chairman Chaney reconvened the meeting at 2:55 p.m.

H 546: **Rep. Crane** presented the bill which imposes a financial penalty for patronizing a prostitute. He explained the section detailing 50 percent of fines collected would go to victim compensation was accidentally removed from the bill, so he requested the Committee send the bill to General Orders.

In answer to Committee questions, **Rep. Crane** explained he chose a penalty amount that was significant enough to get the attention of the offender and the second offense results in a felony. He stated the intent of the legislation was to curb the demand for services and human trafficking. The state does a good job of going after the prostitute and the pimp, but research has shown that targeting the buyer can help.

H 465: **Rep. Zito** presented the bill to prohibit surgeries or engage in practices to change a child's gender to match his or her perception if the child is under the age of 18 years old. It results in a penalty of a felony. **Rep. Zito** explained she approached this with concern and the bill is not intended to degrade anyone. She stated she was acting in response to information from the American College of Pediatrics (ACP) that indicates most incongruent perceptions of gender by young children are resolved by the time they reach adulthood. She also stated cross-sex drug therapy can lead to other health problems and there are no long-term studies of the long-term effects of puberty blockers. She yielded her time to **Dr. Jud Miller**, **Misty Pierce**, and **Dr. William Malone**.

Dr. Jud Miller, Family Medicine/ER, M.D. reiterated **Rep. Zito's** comments and explained he supports the research of the ACP and his own research has not resulted in any contrary results. He stated a person over 18 may choose gender transition as a fully informed decision, but it is important to protect minors who may not know the long term effects. He explained the treatment process that is generally followed for gender transition in children. In answer to questions from the Committee, **Dr. Miller** explained the ACP is the conservative alternative of the American Academy of Pediatrics and he has not treated any children going through the process. He responded that puberty blocking medicines are reversible.

Misty Pierce, private researcher, stated her concern about the medications used because of the lack of long-term research on health impacts. She explained the drugs are used and approved for treatment of adult cancer, but they are not approved as puberty blockers. She stated the side effects of the drugs.

Dr. William Malone, endocrinologist, stated there are only two sexes and it is binary. He defined gender dysphoria and while it can be treated the long-term consequence are unknown. Those treated with testosterone are five times more likely to get heart disease. He stated there is no evidence that treatment reduces suicide and halting puberty interferes with the natural process of coming to terms with gender during adolescence. There is an increasing number of children presenting with gender dysphoria and more study is needed.

Rep. Troy expressed disappointment this bill was piggybacking on the Female Genital Mutilation (FMG) law she has worked on the past two years. She stated FMG is a serious global issue and it was unfortunate to have attention diverted from the original purpose of the statute.

Kathy Griesmeyer, Policy Director, ACLU Idaho; **Steve Martin**, Pride Foundation; **Rev. Sara LaWall**, Interfaith Coalition; **Brian Thom**, Episcopel Church; **Mistie Tolman**, Planned Parenthood; **Melissa Rayne-Martin**, East Idaho Gender Spectrum Outreach; **Rev. Jenny Willison Hirst**, Boise Collister United Methodist Church; **Elizabeth Berendts**, **Rev. Marci Glass**, **Kacee O'Connor**, **Madison Allen**, **Kristin Stilton**, **Claire Gutierrez**, **Lucy Groves**, **Kelly Wagner**, **Jamie Lane**, **Dianne Piggott**, **Jen Moore**, **Oliver Cowan**, **Adriane Bang**, **Kelly Wagner**, and **Kacie Hoch**, spoke **in opposition** to the bill. Their comments included concern that transgender children are part of a vulnerable community and the bill would deny them of lifesaving care. Rates of suicide are high among this community. The information shared by bill proponents is not supported by the largest and well-respected medical associations in the country.

Juan Carlos Duque shared testimony on behalf of **Rabbi Daniel Fink** in **opposition** to the bill.

Susie Pouloit, CEO, Idaho Medical Association (IMA), and **Dr. Stephanie Long**, both representing the medical community, spoke **in opposition** to the bill. They explained the standards of care used with individuals being treated for gender conditions. Concern was expressed about criminalizing doctors and individuals within the medical community since decisions are always directed by parents. They stated the bill undermines parental rights and allows government interference. They stated information shared by bill proponents was not representative, nor supported by the American Academy of Pediatrics, the largest pediatric academy in the country. Ms. Pouloit also explained the IMA supports the FMG law, but this bill dismantles it.

Lindsey Zea, **Darrel Ford**, **Marcia Yiapan**, **Blaine Conzatti**, Family Policy Alliance, and **Christian Welp**, Catholic Conference, spoke **in support** of the bill. They reemphasized points from previous testimony and explained children do not have the capacity to make such monumental decisions. It was stated that gender transition does not relieve children of the depression that drives suicide.

Chairman Chaney called for a recess of the Committee at 5:42 p.m.

Chairman Chaney reconvened the meeting at 5:54 p.m.

Chairman Chaney stated the meeting would need to adjourn at 6:55 p.m. because the building locks at 7 p.m. Therefore the meeting would no longer be an open meeting. He explained the Committee's hearing and consideration policy and any remaining testimony would be allowed before a vote is taken.

Gabby Shuldenfrei, **Jyoni Shuler**, **Brandon Connolly**, **Diane Terhune**, **Casey Kellogg**, **Rachel Piscette**, **Josie Kohler**, **Dee Marie**, **James Watts**, **Elizabeth Allred**, **Ian Bott**, **Jeremy Nowland**, **Sage Christian**, **Juneau Olson** and **Mone' Miller**, Idaho Coalition Against Sexual and Domestic Abuse, spoke **in opposition** to the bill. Their comments were reflective of previous testimony.

Dr. Joseph H. Williams, President, Idaho Medical Association, **Dr. Neil Ragan, M.D., Dr. Ellen Richardson, Dr. Kelly Stanley, M.D., Dr. Daniel Flynn**, each representing the medical community, spoke **in opposition** to the bill. Their comments were reflective of previous testimony.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 6:54 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
2:00 pm or Upon Adjournment of Afternoon Floor Session
Room EW42
Thursday, February 27, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 463</u>	Court Fees / Costs	
<u>H 469</u>	Trafficking / Heroin, Fentanyl	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>S 1227</u>	Adoption / Notice	Representative McCrostie
<u>S 1219</u>	Guardians / Conservators, Appointment	Representative Hartgen
<u>S 1220</u>	Guardians / Conservators, Appointment	Representative Wintrow
<u>S 1256</u>	Bail Enforcement Agents / Affidavit	Representative Marshall
<u>S 1337</u>	Criminal / Infraction Case Fines	Representative Zollinger

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
Rep Monks, Acting Vice
Chairman
Rep Kerby
Rep Amador
Rep Zito
Rep Zollinger

Rep Ehardt
Rep Scott
Rep Goesling
Rep Hartgen
Rep Marshall
Rep Ricks

Rep Troy
Rep Young
Rep Gannon
Rep McCrostie
Rep Wintrow
Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, February 27, 2020

TIME: 2:00 p.m. or Upon Adjournment of Afternoon Floor Session

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Francoise Cleveland, AARP Idaho, Jason Spillman, AOC/ISC

Chairman Chaney called the meeting to order at 3:31 p.m.

Chairman Chaney reviewed the bills that have been heard in Committee but have not been scheduled for consideration. Those bills are **H 468**, **H 465**, **H 458** and the prostitution bill. Some will be held, and some will come back to Committee with a new RS.

Chairman Chaney stated without objection, these bills will be held in Committee. There was no objection.

H 463: **Chairman Chaney** returned the bill to the Committee for consideration. This bill creates a new section in the Juvenile Corrections Act to allow the counties to create a juvenile pretrial supervision program and collect associated fees.

MOTION: **Rep. Troy** made a motion to send **H 463** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Hartgen** will sponsor the bill on the floor.

H 469: **Chairman Chaney** returned the bill to the Committee for consideration. This bill amends the drug trafficking statute as it relates to minimum amounts of heroin that can be possessed without triggering mandatory minimum sentencing. It also adds specified quantities and sentencing time frames for fentanyl.

MOTION: **Rep. Amador** made a motion to send **H 469** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Davis** made a substitute motion to send **H 469** to General Orders. She stated she has seen the Attorney General opinion that the amount of marijuana would be measured in edibles.

Rep. Amador stated he will not support the substitute motion. The bill does not change anything related to weights of marijuana.

Reps. Monks, Kerby, Hartgen, Troy and **Chaney** spoke in support of the original motion. The discussion addressed the lack of time to get the bill to General Orders.

Rep. Zollinger spoke in support of the substitute motion.

VOTE ON SUBSTITUTE MOTION: **Rep. McCrostie** requested a roll call vote on the substitute motion to send **H 469** to General Orders. **Motion failed by a vote of 5 AYE and 13 NAY.** Voting in favor of the motion: **Reps. Zito, Zollinger, Scott, Gannon, Davis.** Voting in opposition to the motion: **Reps. Chaney, Monks, Kerby, Amador, Ehardt, Goesling, Hartgen, Marshall, Ricks, Troy, Young, McCrostie, Wintrow.**

SUBSTITUTE MOTION: **Rep. McCrostie** made another substitute motion to send **H 469** to the floor without recommendation.

Reps. Amador, Wintrow and Monks spoke in opposition to the second substitute motion.

Rep. Zollinger spoke in support of the second substitute motion.

**VOTE ON
SUBSTITUTE
MOTION:**

Chairman Chaney requested a roll call vote on the second substitute motion to send **H 469** to the floor without recommendation. **Motion failed by a vote of 8 AYE and 10 NAY. Voting in favor** of the motion: **Reps. Zito, Zollinger, Ehardt, Scott, Young, McCrostie, Wintrow, Davis. Voting in opposition** to the motion: **Reps. Chaney, Monks, Kerby, Amador, Goesling, Hartgen, Marshall, Ricks, Troy, Gannon.**

**VOTE ON
ORIGINAL
MOTION:**

Chairman Chaney requested a roll call vote on the original motion to send **H 469** to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 16 AYE, 1 NAY, 1 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Monks, Kerby, Amador, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow. Voting in opposition** to the motion: **Rep. Davis. Rep. Zito was Absent/Excused. Rep. Chaney** will sponsor the bill on the floor.

S 1227:

Rep. McCrostie presented **S 1227**. This bill addresses defects in the law regarding procedural time frames. It establishes hearing time periods in adoption cases computed only on seven day increments. This will bring adoption proceedings in line with the courts' efforts to reduce confusion to those affected.

Jason Spillman, ISC spoke in support of the bill. He said defects or omissions in law are required by the constitution to be corrected. In answer to a committee question, he said as mistakes are found they are corrected.

S 1219:

Rep. Hartgen presented **S 1219**. This defect bill corrects inaccurate language to reflect the pertinent "best interests of the person with a developmental disability" standard.

Jason Spillman spoke in support of the bill, saying this legislation furthers the court's effort to reduce confusion by setting procedural time frames in seven day increments.

S 1220:

Rep. Wintrow presented **S 1220**, which addresses procedural time periods for temporary appointments in conservatorship and guardianship cases.

S 1256:

Rep. Marhsall presented **S 1256**. He said this is another clean-up bill relating to bail enforcement agents and assignment of affidavits.

S 1337:

Rep. Zollinger said this clean-up bill clarifies statute regarding prioritization of payments applied to criminal cases and infractions. It also adds a category for victims of crimes.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 4:13 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
Upon Adjournment of House Floor Session
Room EW42
Tuesday, March 03, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 584</u>	Patronizing Prostitution / Penalty	
<u>S 1227</u>	Adoption / Notice	
<u>S 1219</u>	Guardians / Conservators, Appointment	
<u>S 1220</u>	Guardians / Conservators, Appointment	
<u>S 1256</u>	Bail Enforcement Agents / Affidavit	
<u>S 1337</u>	Criminal / Infraction Case Fines	
<u>H 593</u>	Criminal Records / Felony Firearms	
<u>H 594</u>	Fair Warning Act Notice	
<u>H 595</u>	Landlord Requirements	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>S 1232</u>	Inmate Savings Account	Representative Ricks
<u>S 1339</u>	Magistrate Commission / County Clerk	Representative Troy
<u>S 1284</u>	Public Defense Commission / Records	Representative Wintrow
<u>H 582</u>	Reckless or Willful Misconduct	Representative Chaney
<u>H 583</u>	Public Employees / Adverse Actions	Representative Chaney

COMMITTEE

MEMBERS

Chairman

Chaney

Rep Monks,

Acting Vice

Chairman

Rep Kerby

Rep Ehardt

Rep Troy

Rep. Zito

Rep. Ricks

Rep.

McCrostie

COMMITTEE SECRETARY

Wendy Carver-Herbert

Rep Scott

Rep Amador

Rep. Marshall

Rep. Young

Rep. Wintrow

Room: EW56

Rep Goesling

Rep Hartgen

Rep. Zollinger

Rep. Gannon

Rep. Davis

Phone: 332-1127

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Tuesday, March 03, 2020
- TIME:** Upon Adjournment of House Floor Session
- PLACE:** Room EW42
- MEMBERS:** Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis
- ABSENT/
EXCUSED:** Representative Monks
- GUESTS:** The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of session, the sign-in sheet with your minutes will be filed with the minutes in the Legislative Services Library.
Chairman Chaney called the meeting to order at 2:30 p.m.
- MOTION:** **Rep. McCrostie** made a motion to approve the minutes of the February 7, 2020 meeting. **Motion carried by voice vote.**
- H 584:** **Chairman Chaney** brought the bill to Committee for consideration. He explained it was a replacement bill for **H 546**, which creates a financial penalty for patrons of prostitution. The bill addresses the amendments discussed during the public hearing to direct 50 percent of funds raised from the penalty to domestic violence programs.
- MOTION:** **Rep. Kerby** made a motion to send **H 584** to floor with a **DO PASS** recommendation.
Rep. McCrostie spoke in support of the bill and commended **Rep. Crane** for tackling this issue.
- VOTE ON
MOTION:** **Chairman Chaney** called for a vote on the motion to send **H 584** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.
- S 1227:** **Chairman Chaney** returned the bill to Committee for consideration. The bill addresses defects in the law regarding procedural time frames in adoption proceedings.
- MOTION:** **Rep. Davis** made a motion to send **S 1227** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.
- S 1219:** **Chairman Chaney** returned the bill to Committee for consideration. The bill corrects language in the appointment of guardians and conservators law as it relates to persons with developmental disabilities.
- MOTION:** **Rep. Hartgen** made a motion to send **S 1219** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Hartgen** will sponsor the bill on the floor.
- S 1220:** **Chairman Chaney** returned the bill to Committee for consideration. The bill addresses procedural time periods for temporary appointments in conservatorship and guardianship cases.
- MOTION:** **Rep. McCrostie** made a motion to send **S 1220** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.

- S 1256:** **Chairman Chaney** returned the bill to Committee for consideration. This is a cleanup bill relating to bail enforcement agents and assignment of affidavits.
- MOTION:** **Rep. Wintrow** made a motion to send **S 1256** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Marshall** will sponsor the bill on the floor.
- S 1337:** **Chairman Chaney** returned the bill to Committee for consideration. The bill clarifies statute regarding prioritization of payments applied to criminal cases and infractions.
- MOTION:** **Rep. Hartgen** made a motion to send **S 1337** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Zollinger** will sponsor the bill on the floor.
- H 593:** **Chairman Chaney** brought the bill to Committee. He explained it was a replacement bill for **H 468**. The bill addresses the amendments discussed during the public hearing including removal of the section on expungement and changes to address concerns from the courts.
- MOTION:** **Rep. Zollinger** made a motion to send **H 593** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Chaney** will sponsor the bill on the floor.
- H 594:** **Chairman Chaney** brought the bill to Committee. He explained it was a replacement bill for **H 459**, which addresses fair notice for rent increases of 10 percent or more.
- Rep. Zollinger** spoke **in support** of the bill. He stated the bill sponsors had made good faith efforts to amend the bill to the satisfaction of the landlord association.
- MOTION:** **Rep. Zollinger** made a motion to send **H 594** to the floor with a **DO PASS** recommendation.
- In answer to Committee questions, **Rep. Wintrow** stated the amendment changed the length of notice from 45 days to 30 days.
- VOTE ON MOTION:** **Rep. Chaney** called for a vote on the motion to send **H 594** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** requested to be recorded as voting **NAY.** **Reps. Rubel and Wagoner** will sponsor the bill on the floor.
- H 595:** **Chairman Chaney** brought the bill to Committee. He explained it was a replacement bill for **H 462**, which provides for a landlord/tenant walk through and itemized receipt if all of a deposit is not returned.
- Rep. Wintrow** explained an amendment was made to clarify that a landlord can move forward if the tenant does not show up for a walk through.
- MOTION:** **Rep. McCrostie** made a motion to send **H 595** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.
- S 1332:** **Rep. Ricks** presented the bill to establish mandatory savings accounts for inmates to save for expenses once released from custody. He yielded his time to **Josh Tewalt**.

Josh Tewalt, Director, Idaho Department of Correction (IDOC), explained 25 percent of what an inmate saves would be directed to their reentry account, up to a maximum of \$1,500. The funds would be used for reentry services and support, such as rent and deposits. He stated inmates are not released unless they have a place to live, so there are state funds available that inmates can apply for if they are indigent. The savings program, under this bill, would support inmates saving for their own reentry expenses and prevent them from spending down their accounts prior to release in order to take ill advantage of the indigent reentry funds. Director Tewalt also explained a council would be formed to establish rules and a process for managing the accounts.

In answer to questions from the Committee, **Director Tewalt** explained inmate account funds are kept in two IDOC master accounts at the bank. Therefore, applying interest across the thousands of inmate accounts is administratively challenging. He stated financial education is part of their release readiness programming.

Discussion among Committee members included incentivizing inmates to save through a matching program and concern about the non-interest bearing accounts.

Chairman Chaney stated without objection, **S 1332** will be held for future consideration. There was no objection.

S 1339: **Rep. Troy** presented the bill that will allow appointment of one clerk to the magistrate commission for each judicial district.

Phil McGrane, Ada County Clerk, spoke **in support** of the bill stating, county clerks can provide valued input into the magistrate selection process because they have the most day-to-day interaction with judges and attorneys in their districts.

It was suggested by the Committee that it would be good to identify a process for an alternative clerk.

Chairman Chaney stated without objection, **S 1339** will be held for future consideration. There was no objection.

S 1284: **Rep. Wintrow** presented the bill. She explained the Public Defense Commission receives inmate letters sharing information about their cases, and possibly misunderstanding the role of the PDC. They have an expectation their letters are confidential. However, the PDC is subject to public information requests, so this bill will uphold their confidentiality rights. She yielded her time to **Kathleen Elliott**.

Kathleen Elliott, Director, Public Defense Commission, answered Committee questions. She explained examples of the types of letters or information that would fall under this exemption. She also explained the importance of protecting information gathered on attorneys listed on the PDCs capitol counsel roster.

Chairman Chaney stated without objection, **S 1284** will be held for future consideration. There was no objection.

Chairman Chaney called for a recess at 3:31 p.m.

Rep. Kerby reconvened the meeting at 3:48 p.m.

H 582: **Chairman Chaney** presented the bill and declared Rule 80 because he practices law. This bill defines the term "willful or reckless misconduct". He explained clarity of the definition is important because it would be handed to juries to help determine damages in civil court actions and it would establish uniformity across the state of Idaho. He stated the bill replaces **H 428** and now has the support of stakeholders.

In answer to questions from the Committee, **Chairman Chaney** explained this definition has existed in case law and suggested jury instruction. He explained the importance of having the definition when seeking non-economic damages above the statutory cap.

Ken McClure, Idaho Liability Reform Coalition, responded to Committee questions. This bill is the result of a Supreme Court Case which the court noted the Legislature had not provided a definition of willful or reckless misconduct, nor had the jury instruction been patterned on such definition. He explained the bill's definition is close to the law school definition and is a good balance for plaintiffs and defendants. He concurred that the phrase willful "or" reckless misconduct is a term of art.

Jeremy Chou, stated in light of the previous testimony, he didn't need to testify.

H 583:

Chairman Chaney presented the bill and declared Rule 80 because he practices employment law. He explained the bill provides a good balance between protecting whistle-blowers who report wrongdoing, while also protecting Idaho taxpayers by setting a cap for non-economic damages. This bill brings the cap on non-economic damages in line with the limitation set under Idaho tort law, which is currently \$372,000, but will be adjusted each July 1st. The Whistle-blower Act is a special section of code to protect employees from retaliation, and while non-economic damages would be capped under this bill, the amount of economic damages, including attorney's fees, would not be capped.

Gloria Lejarti; Pamela Lowe; Tedd McDonald, American Federation of Teachers; **Emma Nowocki**; and **Howard Belodoff**, spoke **in opposition** to **H 583**. They expressed concern about limiting the amount a public employee could be awarded because it may not reflect the true damage experienced. Some stated concern that fewer employees would be willing to speak out, and the protections for people who report violations outside the definitions of waste, law, rule and regulation are not addressed.

Barbara Jordan, Idaho Trial Lawyers Association, testified **in opposition** to the bill by stating the association had submitted six bill amendments, but only one was included. She requested the bill be sent to General Orders to include language that would not limit damages when a jury finds an employer's conduct was malicious, oppressive or in reckless disregard of the employee's rights.

Mike Kane, Idaho Counties Risk Management; **Susan Buxton**, Administrator for Idaho Division of Human Resources; **Jeremy Chou**, Givens Pursley for Idaho Association of Counties; **Karen Echeverria**, Idaho School Board Association; and **Stephen Adams**, Gjording Fouser, spoke **in support** of **H 583**. They stated the legislation limits public policy intent and provides ample protection for government employees.

Rep. Kerby turned the gavel over to **Chairman Chaney**.

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 5:58 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 pm or Upon Adjournment of House Floor Session
Room EW42
Thursday, March 05, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>H 582</u>	Reckless or Willful Misconduct	
<u>H 583</u>	Public Employees / Adverse Actions	
<u>S 1232</u>	Inmate Savings Account	
<u>S 1339</u>	Magistrate Commission / County Clerk	
<u>S 1284</u>	Public Defense Commission / Records	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>S 1340</u>	Sentencing Criteria	Rep. Zollinger
<u>S 1342</u>	Commercial Burglary	Rep. Zollinger
<u>S 1336</u>	Assault, Battery, Personnel	Rep. Troy
<u>S 1356</u>	First District / Additional Judge	Rep. Amador
<u>S 1357</u>	Supreme Court Justices / Salary	Rep. Chaney

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, March 05, 2020
TIME: 1:30 pm or Upon Adjournment of House Floor Session
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Melinda Merrill, NW Grocery Association; Paul Riggins, IACDL; Ashley Dowell, COPP; Holly Koole Ribholtz, IPAA; Barry Wood, ISC; Josh Tewalt, IDOC; Marcia Yiapon

Chairman Chaney called the meeting to order at 1:31 p.m.

H 582: **Chairman Chaney** returned the bill to the Committee for consideration. **H 582** defines the term "willful or reckless misconduct" due to the Idaho Supreme Court's recent notice of the absence of a definition, which caused uncertainty in Idaho liability laws.

MOTION: **Rep. Monks** made a motion to send **H 582** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Chaney** will sponsor the bill on the floor.

H 583: **Chairman Chaney** returned the bill to the Committee for consideration. **H 583** provides a cap on non-economic damages, amending Idaho Code 6-2104.

MOTION: **Rep. Troy** made a motion to send **H 583** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Kerby** made a substitute motion to send **H 583** to General Orders.

Speaking to the substitute motion, **Rep. Kerby** stated he likes a lot of things about the bill, but has issues with the language. He believes there should be a serious consequence for agencies if whistle-blowers are required to call out agency issues. Industry leaders need heavy consequences so whistle-blower issues do not happen.

Speaking **in opposition** to the substitute motion, **Reps. Marshall and Troy** agreed with **Rep. Kerby** about the need for training and team encouragement at the agency level, but they believed this bill's action would be enough.

Speaking **in support** of the substitute motion, **Reps. Wintrow, Scott, and Gannon** hoped the flaws in the bill could be changed or amended. The main flaw they spoke about would be to make sure the whistle-blower had the financial backing needed to incentivize them to speak out, both for the whistle-blower and the state's sake.

Chairman Chaney reminded the committee this bill represents a compromise; the bill is designed to fall short of what everyone wanted on purpose. He recognizes a deep responsibility to both state employees and taxpayers.

VOTE ON SUBSTITUTE MOTION: **Chairman Chaney** called for a roll-call vote on the substitute motion to send **H 583** to General Orders. **Motion failed by a vote of 5 AYE and 12 NAY, with 1 ABSENT/EXCUSED.** Voting in favor of the substitute motion: **Reps. Kerby, Scott, Gannon, McCrostie and Wintrow.** Voting in opposition to the substitute motion: **Chairman Chaney, Reps. Monks, Amador, Zito, Zollinger, Ehardt, Goesling, Hartgen, Marshall, Troy, Young, and Davis.** Absent/Excused: **Rep. Ricks.**

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for a roll-call vote on the original motion to send **H 583** to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 14 AYE and 3 NAY, with 1 ABSENT/EXCUSED.** Voting in favor of the original motion: **Chairman Chaney, Reps. Monks, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Troy, Young, McCrostie and Davis.** Voting in opposition to the original motion: **Reps. Kerby, Gannon, and Wintrow.** Absent/Excused: **Rep. Ricks.** **Chairman Chaney** will sponsor the bill on the floor.

S 1232: **Chairman Chaney** returned the bill to the Committee for consideration. **S 1232** will establish a mandatory reentry savings account for all individuals incarcerated in an IDOC facility. The savings will be provided to the individual, upon release from IDOC, to help aid in the transition to the community.

MOTION: **Rep. Troy** made a motion to send **S 1232** to the floor with a **DO PASS** recommendation.

VOTE ON MOTION: **Chairman Chaney** called for a roll-call vote. **Motion failed by a vote of 8 AYE and 8 NAY.** Voting in favor of the motion: **Chairman Chaney, Reps. Amador, Goesling, Hartgen, Marshall, Troy, Wintrow, Davis.** Voting in opposition to the motion: **Reps. Monks, Zito, Zollinger, Ehardt, Scott, Young, Gannon, McCrostie.** Absent/Excused: **Reps. Kerby, Ricks.**

S 1339: **Chairman Chaney** returned the bill to the Committee for consideration. **S 1339** will add a clerk to the magistrate commission from the clerks' judicial district.

MOTION: **Rep. McCrostie** made a motion to send **S 1339** to the floor with a **DO PASS** recommendation.

The Committee commented they support the bill, but would like to see it again in the future to fix the county angle.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Troy** will sponsor the bill on the floor.

S 1284: **Chairman Chaney** returned the bill to the Committee for consideration. **S 1284** ensures the confidentiality of indigent defendants' attorney work product and attorney-client privileged information by making this information exempt from disclosure under the Public Records Act.

MOTION: **Rep. Gannon** made a motion to send **S 1284** to the floor with a **DO PASS** recommendation.

Rep. Wintrow summarized the impact of the bill, stating this bill is to protect confidential information sent by a defendant via mail.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Wintrow** will sponsor the bill on the floor.

S 1340: **Rep. Zollinger** presented **S 1340** stating the bill carried the senate unanimously. The bill amends statute giving judges sentencing guidelines and cleans up statute language.

Paul Riggins of the Idaho Association of Criminal Defense Lawyers testified **in support** of **S 1340**. He reminded the committee this bill has been two years in the making, and is a step forward for long-overdue individualized justice in Idaho. The intent is to reduce recidivism through treatment instead of incarceration and promotes fiscal responsibility. In response to committee questions, Mr. Riggins stated judges will rely on pre-sentencing reports by the probation department to help understand the issue.

Chairman Chaney stated without objection the bill will be held in committee until rescheduled.

S 1342: **Rep. Zollinger** presented **S 1342**, stating it is an important and simple bill changing commercial burglary of under \$300 from a felony to petty theft so we are not catching people with a larger fine and jail sentence they do not need.

Holly Koole Rebholtz of the Idaho Prosecuting Attorneys Association testified **in support** of the bill.

Chairman Chaney stated without objection the bill will be held for future consideration. There was no objection.

S 1336: **Rep. Troy** introduced **S 1336** and turned the time over to **Lochlan Frederick**.

Lochlan Frederick testified **in support** of the bill, stating the amendment will add the Commission on Pardons and Parole to the list of the protected, due to multiple threats made by individuals who disagree with decisions made by the commission.

Ashley Dowell, Executive Director of the Commission on Pardons and Parole, testified **in support** of the bill. In response to Committee questions, she stated she doesn't have a number of threats they receive in the commission, but they have had to involve law enforcement multiple times and had multiple safety incidences since the start of 2020.

Rep. Troy concluded in response to Committee question although we believe in equal protection under the law, some roles come with more risk and therefore deserve extra safety support.

Rep. Gannon stated he would like to see bills like this come through for constituencies which don't have such easy access to the legislature, like night managers in convenience stores, who are in high risk safety situations.

Chairman Chaney stated without objection the bill will be held for future consideration. There was no objection.

S 1356: **Rep. Amador** presented **S 1356** stating it simply changes the numerals in the statute outlining the number of judges in Idaho. This bill is in response to an appropriations bill which already approved two new judges in response to growth and need in northern Idaho, specifically Bonner County. There is no money attached to this bill since it accompanies a bill from JFAC.

Jason Spillman of the Administrative Office of the Courts testified **in support** of the bill, and in answer to Committee questions, stated some costs will fall upon the county, but Bonner County Commissioners have written a letter supporting this request.

Chairman Chaney stated without objection the bill will be held for future consideration. There was no objection.

Chairman Chaney turned the gavel over to **Rep. Monks**.

S 1357: **Rep. Chaney** presented **S 1357** to increase judges' salaries in accordance to the CEC recommendation of a 2% increase. The Committee debated about the merits and weaknesses of this process, philosophical criticism of how the legislature is awarding CEC during a 2% reduction on the GF, and the separation of powers.

Chairman Monks stated without objection the bill will be held for future consideration. There was no objection.

Chairman Monks returned the gavel to **Rep. Chaney**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:38 p.m.

Representative Chaney
Chair

Emilee Bell
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
 Upon Adjournment of Afternoon Floor Session
 Room EW42
 Monday, March 09, 2020

SUBJECT	DESCRIPTION	PRESENTER
<u>SCR 130</u>	Honoring Bill Roden	Rep. Rubel
	For Committee consideration and vote, public testimony previously taken:	
<u>S 1356</u>	First District, Additional Judge	
<u>S 1357</u>	Supreme Court Justices / Salary	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>S 1283</u>	Administrative Rules / Waiver, Variance	Rep. Kauffman
<u>S 1370</u>	Corrections / Prison Employment	Rep. Ricks
<u>S 1371</u>	Armed Forces Guardianship	Rep. Goesling

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, March 09, 2020

TIME: Upon Adjournment of Afternoon Floor Session

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Holly Lawrence, LSO; Jeremy Pisca, Risch, Pisca PLLC; Josh Tewalt, IDOC; Daniel Chadwick, Kyle Shockey, Jason Zimmerman,
Chairman Chaney called the meeting to order at 2:42 p.m.

MOTION: **Rep. McCrostie** made a motion to approve minutes of the February 3, 2020 and February 11, 2020 meetings. **Motion carried by voice vote.**
Chairman Chaney explained the intent to hear and consider Resolutions on the same day.

S 1232: **Chairman Chaney** explained the tie vote on the motion to send **S 1232** to the floor with a do pass recommendation at the previous Committee meeting was not a definitive vote to hold the bill in Committee, so it was still open to the Committee for another motion. This bill allows the Department of Correction (IDOC) to establish mandatory inmate reentry savings accounts.

MOTION: **Rep. Troy** made a motion to send the **S 1232** to the floor with a **DO PASS** recommendation.
Reps. Ricks, Troy, Kerby and **Wintrow** spoke in support of the motion. Rep. Ricks stated the legislation is designed to encourage savings and limit access to state funds that are intended for truly indigent inmates upon release. Committee members also spoke to the benefits of helping inmates learn new savings habits and build personal responsibility. Doing more to incentivize these behaviors was encouraged.
Rep. Ricks yielded to questions from the Committee. He explained the bill does not include a provision for inmates to earn interest on their accounts. The money in these accounts is retained into a few master IDOC accounts, making it difficult to apply interest individually. He stated this is something that can be looked at in the future.
Reps. Scott, Young and **Zollinger** spoke in opposition to the motion. They agreed the concept is good, but there are some issues that need further consideration. They include addressing inmates serving life sentences, prioritized restitution to victims, and concern about the mandatory requirement to direct a percentage of savings into reentry saving accounts. They also expressed concern the administrative rule making process would be used to workout how the savings program will work, rather than established in statute.
Reps. McCrostie and **Ehardt** stated they previously voted against sending the bill to the floor, but intended to support the motion now that they have more information about the intent of the bill. Rep. Ehardt stated she still reserved her right to vote differently on the floor.

- ROLL CALL VOTE:** **Chairman Chaney** called for a roll call vote on the motion to send the bill to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 13 AYE, 5 NAY.** Voting in favor of the motion: **Reps. Kerby, Amador, Ehardt, Goesling, Hartgen, Marshall, Ricks, Troy, Gannon, McCrostie, Wintrow, Davis** and **Chairman Chaney.** Voting in opposition to the motion: **Reps. Monks, Zito, Zollinger, Scott** and **Young.** **Rep. Ricks** will sponsor the bill on the floor.
- SCR 130:** **Rep. Rubel** introduced **SCR 130** to honor William C. "Bill" Roden. This Senate Concurrent Resolution also calls for the lobbyist lounge on the Garden Level of the Idaho State Capitol to be known as the "Bill Roden Memorial Lounge."
- Jeremy Pisca**, Risch, Pisca PLLC, spoke **in support** of **SCR 130.** **Sen. Roden** was a mentor to Pisca and he shared stories about him.
- MOTION:** **Rep. McCrostie** made a motion to send **SCR 130** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rubel** will sponsor the bill on the floor.
- S 1356:** **Chairman Chaney** returned the bill to Committee for consideration. This bill adds one new District Court judge position to the First Judicial District.
- MOTION:** **Rep. Kerby** made a motion to send **S 1356** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Amador** will sponsor the bill on the floor.
- S 1357:** **Chairman Chaney** returned the bill to Committee for consideration. This bill allows for a salary increase for Idaho Supreme Court Justices.
- MOTION:** **Rep. Hartgen** made a motion to send **S 1357** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Chaney** will sponsor the bill on the floor.
- S 1283:** **Rep. Crane** presented the bill that provides a consistent way for people to request a waiver, variance, or amendment of an existing rule from state agencies. He described the criteria for requesting dispensation.
- In answer to Committee questions, **Rep. Crane** stated an agency could develop a waiver process through administrative rule making and a waiver cannot be granted if it is against state law.
- Sen. Agenbroad** spoke **in support** of the bill and explained agencies who grant waivers or variances can use that information to consider amending the rule on a permanent basis.
- S 1370:** **Rep. Ricks** presented **S 1370** and yielded his time to **Jared Larsen.**
- Jared Larsen**, Criminal Policy Director, Governor's Office, explained this bill seeks to clarify a long-standing section of code that addresses the responsibility of the Board of Correction to provide for the care and maintenance of those incarcerated. It is the intent to provide opportunities for inmate employment, but it is not a requirement to do so.
- Josh Tewalt**, Director, Idaho Department of Correction answered Committee questions. He stated approximately 75 percent of inmates would like to work and the department is focused on identifying opportunities for those who would like to do so, but the focus is on providing programming that builds basic life skills to help inmates become more work ready. He explained this bill was the result of a legal challenge to the language that stated the Board of Correction was responsible for providing employment for all prisoners.

S 1371: **Rep. Goesling** presented the bill which clarifies an extended absence of a parent on active duty or deployment with the U.S. armed forces does not constitute neglect, abuse, abandonment, or failure to provide a stable home environment. It also clarifies a temporary guardianship can be terminated when a service member returns. He described examples of the conditions of leaving a child in guardianship.

Sen. Lee spoke in support of the bill and explained there are nuances in the law regarding appointment of guardianship that have brought this issue to the forefront. This bill makes the rights of military parents clear.

Daniel Chadwick, testified in support of the bill. He shared the story of a friend caught in a legal dispute to regain custody of his child from grandparents who were granted a temporary guardianship.

Chairman Chaney stated without objection **S1283, S 1370** and **S 1371** will be held for future consideration. There was no objection.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 3:45 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
1:30 pm OR Upon Adjournment of House Floor Session
Room EW42
Wednesday, March 11, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration and vote, public testimony previously taken:	
<u>S 1340</u>	Sentencing Criteria	
<u>S 1342</u>	Commercial Burglery	
<u>S 1336</u>	Assault, Battery, Personnel	
<u>S 1283</u>	Administrative Rules / Waiver, Variance	
<u>S 1370</u>	Corrections / Prison Employment	
<u>S 1371</u>	Armed Forces Guardianship	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>S 1343</u>	Bicyclists, Mountain Operators	Rep. Zollinger
<u>S 1338aa</u>	Public Records	Rep. Young
<u>S 1319</u>	Dangerous Dogs / Penalties	Rep. Gibbs
<u>S 1318</u>	Fair Chance Employment Act	Rep. Necochea

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
Rep Monks, Acting Vice
Chairman
Rep Kerby
Rep Amador
Rep Zito
Rep Zollinger

Rep Ehardt
Rep Scott
Rep Goesling
Rep Hartgen
Rep Marshall
Rep Ricks

Rep Troy
Rep Young
Rep Gannon
Rep McCrostie
Rep Wintrow
Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Wednesday, March 11, 2020

TIME: 1:30 pm OR Upon Adjournment of House Floor Session

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

Chairman Chaney called the meeting to order at 1:31 p.m.

S 1340: **Chairman Chaney** returned **S 1340** to the committee for consideration, the bill regards sentencing criteria.

MOTION: **Rep. Wintrow** made a motion to send **S 1340** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Zollinger** will sponsor the bill on the floor.

S 1342: **Chairman Chaney** returned **S 1342** to the committee for consideration, this bill would amend the definition of burglary to redefine shoplifting of items of minor value as a misdemeanor rather than a felony.

MOTION: **Rep. Wintrow** made a motion to send **S 1342** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Zollinger** will sponsor the bill on the floor.

S 1336: **Chairman Chaney** returned **S 1336** to the Committee for consideration, the bill would add employees and members of the Idaho Commission of Pardons and Paroles to the list of personnel covered under Idaho Code Chapter 9 § 18-915.

MOTION: **Rep. Wintrow** made a motion to send **S 1336** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Monks, Scott, and Ehardt** requested to be recorded as voting **NAY.** **Rep. Troy** will sponsor the bill on the floor.

S 1283: **Chairman Chaney** returned **S 1283** to the Committee for consideration. This legislation would provide a consistent method across all state agencies for any person to request a waiver, variance, or amendment of an existing Idaho rule.

MOTION: **Rep. McCrostie** made a motion to send **S 1283** to the floor with a **DO PASS** recommendation.

The Committee debated the fairness of the ability to grant exemptions to some people but not others, and worried this could lead to an uneven application and enforcement of the rules. The Committee also expressed hope that this legislation would allow state agencies to better identify common issues and address them in the negotiated rule making process.

**VOTE ON
MOTION:** **Motion carried by voice vote.** **Reps. Crane and Kauffman** will co-sponsor the bill on the floor.

S 1370: **Chairman Chaney** returned **S 1370** to the Committee for consideration. This legislation would clarify that while the Board of Correction may provide employment to prisoners, Idaho code does not create a right to employment.

MOTION: **Rep. Kerby** made a motion to send **S 1370** to the floor with a **DO PASS** recommendation. He spoke to his motion, stating this legislation will help the overburdened prison system to simplify some procedures.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Ricks** will sponsor the bill on the floor.

S 1371: **Chairman Chaney** returned **S 1371** to the Committee for consideration. This legislation amends existing code to provide that an extended parental absence due to military service shall not be considered abandonment or neglect.

MOTION: **Rep. Kerby** made a motion to send **S 1371** to the floor with a **DO PASS** recommendation.

The Committee expressed appreciation to the sponsor for bringing this legislation forward and disbelief that such poor treatment of military service members exists.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Goesling** will sponsor the bill on the floor.

S 1338aa: **Rep. Young** presented **S 1338aa** stating this legislation is meant to protect private citizens in the event of public records requests. This legislation would allow redacted versions of sensitive information to be presented in the event of a public records request. She stated this would ensure they do not lose their rights to privacy in their personal lives when they choose to work with the government.

S 1319: **Rep. Gibbs** presented **S 1319**, stating legislation enacted in 2016 removed the ability for police to cite dog owners in the event of a dog bite until after a judge issued a court order. He stated this legislation would uphold the intent of the 2016 legislation, but would remove the requirement for a court order, allowing police to act more efficiently.

The Committee expressed unease with the unclear language surrounding guilt, until it was explained that a citation is not an automatic presumption of guilt until after the fine issued has been paid.

S 1343: **Rep. Zollinger** presented **S 1343**, stating the legislation had been brought by the ski association and mirrors the skier liability act. He stated many mountain bikers are using ski hills in the summer and currently there are very few protections in place for either the bicyclists or the mountain operators. This legislation would require mountain owners to perform duties such as maintenance of trail markers and other basic safety precautions. Bicyclists would assume liability for injury except in cases where mountain owners would be found negligent in the performance of the duties laid out by this legislation.

Speaking **in support** of the legislation were **Carlie Foster**, Lobby Idaho; **Brad Wilson**, Bogus Basin and ISAA; **Carlos Matutes**, SWIMBA; and **Mat Erpelding**, BMCC. They stated this legislation would fairly distribute the liabilities for any injury, allowing mountain operators the ability to open their land to mountain bikers in the summer. They stated this would create more stable year round jobs for the surrounding communities, more recreational opportunities for Idaho Citizens, and a more stable revenue stream for the ski resorts. They further stated the majority of mountain bikers are aware of the risks inherent to the sport and choose to participate regardless, making stricter definitions of the duties of the mountain owners unnecessary.

Speaking **in opposition** was **Barbara Jordan**, ITLA, stated which this legislation does not adequately cover the duties of the mountain operators in regards to public safety and puts most of the liability on the bicyclists.

Rep. Zollinger summarized, stating a bill where every stakeholder is in agreement is a rare thing and it is a good bill. Addressing previous concerns he also emphasized that negligence is covered in this bill and would absolutely still be considered criminal on the part of the mountain owners.

Chairman Chaney called a recess at 3:16 p.m.

Chairman Chaney reconvened the meeting at 3:30 p.m.

S 1318:

Rep. Necochea introduced **S 1318** and **Sen. Buckner-Webb**. She stated this legislation is meant to increase employment opportunities for people who have been incarcerated and reduce recidivism. The legislation would simply require employers to look at the qualifications of applicants before asking if they have any prior convictions. Rep. Necochea returned to walk the Committee through this legislation in more detail.

Speaking **in support** of the legislation were **Mat Erplding**, BMCC; **Mone Miller**, Idaho Coalition Against Sexual and Domestic Violence; **Efrain Scott**, self; **John Lee**, self; **Jasmin Meenach**, self; **Ali Rabe**, Jesse Tree; **Ruby Mendez-Mota**, ACLU; **Shelly Nelson**, SHRM; **Jason Zimmerman**, self; **Michael Armand**, Idaho Empathy Network; **Laura Tirrell**, self; **Hellen Lusk**, self; **David Lund**, Bar None; **Michael Spencer**, self; **Allen Reynolds**, self; **Kyle Shockey**, self; **Tom Arkoosh**, IACDL; **Loraine Batt**, self; and **Bill Litster**, Litster-Frost. They shared personal experiences, and cited studies which have proven which rates recidivism are reduced when people with convictions are gainfully employed. They also emphasized this legislation does not prevent businesses from enacting policy to refuse to employ people with past convictions, it simply removes the question from job applications. This would delay the conversation about prior convictions until the candidate's qualifications have been reviewed. It was also stated this legislation would assist with the current housing crisis as well as potentially decreasing instances of domestic abuse, by helping more families maintain a stable income and housing situation.

Speaking **in opposition** to the legislation were **Fred Birnbaum**, Idaho Freedom Foundation; **Kate Haas**, Kestrel West; **Melinda Meril**, Greater North West Grocery Association; and **Alli Megal**, self. They stated this legislation is restrictive and may be onerous for private employers. They further stated this legislation may even encourage people with prior convictions to lie in order to get a job. Ms. Haas and Ms. Meril stated their specific objections to the list of exemptions contained in the legislation and voiced their willingness to work with the sponsor in order to amend this legislation because they feel it's a good idea which simply needs some changes.

Brent Smoyer, Professional Background Screening Association, requested his letter to Committee members be entered into the record. (Attachment)

Chairman Chaney called a recess at 4:52 p.m.

Chairman Chaney reconvened the meeting at 5:01 p.m.

Rep. Necochea concluded by stating this bill is not a hiring requirement, it simply removes the question about prior convictions from job applications. Any language concerning conditional offers was included to cover situations where employers might proceed to a job offer without first giving an interview. She also stated the sponsor was open to making amendments to the bill, however time prevented any amendments. She stated the bill as written is workable and it would give more people a fair chance to find employment.

Chairman Chaney stated without objection, **S 1343, S 1338aa, S 1319, and S 1318** will be held for future consideration. There was no objection.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 5:34 p.m.

Representative Chaney
Chair

Emma Wall
Secretary

Chair Chaney and Members of the Judiciary, Rules, and Administration Committee,

On behalf of the Professional Background Screening Association (PBSA), whose members include Idaho residents and businesses, we write to you with concerns regarding S 1338, which passed the Senate February 28th and that is being heard in your committee today. We are sorry we are unable to attend the hearing in person but we hope we can work with you, the committee, and Senator Johnson to remove what I believe are unintended consequences of an otherwise great bill.



To start: The PBSA is a nonprofit organization consisting of over 950 small and large businesses, including many in Idaho, engaged in the background screening profession. Our members have been dedicated to providing the public with safe places to live and work since 2003, and conduct employment and tenant related background checks, helping employers, staffing agencies, property managers, and nonprofit organizations make more informed decisions regarding the suitability of potential employees, contractors, tenants, and volunteers.

Millions of background screening reports are requested in the United States each year. Our members are hired to verify the education, employment, financial, and criminal histories of applicants. There are a number of important reasons for conducting these searches, including: (i) avoiding legal exposure for negligent hiring; (ii) ensuring a safe working environment by reducing the likelihood of workplace violence; (iii) reducing employee theft; (iv) reducing the hiring of individuals based on fraudulent credentials; (v) improving productivity and profits by making better hiring decisions; and (vi) meeting state law requirements designed to protect vulnerable populations like the elderly, the disabled, and children.

In 2018, the Idaho Court System changed court technology management and initially redacted identifiers such as Date of Birth in court records that have long been relied on by our membership to accurately identify the subjects of background checks. Redacting important identifying information like full Date of Birth from court records greatly impacts the ability of background screeners to obtain the critical information needed to help their clients make accurate and timely hiring and leasing decisions. Having an individual's full Date of Birth in conjunction with other personal identifying information like the last four digits of his/her social security number are key identifiers for public records to help ensure the correct data is matched to the proper individual in accordance with the stringent requirements of state and federal law. This is particularly important when dealing with common names when search results can potentially yield hundreds of results. The month and day of the individual's Date of Birth is particularly vital as there may be hundreds of people with the same name born in the same year.

After multiple discussions with the Courts, a solution was established to ensure verification of court record information, and this system has served both my membership and the Courts well. With the language contained in S 1338, we run into the grave concern that our ability to verify identities in court records with the individual information provided to us for screening will be diminished, if not removed entirely.

The fact is: a lack of personal identifiers—like dates of birth, in whole or in part-- in public documents makes it extremely difficult, if not impossible, for PBSA members to quickly and efficiently provide

complete, accurate, and thorough background screens, which negatively impacts prospective employees, tenants, and volunteers. If key identifiers like birth dates are redacted from public records, employers in Idaho will receive background reports containing “false negatives;” that is, the employer will not know that the applicant was convicted of a serious crime, and the individual may be hired and placed in a position of access to vulnerable third parties or entrusted with access to money and critical property. The members of PBSA perform background checks for healthcare providers, schools, and volunteer organizations in Idaho. The inability to provide accurate and complete background checks will increase the risk of harm to citizens.

While PBSA strongly supports efforts to protect consumers from identity theft and other privacy concerns, we believe that such measures must be balanced with the legitimate need of employers, landlords, and others to verify applicants’ backgrounds. In the interest of this balance, we would encourage you to work with us to continue to allow full date of birth to be included on publicly available court documents and for our access to these identifiers to be protected. As a whole, there is no risk of harm to citizens in granting the public access to full Dates of Birth in court records. Not only are Dates of Birth often readily available from other public sources, but Idaho’s own Data Breach Notification law does not classify Dates of Birth as sensitive personal information subject to the law’s data breach notification requirements. See: *Idaho Code § 28-51-104(5)*. Indeed, this is for good reason – dates of birth are not a gateway to identity theft. A malicious actor cannot steal someone’s identity merely by knowing his or her name and date of birth. Idaho’s law was enacted in 2006 specifically to address concerns relating to identity theft, and by not including dates of birth within the definition of sensitive personal information, the legislature was acknowledging that public access to dates of birth does not create a risk of identity theft to Idaho citizens. See: Statement of Purpose, 2006 Idaho Laws Ch. 258 (S.B. 1374).

It should be noted that background screeners who work with this data are highly regulated and required to operate to very high standards. PBSA members are considered consumer reporting agencies (CRA’s) and as such are governed by the Federal Fair Credit Reporting Act (FCRA) and regulated by the Federal Trade Commission and Consumer Financial Protection Bureau. Our members are also regulated by federal, state, and local rules pertaining to data security and privacy laws. We follow specific guidelines -- both through statute and industry best practices -- for identity theft prevention, fraud alerts, unauthorized dissemination of information, disposal of records, and other security practices. It should further be noted that in an FCRA governed background check, the screener already has the vital information like Social Security Number and full Date of Birth as given to them by the applicant with the applicants authorization to use it to verify their identity. Much of the need for public access is less the providing of information, and more the verification of a match or lack thereof.

With that lengthy background laid out, PBSA would ask for your help in ensuring we are not accidentally shut out from the vital information we need to do our important work. I would truly appreciate the chance to discuss a friendly amendment that could be brought in the House which would achieve one of three options: 1) allow an exemption to the redaction requirements for those entities engaging in background screening as governed by the FCRA; 2) clarify that the current established information verification/sharing system through the Idaho Courts is unaffected by the provisions of S 1338; OR 3) remove Date of Birth from the redaction provisions of S 1338. I believe all of these options would preserve the essential protections contained in S 1338, while ensuring my members can continue providing their vital public safety services.

I thank you for taking the time to hear PBSA's comments and I look forward to the chance to work with you on this important legislation. If you should have any questions, please feel free to contact me at your convenience at 402-957-1179 or brent.smoyer@thepbsa.org. Thank you for your time and your service.

Sincerely,



Brent Smoyer, JD
State Government Relations
and Grassroots Director
Direct: 402.957.1179
Main: 919.459.2082



**PBSA is now the Professional
Background Screening
Association*

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
 Upon Recess of House Floor Session
 Room EW42
 Friday, March 13, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For Committee consideration of amendments:	
<u>H 405aaS</u>	DUI Diversion / Commercial Drivers	Rep. Kerby
	For public hearing and Committee consideration:	
<u>HR 10</u>	House Rules 20, 49 & 69	Rep. Monks
	For Committee consideration and vote, public testimony previously taken:	
<u>S 1343</u>	Bicyclists, Mountain Operators	
<u>S 1338aa</u>	Public Records	
<u>S 1319</u>	Dangerous Dogs / Penalties	
<u>S 1318</u>	Fair Chance Employment Act	
	For public hearing, testimony will be taken, Committee consideration and vote will be scheduled for a later date:	
<u>S 1380</u>	Government Liability / Defending Attorneys	Rep. Chaney
<u>S 1292</u>	Motorcycle Profiling	Rep. Anderst

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
 Rep Monks, Acting Vice
 Chairman
 Rep Kerby
 Rep Amador
 Rep Zito
 Rep Zollinger

Rep Ehardt
 Rep Scott
 Rep Goesling
 Rep Hartgen
 Rep Marshall
 Rep Ricks

Rep Troy
 Rep Young
 Rep Gannon
 Rep McCrostie
 Rep Wintrow
 Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
 Room: EW56
 Phone: 332-1127
 email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Friday, March 13, 2020

TIME: Upon Recess of House Floor Session

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: David Deveraux, Rory Smith, Thair Pond, Kristi Tenny, Mark Jones, Bill Brom, Jennie Bouth, Paul Basty, Wyatt Zarr, David Fugge, Astrid Wilde, Ben Obray, ABATE; Allan Reynold, ACLU; Murphy Olmstead, Idaho Sheriff's Association; Sarah Tompkins, Ada County Public Defender.

Chairman Chaney called the meeting to order at 10:24 a.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of the February 13, 2020, February 17, 2020, February 21, 2020 and February 27, 2020 meetings. **Motion carried by voice vote.**

H 405aaS: **Rep. Kerby** explained this bill was regarding DUI diversion program and was amended in the Senate to change one word from "and" to "or" in line 13.

MOTION: **Rep. Scott** made a motion to send the **H 405aaS** to the floor with a recommendation to **CONCUR** with the amendments proposed by the Senate. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

HR 10: **Rep. Monks** presented this bill which amends House Rules 20, 49 and 69. He stated it was meant to clarify the rules and the changes were brought by the parliamentarian. He explained the proposed changes in detail.

MOTION: **Rep. McCrostie** made a motion to send **HR 10** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Monks** will sponsor the resolution on the floor.

S 1343: **Chairman Chaney** returned the bill to committee for consideration. This legislation regards the liability of mountain owners and mountain bikers when ski mountains are open to mountain bikers in the summer.

MOTION: **Rep. Kerby** made a motion to send **S 1343** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Monks** made a substitute motion to send **S 1343** to General Orders.

The committee questioned the sponsor's willingness to have the bill amended and voiced concerns about the possibility it may not make it out of General Orders before the end of the session. Concerns were also voiced about the possibility of hostile amendments as well as language regarding constructed features and the lack of liability on the part of the mountain owners for making those changes.

VOTE ON SUBSTITUTE MOTION: **Chairman Chaney** called for a vote on the substitute motion to send **S 1343** to General Orders. **Motion carried by voice vote.** **Rep. Zollinger** will sponsor the bill on the floor.

Rep. McCrostie called for a division. **Chairman Chaney** ruled the call for division out of order since the result of the vote had been called by the Chairman.

S 1338aa: **Rep. Young** stated this bill removes private citizens' personal identifying information from being provided to the press as part of a Public Records Request.

MOTION: **Rep. Zito** made a motion to send **S 1338aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Young** will sponsor the bill on the floor.

S 1319: **Chairman Chaney** returned this bill to the committee for consideration.

MOTION: **Rep. Monks** made a motion to send **S 1319** to the floor with a **DO PASS** recommendation.

The committee voiced concern regarding the lack of clarity in parts of the bill, and worried it may put all dog owners at risk. They also stated conflict between statutes which would need to be resolved before proceeding.

SUBSTITUTE MOTION: **Rep. McCrostie** made a motion to **HOLD S 1319** in committee for a time certain of March 17, 2020. **Motion carried by voice vote.**

Chairman Chaney called for a recess at 10:45 a.m.

Chairman Chaney reconvened the committee at 2:20 p.m.

MOTION: **Rep. Zollinger** made a motion to reconsider **S 1343**. He stated there was some confusion over the result of the previous vote, and he believed it to be proper procedure to ask for reconsideration.

Reps. Kerby and **Goesling** spoke **in support** of the motion due to the confusion surrounding the prior vote.

ROLL CALL VOTE ON MOTION: **Chairman Chaney** called for a roll call vote on the motion to reconsider **S 1343**. **Motion carried by a vote of 12 AYE, and 6 NAY. Voting in favor** of the motion: **Reps. Kerby, Zito, Zollinger, Ehardt, Scott, Goesling, Marshall, Ricks, Troy, Young, McCrostie, and Davis. Voting in opposition** to the motion: **Reps. Monks, Amador, Hartgen, Gannon, Wintrow, and Chaney.**

UNANIMOUS CONSENT REQUEST: **Chairman Chaney** requested Unanimous Consent the committee consider **S 1318** before the reconsideration of **S 1343**. There being no objection, the request was granted.

S 1318: **Chairman Chaney** returned the bill to the committee for reconsideration. This legislation regards the hiring of people with past felony convictions.

MOTION: **Rep. McCrostie** made a motion to send **S 1318** to General Orders.

Rep. Wintrow spoke **in support** of the motion, stating this legislation is simply about giving people a chance.

The committee further discussed the legislation, wrestling with admiration for the intent of the legislation and the need for clearer language regarding exemptions.

SUBSTITUTE MOTION: **Rep. Zollinger** made a substitute motion to **HOLD S 1318** in committee.

The committee continued to debate the legislation, voicing concern for the burden this legislation may put on small businesses and stating the desire for an amendment which would expand the exemption list. The committee also cited the time constraints, debating if the legislation would even be heard by the senate after amendments had been made. Concerns were also raised regarding organizations which have rules barring people with felony convictions from being hired. Throughout the debate the committee attempted to reconcile the desire to give people a chance at employment with the desire to protect the rights of business owners. **Rep. McCrostie** shared the content of the proposed amendments with the committee.

**ROLL CALL
VOTE ON
SUBSTITUTE
MOTION:**

Chairman Chaney called for a roll call vote on the substitute motion to **HOLD S 1318** in committee. **Motion failed by a vote of 9 AYE and 9 NAY. Voting in favor** of the substitute motion: **Reps. Monks, Kerby, Amador, Zito, Zollinger, Scott, Ricks, Young and Chaney. Voting in opposition** to the substitute motion: **Reps. Ehardt, Goesling, Hartgen, Marshall, Troy, Gannon, McCrostie, Wintrow, and Davis.**

**ROLL CALL
VOTE ON
ORIGINAL
MOTION:**

Chairman Chaney called for a roll call vote on the original motion to send **S 1318** to General Orders. **Motion carried by a vote of 12 AYE and 6 NAY. Voting in favor** of the motion: **Reps. Kerby, Amador, Zito, Ehardt, Goesling, Hartgen, Marshall, Troy, Gannon, McCrostie, Wintrow, and Davis. Voting in opposition** to the motion: **Reps. Monks, Zollinger, Scott, Ricks, Young, and Chaney.**

ADJOURN:

Chairman Chaney stated due to time constraints, the meeting must adjourn. The meeting adjourned at 2:48 p.m

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
7:30 A.M.
Room EW42
Monday, March 16, 2020

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1343</u>	For Committee consideration and vote, public testimony previously taken: Bicyclists, Mountain Operators	
<u>S 1292</u>	For public hearing and Committee consideration: Motorcycle Profiling	Rep. Anderst

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
Rep Monks, Acting Vice
Chairman
Rep Kerby
Rep Amador
Rep Zito
Rep Zollinger

Rep Ehardt
Rep Scott
Rep Goesling
Rep Hartgen
Rep Marshall
Rep Ricks

Rep Troy
Rep Young
Rep Gannon
Rep McCrostie
Rep Wintrow
Rep Davis

COMMITTEE SECRETARY

Wendy Carver-Herbert
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, March 16, 2020

TIME: 7:30 A.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Representatives Monks, Amador

GUESTS: David Devereaux, Rory Smith, Bill Brown, Paul Booth, Wyatt Zarr, ABATE of Idaho; Jason Kreizenbeck, Lobby Idaho, LLC

Chairman Chaney called the meeting to order at 7:32 a.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of the February 19, 2020 meeting. **Motion carried by voice vote.**

S 1343: **Chairman Chaney** returned the bill to committee for reconsideration. This bill establishes responsibilities and liabilities for mountain operators and bicyclists.

MOTION: **Rep Zollinger** made a motion to send **S 1343** to General Orders.

In answer to questions from the Committee, **Rep. Zollinger** explained the amendments were to address limited liability when the natural terrain is altered.

**VOTE ON
MOTION:** **Chairman Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Rep. Zollinger** will sponsor the bill on the floor.

S 1292: **Chairman Chaney** explained the intent to abandon the split hearing and consideration model for **S 1292** due to timing and other factors.

Rep. Anderst presented the bill to prevent law enforcement from motorcycle profiling. He explained it was not a new bill and the House passed a similar bill previously, but there were concerns in the Senate. This bill includes changes to address law enforcement concerns about cause of action against officers and governmental entities if profiling is proven. He stated the bill does three things: it defines what motorcycling profiling is, it creates a prohibition against it, and it establishes the fact that nothing shall constitute or create a private cause of action. Whatever comes from that stop can be relieved if profiling is proven in the courts. He explained other states have implemented similar laws and have seen a decrease in profiled stops as a result of the education. It has improved relationships between law enforcement and the motorcycling community.

MOTION: **Rep. Scott** made a motion to send the **S 1292** to the floor with a **DO PASS** recommendation.

In answer to questions from the Committee, **Rep. Anderst** stated race and gender are protected classes, so profiling is constitutionally prohibited. Anyone who uses this as a defense in court will need to show a fact pattern to establish the person was being profiled and the stop was related to their appearance. He explained other examples of unprotected classes who may establish profiling fact patterns have the right to bring forward similar legislation. Rep. Anderst stated there is some opposition from the law enforcement community, but they have worked through the biggest issue by addressing cause of action.

Debate among Committee members included consequences of the law and the role of law enforcement being reactive versus proactive.

Rep. Anderst declared Rule 80, stating he is a member of a motorcycle club.

MOTION: **Rep. Zollinger** called for the question.

Some members of the Committee questioned the decision to abandon the policy of hearing and considering bills on different days. **Chairman Chaney** explained his policy was done under the intent of the Committee's unanimous consent, which would need a motion to suspend rules.

MOTION: **Rep. Ehardt** made a motion to suspend rules for hearing and considering bills on different days in order to vote on **S 1292**.

ROLL CALL VOTE: **Chairman Chaney** called for a roll call vote on the motion to suspend rules to hear and consider bills on different days. **The motion failed due do a lack of two-thirds majority vote 8 AYE, 6 NAY, 4 Absent/Excused. Voting in favor of the motion: Reps. Kerby, Zollinger, Ehardt, Hartgen, Marshall, Troy, Young and Chairman Chaney. Voting in opposition to the motion: Reps. Goesling, Ricks, Gannon, McCrostie, Wintrow and Davis. Reps. Monks, Amador, Zito and Scott were Absent/Excused.**

David Devereaux, ABATE of Idaho, testified **in support** and followed-up further on Committee questions. He stated colors and types of clothing have been found as expressive conduct by the Supreme Court. He explained law enforcement action should be taken based on conduct. He explained standards of review versus strict scrutiny when applied to non-protected classes and a resolution rather than law in statute would not be binding in a state court.

Chairman Chaney explained the Committee's intent to meet tomorrow and clarified the order of motions and actions.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 8:19 a.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
12:45 P.M.
Room EW42
Monday, March 16, 2020

SUBJECT	DESCRIPTION	PRESENTER
RS28012	Administrative Rules Concurrent Resolution	Rep. Chaney

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Chaney
Rep Monks, Acting Vice
Chairman
Rep Kerby
Rep Amador
Rep Zito
Rep Zollinger

Rep Ehardt
Rep Scott
Rep Goesling
Rep Hartgen
Rep Marshall
Rep Ricks

Rep Troy(Seegmiller)
Rep Young
Rep Gannon
Rep McCrostie
Rep Wintrow
Rep Davis

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MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, March 16, 2020
TIME: 12:45 P.M.
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy (Seegmiller), Young, Gannon, McCrostie, Wintrow, Davis
**ABSENT/
EXCUSED:** Representatives Zollinger, Ricks, Troy (Seegmiller), McCrostie, Davis
GUESTS: None
Chairman Chaney called the meeting to order at 12:50 p.m.
RS 28012: **Chairman Chaney** presented **RS 28012**, a House Concurrent Resolution to approve and extend the Administrative Rules reviewed by the House Judiciary, Rules and Administration Committee and Senate Judiciary and Rules Committee.
MOTION: **Rep. Kerby** made a motion to introduce **RS 28012** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Chairman Chaney** will sponsor the bill on the floor.
ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 12:51 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary

AGENDA
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
 Upon Recess for Lunch or 1:30 pm
 Room EW42
 Tuesday, March 17, 2020

SUBJECT	DESCRIPTION	PRESENTER
	For public hearing and Committee consideration:	
<u>HR 11:</u>	House Rules 45 & 76	Reps. Dixon & Barbieri
	For Committee consideration and vote, public testimony previously taken:	
<u>S 1319</u>	Dangerous Dogs / Penalties	
<u>S 1292</u>	Motorcycle Profiling	

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

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MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, March 17, 2020

TIME: Upon Recess for Lunch or 1:30 pm

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy (Seegmiller), Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Representative Davis

GUESTS: None

MOTION: **Chairman Chaney** called the meeting to order at 1:31 p.m.

Rep. Marshall made a motion to approve the minutes of the March 5, 2020, March 9, 2020 and March 16, 2020 (12:45 p.m.) meetings. **Motion carried by voice vote.**

Chairman Chaney recognized and thanked the Page, **Ashlyn Young**, and Committee Secretary, **Wendy Carver-Herbert.**

HR 11: **Rep. Barbieri** presented **HR 11.** This legislation addresses House Rules 45 and 76 by adding duties to the Committee on Ethics and cleaning up the election process for this Committee's members. He explained the history of House rules and policy making. The Speaker of the House has purview over the operation of House business. While it is the right of House membership to govern the body itself, it has not always been done this way. This bill clarifies the intent and places responsibility for policy making, as it relates to House members, under the proposed Ethics and Policy Committee. This is the one Committee elected by the entire body.

In answer to questions from the Committee, **Rep. Barbieri** explained each Caucus will be able to determine its own process for electing Committee members. He stated these rules will need further work to address matters of confidentiality and probable cause, as examples. He said enforcement is not part of what the Ethics and Policy Committee would do. It is the role of the House body to determine this.

Chairman Chaney explained it has been the intent to hear and consider memorials and resolutions on the same day, so a motion was in order.

MOTION: **Rep. Kerby** made a motion to send **HR 11** to the floor with a **DO PASS** recommendation.

Rep. Barbieri further explained the process for recusal in matters of conflict of interest. **Rep. Gannon** requested the Committee consider further clean up of the rule as it relates to alternates.

Chairman Chaney stated approval of resolutions requires a majority vote in Committee, but will need a two-thirds majority vote on the floor.

**ROLL CALL
VOTE:** **Chairman Chaney** called for a roll-call vote on the motion to send **HR 11** to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 15 AYE, 2 NAY, 1 Absent/Excused.** Voting in favor of the motion: **Reps. Monks, Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon and McCrostie.** Voting in opposition to the motion: **Chairman Chaney and Rep. Wintrow.** **Rep. Davis was Absent/Excused.** **Reps. Barbieri and Dixon** will sponsor the bill on the floor.

S 1319: **Chairman Chaney** returned the bill to the committee for consideration. This bill pertains to dangerous dogs and penalties.

MOTION: **Rep. Marshall** made a motion to **HOLD S 1319** in committee. Speaking to the motion, Rep. Marshall explained it was a matter of lack of time to fully review the need for change before voting.

VOTE ON MOTION: **Chairman Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Rep. Goesling** requested to be recorded as voting **NAY**.

S 1292: **Chairman Chaney** returned the bill to Committee for consideration. This bill relates to motorcycling profiling.

MOTION: **Rep. Zollinger** made a motion to send **S 1292** to the floor with a **DO PASS** recommendation.

Chairman Chaney stated his intent to vote nay on the bill due to issues regarding the fourth amendment and federal law protections.

ROLL CALL VOTE: **Rep. McCrostie** requested a roll call vote on the motion to send **S 1292** to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 11 AYE, 6 NAY, 1 Absent/Excused.** **Voting in favor** of the motion: **Reps. Monks, Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Ricks** and **Troy**. **Voting in opposition** to the motion: **Reps. Marshall, Young, Gannon, McCrostie, Wintrow** and **Chairman Chaney**. **Rep. Davis was Absent/Excused.** **Rep. Anderst** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 2:00 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary