

**AMENDED AGENDA #3**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, January 17, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Committee Organization	Chairman Chaney
<a href="#">RS 29117C1</a>	Coronavirus, immunity, sunset	Rep. Young
<a href="#">RS 29162</a>	Ed, leadership premiums, insurance	Rep. Furniss

COMMITTEE MEMBERS

Chairman Chaney  
Vice Chairman Hartgen  
Rep Kerby  
Rep Amador  
Rep Ehardt  
Rep Scott

Rep Marshall  
Rep Troy  
Rep Young  
Rep Nate  
Rep Cannon  
Rep Erickson

Rep Skaug  
Rep Gannon  
Rep McCrostie  
Rep Ruchti  
Rep Nash

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Monday, January 17, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie (Coberly), Ruchti, Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt, Gannon

**GUESTS:** None

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

**Chairman Chaney** welcomed the committee and introduced continuing **Vice Chairman Linda Hartgen**; returning committee secretary **Andrea Blades**; and page **Sydney Case**.

**Rep. Cannon** and **Rep. Nash** will serve as the Committee proofreaders.

**Chairman Chaney** reviewed committee processes and procedures. Important date: March 7 is the Transmittal Date for Joint Resolutions, the JRA Committee work should be completed a few days prior to that date. He said he will be implementing a 3:00 p.m. hard stop for committee meetings. Remote testimony will be permitted during Committee meetings and there will be an online sign up sheet for those testifying remotely and attending in person. All online sign up will be closed at the minute the meeting is called to order.

**Chairman Chaney** stated that the Administrative Rule changes posted for this Committee's review have been minimal and may not need to be addressed in committee. Chairman Chaney asked the Committee members to look them over and provide input. At this point no Administrative Rule presentations have been scheduled.

**RS 29117C1:** **Rep. Young** presented **RS 29117C1** which continues to provide limited immunity from certain business liabilities in connection to the Coronavirus and extends the sunset date another year.

**MOTION:** **Rep. Skaug** made a motion to introduce **RS 29117C1**. **Motion carried by voice vote.**

**RS 29162:** **Rep. Furniss**(35) presented **RS 29162**. He explained the problem and how the solution evolved and explained that this proposed legislation creates a dedicated fund for the purpose of funding the one-time transaction for public schools to buy in to the state's medical and dental group insurance plan. It also establishes limits for the amount that can be allocated per school district, and outlines how to handle situations in which the demand exceeds available funds; also sunsets leadership premiums.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 29162**. During the discussion questions arose about the number of teachers employed in Idaho, and why this RS is being introduced through this Committee instead of through the Education Committee. It was explained that because this RS establishes a fund but does not actually fund anything it is considered an "administrative" issue. **Motion carried by voice vote.**

**ADJOURNMENT:** There being no further business to come before the Committee, the meeting adjourned at 3:43 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, January 19, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Agency Update/Juvenile Corrections	Monty Prow , Director, Dept. of Juvenile Correction
<a href="#">RS 29061C1</a>	Juvenile Corrections Act	Rep. Erickson
<a href="#">RS 29070C1</a>	Juvenile Corrections Act	Rep. Erickson
<a href="#">RS 29072C1</a>	Juvenile Corrections Act, diversions	Rep. Erickson
<a href="#">H 443</a>	Ed, leadership premiums, insurance	Rep. Furniss
	*Online registration will end at the commencement of the meeting.	
	*Meeting to adjourn by 3:00 p.m.	

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
***[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, January 19, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie(Coberly), Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Ehardt

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

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

**Chairman Chaney** welcomed everyone and explained that those who would like to participate in public testimony, whether in person or remotely, need to register online to testify.

**Director Monty Prow** provided an agency update for the Idaho Dept. of Juvenile Corrections (DJC) identifying all the partners and philosophies that collaborate to support their work. As established by the Juvenile Justice Act, juvenile justice in Idaho is a bifurcated system, meaning the State and the Counties are partners in working with youth and their families. About 96% of juveniles involved with the justice system have their cases managed locally and never see the inside of a juvenile correctional facility. This is extremely positive for youth and their families, as research indicates that children develop better if they are never in a long term care facility, no matter how well run it is. Director Prow answered committee questions regarding staffing, commitments, populations, and juvenile trauma scores.

**RS 29061C1:** **Rep. Erickson (33)** presented **RS 29061C1** and explained this proposed legislation adds an additional pathway to the review of a youth's custody and treatment progress, by offering a hearing in front of the Custody Review Board (CRB) at 18 months and repeated every 6 months thereafter allowing for technical corrections. This change better aligns Idaho with the Juvenile Corrections Act.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 29061C1**.

**Rep. Erickson** answered committee questions, speaking to why there is no fiscal impact he explained the quarterly review committee members who conduct the reviews are volunteers and the bulk of juveniles do not stay in the system longer than 18 months.

**VOTE ON  
MOTION:** **Motion carried by voice vote.**

**RS 29070C1:** **Rep. Erickson** presented **RS 29070C1** and explained this proposed legislation expands protections regarding sight and sound separation, and jail removal, for juveniles, and it better defines when a juvenile can legally be held in an adult jail or lockup. **RS 29070C1** better aligns Idaho with national research and the Juvenile Justice and Delinquency Prevention Act (JJJPA) standards which stipulate the separation of juveniles from adults. Responding to committee questions Rep. Erickson explained JJJPA's role is to set national standards connected to best practices concerning juvenile commitments, and juvenile corrections align with these standards because they have proven to be good for Idaho.

**MOTION:** **Rep. Hartgen** made a motion to introduce **RS 29070C1**. **Motion carried by voice vote.**

**RS 29072C1:** **Rep. Erickson** presented **RS 29072C1** and explained that this proposed legislation relocates the description of the informal adjustment diversion process from Code 20-511 to Code 20-520, placing it nearer to other post-petition options in Code, and thus creating greater clarity regarding diversion processes.

**MOTION:** **Rep. Hartgen** made a motion to introduce **RS 29072C1**. **Motion carried by voice vote.**

**H 443:** **Rep. Furniss (35)** presented **H 443** and explained this bill has involved significant effort and collaboration, and it just creates an account, which does include parameters; however, the actual funding comes from the Appropriation Committee. It also repeals a section of Code called leadership premiums which are expected to result in significant savings, almost 20 million dollars, which can then be put toward the future funding of this change. This bill is the product of a task force that was assigned to assist Idaho teachers and education staff to be more effective and efficient with their health insurance. Currently, it is legal for schools to enter into the State employee insurance pool. When any agency goes into the employee pool there is a pool requirement where a similar contribution to a self funded reserve account is made, and this keeps health insurance claims pooled and funded. This bill creates the account needed to hold a teacher and education staff reserve. Rep. Furniss further explained why a reserve account is necessary and how a reserve account works to cover Idaho's uncapped liability in this area. Additionally, this bill establishes limits for the amount that can be allocated per school district and outlines how to handle situations in which the demand exceeds available funds. This bill sunsets in two years.

**Rep. Furniss** responded to committee questions, explaining that the entire State Employee Insurance plan will have an RFP in one year and insurance carriers will be able to submit bids at that time in a competitive bid process.

**Rep. Furniss declared a Rule 80.**

Continuing in response to questions **Rep. Furniss** explained that the money appropriated for this purpose does not go to the schools, it goes directly to the claims fund when the school enters into the state employee pool.

**MOTION:** **Rep. Kerby** made a motion to send **H 443** to the floor with a **DO PASS** recommendation.

**Rep. Furnis** responded to additional Committee questions of a very specific technical financial nature.

**Tara Harrison**, Government Affairs Director at Regency Shield of Idaho spoke **in opposition** to **H 443** and stated her organization supports increasing the quality of health insurance benefits for teachers and educational employees. However, if the bill is passed, Regency Shield who currently provides insurance services in some of the school districts, will not be afforded an opportunity to compete in continuing to provide services initially and so she is requesting more time to develop the bill.

**Paul Stark**, Executive Director of the Idaho Education Association spoke **in support of H 443** saying that currently, 50% of the educator workforce is actively considering leaving employment in the districts. The costs of health care are part of the problem and it is particularly onerous in the rural districts that lack the economy of scale. This bill will help attract and retain qualified educators in all the districts.

**Fred Birnbaum** testified **in opposition to H 443** saying the fiscal note does not correctly reflect the actual costs associated with this change, and the speed in which it's been presented has excluded proper input.

**Andy Grover**, Ex. Director of Idaho Association of School Administrators (ISA), spoke **in support of H 443**, saying it is a unique opportunity for school districts and charter schools to access funding for buy-in to the State insurance plan. It is a much needed boost to the morale of the Idaho education community where districts across the state are struggling, sometimes even closing due to lack of labor.

**Brody Aston**, contact lobbyist with Westerberg Associates and representing Select Health spoke **in opposition to H 443**. He said he cannot support a 75 million dollar fund being created to support one plan administered by one insurer. His client supports improving insurance for Idaho educators but through open markets and competition adding that more time needs to be invested in this bill to find better solutions.

**MOTION:** **Rep. Troy** made a motion to amend the agenda and extend adjournment to 5:00 p.m.

**SUBSTITUTE MOTION:** **Rep. Skaug** made a substitute motion to hold **H 443** to a time certain, specifically to the next meeting of the JRA Committee.

**ROLL CALL VOTE ON MOTION:** Chairman Chaney clarified the vote is on the motion to extend the meeting to 5:00 p.m. **Motion carried with a vote of 9 AYES and 7 NAYES. Voting in favor of the motion: Rep. Hartgen, Kerby, Marshall, Troy, Gannon, McCrostie(Coberly), Ruchti, Nash, Chaney. Voting in opposition to the motion: Rep. Amador, Scott, Young, Nate, Cannon, Erickson, Skaug.**

**Blake Youde** testified on behalf of the Idaho Charter School Network **in support of H 443** saying it provides the options for them to choose a health insurance plan that they believe best serves their teachers and other educational employees.

**Quinn Perry**, Deputy Director of the Idaho School Board Association spoke **in support of H 443** saying it gives Districts and Charter Schools the choice to buy into the State plan and it will benefit many educational employees.

**Rep. Furniss** responded to committee questions stating that conversations with other insurance providers has occurred prior to the introduction of **H 443** and that allowing more time to develop and digest this bill will not improve this legislation.

**SUBSTITUTE MOTION:** **Rep. Skaug**, again made a substitute motion to hold the bill to a time certain, specifically to the next JRA Committee (01/25/22) meeting.

**ROLL CALL VOTE:** **The motion failed by a vote of 4 AYE and 12 NAY. Voting in favor of the motion: Rep. Scott, Young, Nate, Skaug. Voting in opposition of the motion: Rep. Hartgen, Kerby, Amador, Marshall, Troy, Cannon, Erickson, Gannon, McCrostie(Coberly), Ruchti, Nash, Chaney.**

**Chairman Chaney** re-stated that the original motion to send **H 443** to the floor with a **DO PASS** recommendation is now before the Committee.

**VOTE ON MOTION:** **Motion carried by voice vote. Rep. Scott and Nate** requested they be recorded as voting **NAY**. **Rep. Furniss** to sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the Committee, the meeting adjourned at 3:38 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary



**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, January 25, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

SUBJECT	DESCRIPTION	PRESENTER
	Agency update/State Appellate Public Defender and Criminal Justice Commission	Eric Frederickson, Director
	Agency update/Pardons and Parole	Ashley Dowell, Executive Director
	Agency update/Idaho State Police	Kedrick Wills , Colonel
<a href="#">RS 29036C1</a>	POST Fund	Rep. Amador
<a href="#">H 444</a>	CORONAVIRUS LIMITED IMMUNITY ACT - Amends 2021 session law to extend a sunset date to July 1, 2023.	Rep. Young
<a href="#">H 451</a>	JUVENILE CORRECTIONS ACT - Amends existing law to provide that a juvenile offender shall appear before the Custody Review Board in certain instances.	Rep. Erickson
<a href="#">H 452</a>	JUVENILE CORRECTIONS ACT - Amends existing law to revise provisions regarding detention of a juvenile in a jail or lockup for adults and to revise a provision regarding standards for detention.	Rep. Erickson

Meeting to adjourn by 3:00 p.m.

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
[\*\*\*Register to Testify\*\*\*](#)

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Tuesday, January 25, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Ehardt

**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** welcomed everyone to the meeting. **Vice Chairman Hartgen** addressed the members regarding the Administrative Rule review schedule. Chairman Chaney explained how to register remotely to participate in public testimony.

**Director Eric Frederickson** provided the State Appellate Public Defender's (SAPD) Office and the Idaho Criminal Justice Commission update. He said the SAPD Office began in 1998 because counties were struggling to meet the need. He spoke about the Capital Crimes Defense Fund and outlined its use, the Right to Counsel and the roles of staff members. He described the Appellate Unit's case types, workload, and how cases are assigned. Director Frederickson explained the additional misdemeanor appeals and juvenile appeals recently added to the Appellate Unit.

**Director Eric Frederickson** speaking as chair of the Idaho Criminal Justice Commission (ICJC) said their Vision Mission Values are discussed at every meeting, he described the ICJC partners or members and the agencies that are represented. He said ICJC was recently re-adopted by the Governor to combat crime and protect citizens, their goal is to reduce victimization and recidivism in Idaho. They have also created subcommittees to advise policy makers in promoting efficiency and effectiveness of the state criminal justice system.

**Director Ashely Dowell** provided the Commission on Pardons and Parole update giving a brief overview of commissioners and agency staff. She reviewed the types of Commission decisions they deal with including parole, revocation, firearms restoration, miscellaneous, reinstatement, commutation, pardon, self-initiated parole reconsideration, medical parole. She said there are twelve individual case factors considered in making Commission decisions and she imparted the details of the six steps to a parole violation. Director Dowell reviewed the budget saying it is primarily a maintenance budget and they have no supplemental requests. She explained their virtual hearings process and gave a short office construction update. In answer to committee questions, Director Dowell gave an overview of the pardons process.

**Colonel Kedrick Wills** provided the Idaho State Police (ISP) update and introduced staff accompanying him today: Chief of Operations **Lt. Col. Sheldon Kelly**, POST Administrator **Brad Johnson**, Manager **Major Steve Davis** and Forensics Lab Manager **Matthew Gammett**. Colonel Wills reviewed the number of calls ISP received, the cases responded to, and the criminal investigations and fingerprint services accomplished over the past year. He said the ISP fingerprint services remained open during the pandemic. The lab is recognized as one of the best run in the country. He said they use an employee development plan that is great support for employee retention and wellness. Colonel Wills reviewed the supplemental budget requests submitted to JFAC this year, including a larger forensic lab, new dormitory for POST, extra expenses for the CAD Dispatching system, which is ready to implement, and a new, first time, helicopter, and extra staff positions to cover an ongoing need for security positions at the statehouse and pardons and parole.

**RS 29036C1:** **Rep. Amador** presented **RS 29036C1** saying this proposed legislation amends Idaho Code Section 23-404 to transfer 1.5% of the Liquor Fund distribution to the General Fund and then pass to the Peace Officers Standards and Training (POST) Fund each year. This distribution is taken from the Liquor Fund after the distribution to Cities and Counties is expected to generate an adequate sum to cover the annual budget shortfall, and there is a 1 million dollar cap on the distribution POST can receive. This distribution to POST will not negatively effect the Cities and Counties. The revenue from citations and court fees intended to fund POST has been insufficient to support the POST program. With declining revenues over time the problem continues to worsen. Inherent limitations in POST's funding sources have been a chronic problem for over a decade. This proposed solution in connection to the Liquor Fund is expected to provide a dependable funding source.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 29036C1**. **Motion carried by voice vote.**

**H 444:** **Rep. Young** explained that this bill will amend the 2021 session law about Coronavirus business immunity by extending the sunset date on that piece of legislation to July 2023.

**Ken McClure** representing Idaho Liability Reform Coalition, testified **in support of H 444**.

**MOTION:** **Rep. Hartgen** made a motion to send **H 444** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Young** will sponsor the bill on the floor.

**H 451:** **Rep. Erickson** said this legislation amends existing law to provide that a juvenile offender shall appear before the Custody Review Board in certain instances. The Board reviews the services to make sure they are appropriate for the individual juvenile case.

**MOTION:** **Rep. Cannon** made a motion to send **H 451** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Erickson** will sponsor the bill on the floor.

**H 452:** **Rep. Erickson** said this bill amends existing law to revise provisions regarding the detention of a juvenile in a jail or lockup for adults and revise a provision regarding standards for detention.

**MOTION:** **Rep. Scott** made a motion to send **H 452** to the floor with a **DO PASS** recommendation.

**Rhiannon James** representing the Idaho Association of Criminal Defense Lawyers spoke **in support of H 452**.

**VOTE ON  
MOTION:**

**Motion carried by voice vote. Rep. Erickson** will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the Committee, the meeting adjourned at 2:50 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, January 27, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS 29284</a>	PERSI, emergency comm officers	Rep. Furniss
<a href="#">RS 29153</a>	Juvenile Corrections, fees	Rep. Erickson
<a href="#">RS 29204</a>	Capitol building, control of space	Rep. Troy
<a href="#">RS 29225</a>	Yellowstone, crimes	Rep. Nash
<a href="#">H 453</a>	JUVENILE CORRECTIONS ACT - Amends existing law to revise provisions regarding the diversion process and to provide for an informal adjustment for a juvenile offender.	Rep. Erickson

\*Meeting to adjourn by 3:00 p.m.

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
***[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Thursday, January 27, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Ehardt

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

**Vice Chairman Hartgen** called the meeting to order at 1:31 p.m.

**RS 29284:** **Rep. Furniss** presented **RS 29284** saying most of Idaho's law enforcement front-line workers are eligible for the PERSI Rule of 80 retirement system. The exception is Idaho's emergency dispatchers, who are not eligible to retire until they have reached the Rule of 90 within PERSI. The requirements for "Emergency Communications Officer" are very similar to the law enforcement personnel they support and require those working in that role to be POST certified. Their work is essential to the law enforcement officers whom they support. They submit to complete background checks and are expected to work non-traditional hours and irregular shifts. This proposed legislation would make "Emergency Communications Officers eligible for the PERSI Rule of 80.

In answer to Committee questions, **Rep. Furniss** said other categories of law enforcement support are not included in this request; this proposed legislation will only add dispatchers.

**MOTION:** **Rep. Chaney** made a motion to introduce **RS 29284**.

**SUBSTITUTE MOTION:** **Rep. Scott** made a substitute motion to return **RS 29284** to the sponsor. Speaking to the motion, Rep. Scott said that because the Judiciary, Rules and Administration Committee does not have expertise on PERSI, this proposed legislation isn't appropriate in this committee and should be returned to the sponsor for the opportunity to go through a proper committee review.

The Committee discussed concerns about this committee introducing this bill, but this committee has introduced other bills like this. It was determined that the committee could introduce the bill and then it could be directed to a more germane committee.

**MOTION WITHDRAWN:** **Rep. Scott** asked for unanimous consent to withdraw the substitute motion. There being no objection, the motion was withdrawn.

**VOTE ON MOTION:** **Motion carried by voice vote.**

**Vice Chairman Hargten** turned the gavel over to **Chairman Chaney** at 1:47 p.m.

**RS 29153:** **Rep. Erickson** presented **RS 29153** saying this proposed legislation eliminates fees for children, parents, and guardians involved in the juvenile justice system. Currently, Idaho law allows children to be assessed fees exceeding thousands of dollars per case even though the juvenile justice system is meant to be restorative and rehabilitative. The current practice of assessing and collecting fees routes much of the energy of the system employees to tracking and collecting fees instead of the mission of restoration and rehabilitation. This does not remove the ability to assess fines or victim restitution.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 29153**. **Motion carried by voice vote.**

**RS 29204:** **Rep. Troy** presented **RS 29204** saying that following the 2009 renovation of the Capital, the hallways and restrooms in the Garden Levels were not officially added to Idaho Code section 67-1602 defining them as "public space." This proposed legislation corrects this oversight.

**Rep. Troy** said this puts the halls and restrooms in the same category as the rotunda in response to a Committee question.

**MOTION:** **Rep. McCrostie** made a motion to introduce **RS 29204**. **Motion carried by voice vote.**

**RS 29225:** **Rep. Nash** presented **RS 29225** saying this legislation closes a quirky little loophole that could theoretically allow some crimes committed in the portion of 50 square miles of Yellowstone National Park located in Idaho to go unpunished. Yellowstone is included in the United States District Court for the District of Wyoming. Because no one lives in the portion of Yellowstone located in Idaho, no constitutionally legitimate jury could be seated to try a defendant prosecuted for a crime occurring there. This proposed legislation requests that Congress place the 50 square miles of Yellowstone located in Idaho under the jurisdiction of the United States District Court for the District of Idaho, closing the loophole.

In answering a Committee question regarding if this included federal crimes or state crimes, **Rep. Nash** said it addresses Idaho state crimes.

**MOTION:** **Rep. Hartgen** made a motion to introduce **RS 29225**. **Motion carried by voice vote.**

**H 453:** **Rep. Erickson** presented **H 453** saying the purpose of this legislation is to clarify diversion processes by moving the informal adjustment process from 20-511 in Idaho Code to 20-520, where all other post-petition options exist.

**MOTION:** **Rep. Amador** made a motion to send **H 453** to the floor with a **DO PASS** recommendation.

In answer to the Committee question regarding the appearance of some language in the bill being removed or added, **Director Prow**, Dept. of Juvenile Corrections explained there were some updates in the language, technical corrections and the movement of a process described in 20-511 to 20-520.

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

**ADJOURN:** There being no further business to come before the Committee, the meeting adjourned at 2:07 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, January 31, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Approval of 01/17 and 01/19 meeting minutes	Chairman Chaney
<a href="#">RS 29295</a>	Fairness in rental applications	Rep. Palmer
<a href="#">RS 29161</a>	Sex Crimes, minimum penalty	Rep. Christensen
	Agency Update/Dept. of Correction	Josh Tewalt, Director
	Permanent building fund request	Josh Tewalt, Director
	ARPA Funds/Dept. of Correction	Josh Tewalt, Director
<a href="#">06-0000-2100</a>	Notice of Proclamation of Omnibus Rulemaking	Josh Tewalt, Director
	Agency Update/Peace Officer Standards Training (POST)	Brad Johnson, Division Administrator
<a href="#">11-1101-2100F</a>	Notice of Omnibus Rulemaking (Fee Rule) - Adoption of Temporary Rule \ Rescission of Previous Temporary Rule	Brad Johnson, Division Administrator
<a href="#">11-0000-2100</a>	11.10.03 Rules Governing the Sex Offender Registry	Bill Gardiner, LT. Colonel
<a href="#">11-1001-2100F</a>	11.10.01 Rules Governing Idaho Public Safety & Security Information System	Bill Gardiner , LT. Colonel
	Agency Update/Sex Offender Management Board (SOMB)	Nancy Volle, Program Manager
<a href="#">57-0101-2100F</a>	57.01.01 Rules of the Sex Offender Management Board	Nancy Vole, Program Manager
	*Meeting to adjourn by 3:00 p.m.	

**Public Testimony Will Be Taken by Registering Through the Following Link:**  
[Register to Testify](#)

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)



MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Monday, January 31, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson (Powell), Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Chaney** made a unanimous consent request to remove **RS 29295** from the January 31, 2022 agenda. There being no objection, the request was granted.

**MOTION:** **Rep. Cannon** made a motion to approve the January 17 and January 19, 2022 meeting minutes. **Motion carried by voice vote.**

**RS 29161:** **Rep. Christensen (32)** presented **RS 29161** and explained that this proposed legislation evolved from complaints in his district about lenient sentences for sex offenders. This bill creates a five-year mandatory minimum prison sentence for six specific sex offenses: aggravated sexual battery, sexual abuse of a child under the age of sixteen years, lewd conduct with a minor child under sixteen, sexual battery of a minor child sixteen or seventeen years of age, rape, and forcible penetration by use of a foreign object. Plus, it stipulates a one-year mandatory minimum sentence for any convicted sex offender engaged in forbidden employment or who fails to register with the State Sex Offender Registry. And it assigns a misdemeanor charge with a mandatory 90-day jail sentence to violations that involve convicted sex offenders being in forbidden locations like schools or daycares. This legislation is intended to protect the community from sexual predators by taking them out of Idaho communities for a determined amount of time via incarceration.

Committee members expressed a desire to determine if a serious problem truly exists that requires specific legislation and voiced concerns about the mixed message this committee has heard over the years about mandatory minimums and limiting the discretion of judges and prosecutors. **Rep. Christensen (32)** responded to committee questions about the impact this legislation might have on statutory rape instances, if judges and prosecutors have been consulted, and the fiscal note's accuracy.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 29161**. **Motion carried by voice vote.**

**Josh Tewalt**, Director of the Dept. of Correction (DOC), gave the Committee an agency update. He spoke about significant security staff shortages and the Agency's retention and recruiting efforts. He explained how the pandemic is complicating an already existing security staff shortage, and as of today, 200 staff are unavailable to work due to COVID illnesses or exposure issues. The Governor's Office has mobilized the National Guard assigning 30 to DOC as temporary staff, and these individuals will assist with routine prison operations like serving meals and performing prisoner counts.

The Agency has implemented a new cost-effective team approach to offender supervision, and the results are promising. Helping offenders to be successful on supervision is an important factor reducing the need for prison beds. He spoke about the surging inmate populations and how custody level compression, where hundreds of minimum custody offenders are being held in more expensive medium custody beds, compounding the problem. The 2022 permanent building fund request includes: a new female prison facility, a new medical facility, updating two old housing units, and a new community re-entry center located in eastern Idaho.

In elaborating on the reasons for this year's significant budget request, he explained why a new female prison is needed. Years of bed compression problems due to an increasing number of females sentenced to DOC custody occupy beds originally intended to hold minimum custody male offenders. Having adequate space to house female offenders properly will allow specific areas to be returned to their original intended use. A female prison in Boise will greatly reduce transportation costs due to close proximity to courts and hospitals. **Director Tewalt** provided details about the other four permanent building fund requests.

In response to committee questions, **Director Tewalt** explained that the proposed changes with the female offender population would not change overall operations at the current Pocatello Women's Prison; it is mainly the reception and diagnostic unit that will be located in Boise.

**Josh Tewalt**, Director of the Dept. of Correction, gave the Committee a report on the Agency's use of the American Rescue Program Appropriation (ARPA) Funds. Explaining that there are two specific areas in the Agency's budget connected to ARPA Funds, one is being used to help with unexpected COVID-related expenses, and another involves the expansion of wastewater lagoons. The expansion of the wastewater lagoons is connected to the permanent building fund requests.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Chairman Chaney** made a unanimous consent request to extend meeting adjournment to 3:30 p.m. There being no objection, the request was granted.

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

**DOCKET NO.  
06-0000-2100:**

**Josh Tewalt**, Director of the Dept. of Correction, presented **Docket No. 06-0000-2100** proposed changes. He explained three significant changes – the rules governing correctional industries have been incorporated the current practice of appointing liaisons to assist victims during executions, and the addition of consent for prisoners to donate organs.

**MOTION:**

**Rep. Cannon** made a motion to approve Docket No. 06-0000-2100. **Motion carried by voice vote.**

**Brad Johnson**, Division Administrator from the Peace Officer Standards Training (POST), presented an agency update to the Committee. He explained that POST celebrated its 50th anniversary in 2020, and it presently conducts 19 different academies a year, amounting to the certification of over 700 law enforcement professionals annually. This March, POST will undergo an on-site evaluation for accreditation by the International Association of Directors of Law Enforcement Standards and Training, and accreditation is expected to follow. He explained the different training levels an officer receives, and he emphasized that POST is underfunded, and needs a dependable and consistent funding source. POST's 2022 budget request includes a permanent building fund appropriation to build an additional dormitory, which is expected to save current costs of placing trainees in local housing when existing dormitory beds are full.

**Brad Johnson** responded to committee questions about staffing. POST is fully staffed, and the Committee found that remarkable. He responded to questions about the current practice of scheduling dormitories in connection to academies.

**DOCKET NO'S.  
11-1101-2100F,  
11-1101-2100:**

**Brad Johnson**, Division Administrator, presented **Docket No. 11-1101-2100F** and **Docket No. 11-1101-2100** saying there are only five substantive changes to these dockets. They involve the removal of course evaluation fee, the addition of a biannual mandatory in-service training, clarification on some de-certification guidelines, some language that disqualifies an officer for certification in connection with a violation of the controlled substance act, and the addition of higher certification requirements for misdemeanor probation officers.

**MOTION:**

**Rep. Marshall** made a motion to approve **Docket No. 11-1101-2100** and **Docket No. 11-1101-2100F**. **Motion carried by voice vote.**

**DOCKET NO.  
11-0000-2100F:**

**Lt. Colonel Bill Gardiner**, Deputy Director of the Idaho State Police, introduced subject matter experts accompanying him in the room today who are available to answer any Committee questions, and he presented **Docket No. 11-0000-2100F** explaining that there are no changes to the fee rules.

**MOTION:**

**Rep. Marshall** made a motion to approve **Docket No. 11-0000-2100F**. **Motion carried by voice vote.**

**DOCKET NO.  
11-0000-2100:**

**Lt. Colonel Bill Gardiner** introduced Chief of the Bureau of Criminal Identification **Leila McNeal** to present **Docket No. 11-0000-2100**, specifically areas of 11.10.03. She stated her Bureau houses the Idaho State Police (ISP) Sex Offender Registry. When an individual listed on the Sex Offender Registry dies, the Sex Offender Registry staff usually receives notification from the Health and Welfare's Dept. of Vital Statistics or a sworn police officer. Currently, the rules are limited to death notification via a certified copy of the death certificate. This proposed rule change would expand the official death notification methods to include a larger range of official sources since obtaining certified copies of death certificates is difficult and allows deceased persons' names to be removed more efficiently from the registry.

In response to committee questions, **Chief Leila McNeal** explained that if this change is approved, it would only remove an individual's name from the Sex Offender Registry. It would not expunge an offender's entire criminal history.

**Chief Leila McNeal** presented a second change under the same docket, which adds a sentence clarifying that during certain circumstances, a sex offender would qualify for relief from the statutory duty to register as a sex offender. The specific circumstances are that an offender is on active supervision, probation or parole, and the supervision is directly connected to the conviction requiring registration.

**Chief Leila McNeal** responded to several committee questions. The Committee expressed confusion about the changes, the wording, and the potential effects of the proposed changes.

**MOTION:**

**Rep. McCrostie** made a motion to approve **Docket No. 11-0000-2100** with the exception of the changes in 012.06A and 012.06E, which will be rejected. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the Committee the meeting adjourned at 3:32 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, February 01, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

SUBJECT	DESCRIPTION	PRESENTER
	District Judge update/Introduction	Juneal Kerrick, Senior District Judge
	The Need for Additional Judicial Resources in the Fourth District	Steven Hippler, Adm. District Judge, 4th Judicial District
	The Work of the Trial Court Administrators	Dane Watkins Jr., Adm. District Judge, 7th Judicial District
	The Challenges of District Judge Recruitment	Jeff Brudie, Senior District Judge, Ex. Director of the Idaho Judicial Council
	ARPA and The Commission of Pardons and Parole	Alex Adams, Administrator, Div. of Fin. Management Ashley Dowell, Ex. Director, Pardons & Parole
	ARPA and the Dept. of Correction	Alex Adams, Administrator, Div. of Fin. Management
	Permanent Building Fund request - Dept. of Correction	Alex Adams, Administrator, Div. of Fin. Management
	ARPA and the Permanent Building Fund	Christine Otto, LSO Senior Budget & Policy Analyst Rep. Syme

\*The meeting to adjourn by 3:30 p.m.

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson (Powell)

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Tuesday, February 01, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson (Powell), Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Ehardt, Nash.

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

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

**Juneal Kerrick**, Senior District Judge, gave a District Judge update and introduced herself and the judges who would be presenting: **Judge Hippler**, **Judge Watkins**, and **Judge Burdie**.

**Steven Hippler**, Administrative District Judge in the 4th Judicial District, discussed the need for additional judicial resources in the Fourth District. He explained that the Judiciary is requesting another judge in Elmore County and two magistrate judges in Ada County. The need for these extra resources stems from three main issues: population increase, increasing case loads and backlog, and impact on services to citizens. Judge Hippler reported the increasing caseloads and backlog were primarily COVID-related. He shared information about treatment courts, which are expanding and discussed the improved income opportunities graduates of these courts are experiencing. He spoke about the increased caseloads in drug courts.

**Judge Hippler** further discussed the magistrate judges in Boise and the very specific caseloads they carry. They have very little time off the bench to produce written reports connected to trials. Their calendar providing services to the community is very heavy, and it includes: warrant court, civil protection orders, domestic violence court, vertical representation, agency-specific dockets, and jail sweeps. He ended by asking the committee to help avoid judicial burnout.

Committee members voiced concern about the court backlog and the impact on the constitutional right to speedy trials. They also worried about the considerable impact on the civil side due to the backlog.

**Dane Watkins Jr.**, Administrative District Judge in the 7th Judicial District described the roles of the trial court administrators. Their duties include: connections with each independent County with the Court, overseeing court recordings (video and court reporters), overseeing the budget, judge retirements, new judge placements, training of new judges, schedules and placing of judges, oversees staffing in specialty courts, organizing journalists covering in hearings of interest, providing training to elected clerks, issuing orders regarding the pandemic, ADA accommodations, facility demands, creating reports that reflect the Court's activity, required travel across the state and holding public meetings. He mentioned that these demands have increased significantly in the past few years.

**Jeff Brudie**, Senior District Judge and Executive Director of the Idaho Judicial Council discussed the challenges of District Judge recruitment. He addressed the problems connected to judicial vacancies, and concerns about the depth of the potential workforce. He explained that applications for vacancies are lower than normal, especially in more rural areas. He suspected that the requirement that magistrate and trial court judges stand for elections could be affecting interest in these positions.

**Alex Adams**, Administrator of the Division of Financial Management discussed the Governor's recommendation for American Rescue Plan Act (ARPA) funds. He explained Idaho received lower ARPA funds per capita than many other states. ARPA funds came in three ways, direct support to businesses and individuals, direct funds to state agencies and discretionary funds to state and local governments. His presentation covered the discretionary funds to the state governments, which were broken down into public safety issues. These issues included: improvements to the Idaho Department of Correction (IDOC) Lagoon, IDOC Covid-19 Expenses, extradition transportation costs, and the domestic violence bridge funding.

**Mr. Adams** also reported on the Governor's Permanent Building Fund. These funds are recommended to be drawn from the General Fund surplus. Monies from this fund would go to the Pocatello Reentry Center, the Medical Annex, the Women's Facility, the Forensics Lab and the new POST dormitory. By paying for these facilities upfront, the state will avoid \$69 million in debt service. It is also estimated that the state will save \$90.4 million through fiscal year 2030 by bringing people back from out-of-state private prisons.

**Rep. Syme**, discussed the opportunity to visit POST to see what needs to be done there. He also further clarified some details on tearing out and rebuilding the IDOC's Lagoon.

In explanation to committee questions, **Rep. Syme**, explained the items listed in the proposed funds were priorities the director of IDOC requested.

**Jared Larson**, the Governor's Counsel and Criminal Justice Policy Advisor, responding to committee questions, confirmed that out-of-state contracts to hold Idaho inmates can be terminated at any time.

**Christine Otto**, LSO Senior Budget and Policy Analyst confirmed that **Mr. Adams** covered most of her comments on the ARPA fund recommendations.

Responding to committee questions, **Mr. Adams**, noted that the new prison would be built in three years. He shared, the director's intention is to bring everyone back this calendar year and work with counties to provide extra beds until new facilities are built. The new prison facility will accommodate the entire out-of-state population and allow for a little extra space. Mr. Adams acknowledged that each of the projects discussed had been discussed by state legislators and agencies for years.

**Chairman Chaney** explained that there are no action items on today's agenda, but his intention is to bring these proposals one by one to be voted on by the committee on a future date.

**ADJOURN:**

There being no further business to come before the Committee the meeting adjourned at 3:04 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #3**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, February 03, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">05-0000-2100</a>	Notice of Omnibus Rulemaking - Proposed Rule	Monty Prow, Director
<a href="#">RS 29231</a>	Divorce actions, courts	Rep. Hartgen
<a href="#">RS 29232</a>	Administrative judges, magistrates	Rep. Hartgen
<a href="#">RS 29233</a>	Courts, reports, triplicate	Rep. Skaug
<a href="#">RS 29234</a>	Suspended driver's license, renewal	Rep. Cannon
<a href="#">RS 29268C1</a>	Law enforcement	Rep. Lickley
<a href="#">RS 29341</a>	Grand theft	Rep. Mathias
<a href="#">RS 29324</a>	Court fees, deposit deadline	Rep. Hartgen
<a href="#">RS 29315</a>	Mortgage, foreclose	Rep. Skaug
<a href="#">H 469</a>	PEACE OFFICERS STANDARDS AND TRAINING FUND - Amends existing law to distribute money to the POST Fund and to revert certain moneys to the General Fund.	Rep. Amador
<a href="#">H 501</a>	IDAHO CAPITOL BUILDING - Amends existing law to clarify the allocation and control of space in the Idaho Capitol Building.	Rep. Troy
<a href="#">HJM 3</a>	YELLOWSTONE NATIONAL PARK -Request that Congress close a certain legal loophole regarding crimes committed in Yellowstone National Park.	Rep. Nash

\*Meeting to adjourn by 3:30 p.m.

**Public Testimony Will Be Taken by Registering Through the Following Link:**  
[\*\*Register to Testify\*\*](#)

**If you have written testimony, please provide a copy to the committee secretary.**

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson (Powell)

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)



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

**DATE:** Thursday, February 03, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson (Powell), Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Ehardt

**GUESTS:** The sign in sheet will be retained in the committee secretary's office; following the end of session the sign in sheet will be filed with the minutes in the Legislative Library.

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

**DOCKET NO. 05-0000-2100:** **Monty Prow**, Director of Department of Juvenile Corrections presented **Docket No. 05-0000-2100** Notice of Omnibus Rulemaking. He stated no changes have been made to the rules.

**MOTION:** **Rep. Hartgen** made a motion to approve **Docket No. 05-0000-2100**. **Motion carried by voice vote.**

**MOTION:** **Rep. Nash** made a motion to introduce **RS 29231, RS 29232, RS 29233, RS 23234, RS 29268C1, RS 29341, RS 29324, and RS 29315**. **Motion carried by voice vote. Rep. McCrostie, and Rep. Marshall** requested to be recorded as **NAY**.

**H 469:** **Rep. Amador** presented **H 469**. This legislation amends the existing law to distribute money to the Peace Officers Standards and Training Fund (POST) from the Idaho State Liquor Fund and to revert certain monies to the General Fund. Traditionally POST has been a dedicated fund agency. The dedicated fund has been mainly comprised of court fees and tickets, however, in past years the dedicated fund has not met the need. POST requires another option as a dependable source of revenue and is requesting to add a percentage of the State Liquor Fund surplus to make up for their chronic annual budget shortfall. This would mean redirecting only 1.5% of the State Liquor Fund, which is estimated to be \$875,000 to POST, with a \$1,000,000 limit, and any money over that would revert to the General Fund. POST Administrator **Brad Johnson** was introduced, and he provided a history of the funding sources POST has depended on since its inception; and explained how this bill differs from last year's bill in that it does not take any Liquor Fund distributions away from cities and counties, it only utilizes surpluses. In response to committee questions, Rep. Amador explained that this change would not affect the normal JFAC budget appropriations process for POST.

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

**Del Chapel** testified in opposition to **H 469**. He questioned why POST needs funds, and he suspects law enforcement turnover is an underlying reason which needs to be evaluated instead of throwing more money at the problem.

**Adam Garvis**, Division of Financial Management, was introduced by Rep. **Amador** to address some of the committee's questions, like what would happen if the Liquor Fund had a bad year. He explained that every state agency presents their agency's budget to JFAC annually and they are expected to account for their budget including POST. If they are not fully funded from this proposed dedicated source, then JFAC will need to appropriate funds from a different source.

**VOTE ON MOTION:**

**Motion carried by voice vote. Rep. Amador** will sponsor the bill on the floor.

**H 501:**

**Rep. Troy** presented **H 501**. This legislation amends existing law to clarify the allocation and control of space in the Idaho Capitol Building. It ensures certain parts of the building are covered under the Dept. of Administration.

**MOTION:**

**Rep. Amador** made a motion to send **H 501** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Troy** will sponsor the bill on the floor.

**HJM 3:**

**Rep. Nash** presented **HJM 3** which requests that Congress close a certain legal loophole regarding crimes committed in Yellowstone National Park. It originally included fifty square miles of land that is located in Idaho, but is not populated. Due to it not being populated and in Idaho any crimes committed within this jurisdiction would not have a judiciary district.

**MOTION:**

**Rep. McCrostie** made a motion to send **HJM 3** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Nash** will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the committee the meeting adjourned at 2:17 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #4**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, February 07, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS 29366</a>	POST Council, probation training Magistrate Judge Update/Introduction Remote Access to Justice Language Access to the Courts Court Innovations in Ada County	Rep. Hartgen Juneal Kerrick, Senior District Judge Matthew Bever, Magistrate Judge, Canyon County Stacey DePew, Magistrate Judge, Jerome County Annie McDevitt, Magistrate Judge, Ada County
<a href="#">H 536</a>	Divorce actions, courts	Rep. Hartgen
<a href="#">H 537</a>	Administrative judges, magistrates	Rep. Hartgen
<a href="#">H 538</a>	Court, reports, triplicate	Rep. Skaug
<a href="#">H 542</a>	Court fees, deposit deadline	Rep. Hartgen

\* The meeting to adjourn by 3:30 p.m.

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
***[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson (Powell)

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Monday, February 07, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Amador, Ehardt, Scott

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**RS 29366:** **Rep. Hartgen** presented **RS 29366**. This legislation updates the name of the Misdemeanor Probation Advisory Committee to the Misdemeanor Probation Training Council. The name reflects the current bylaws.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 29366**. **Motion carried by voice vote.**

**Juneal Kerrick**, Senior District Judge, introduced herself and the magistrate judges who will comprise the magistrate judge presentations.

**Judge Matthew Bever**, Canyon County Magistrate, spoke about remote access to justice in 2020 due to COVID. He described how it became evident that expecting everyone to "appear" in person was not reasonable and it was not possible to shut down the court. This made it necessary to find new ways to continue to serve the public. He explained how remote participation in place of in person appearances has been effective in many ways, and overall it's been a positive change in access to justice.

**Judge Stacey DePew**, Jerome County Magistrate, spoke about language access to the courts. She explained how more frequently individuals are coming in front of the court that do not have English skills. She noted that many statutes require the courts to provide interpreters even though it is expensive. She described how court interpreters go through additional training to become a court certified interpreter. There is much effort going into ensuring that individuals understand what is going on. 8427 hearings required an interpreter in 2021 and while Spanish is the most common, over the past year 43 different languages have been requested. Each district is experiencing an increasing need for interpreters. Swahili and American Sign Language interpreters are frequently requested and it is difficult to locate interpreters.

**Judge Annie McDevitt**, Ada County Magistrate, spoke about court innovations in Ada County and explained that with the population increase in Ada County, timely cases are becoming more challenging. Warrants Court is designed to quickly get defendants back into court; however they are more frequently frightening, time consuming, costly, and involve possible loss of jobs for defendants. She talked about how zoom meetings are helping to reduce the number of outstanding warrants. She noted that using Zoom has had overwhelming success in resolving high conflict custody cases through interdisciplinary settlement conferences.

**H 536:** **Rep. Hartgen** presented **H 536** and explained it pertains to divorce actions in court and makes technical corrections to code.

**MOTION:** **Rep. McCrostie** made a motion to send **H 536** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.**

**H 537:** **Rep. Hartgen** presented **H 537** and explained that this proposed legislation pertains to administrative judges and allows them to delegate certain duties to the magistrate judges.

**MOTION:** **Rep. McCrostie** made a motion to send **H 537** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.**

**UNANIMOUS CONSENT REQUEST:** **Chairman Chaney** made a unanimous consent request to move **H 542** above **H 538** on the agenda. There being no objection, the request was granted.

**H 542:** **Rep. Hartgen** presented **H 542** and explained that this proposed legislation pertains to court fees and allows an extension on monthly deposit deadlines.

**Kristina Glascock** appeared by remote testimony and spoke **in support** of **H 542**.

**MOTION:** **Rep. Troy** made a motion to send **H 542** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.**

**H 538:** **Rep. Skaug** presented **H 538** and explained that this proposed legislation pertains to certain court reports currently submitted in triplicate and obsolete now.

**MOTION:** **Rep. Troy** made a motion to send **H 538** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee the meeting adjourned at 2:21 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, February 09, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Agency Update/Sex Offender Man. Board	Nancy Volle, Manager
<a href="#">57-0101-2100F</a>	Omnibus Rulemaking (Fee Rule) - Proposed	Nancy Volle, Manager
<a href="#">50-0101-2100F</a>	Omnibus Rulemaking (Fee Rule) - Proposed	Ashley Dowell, Director
<a href="#">RS 29441</a>	Correction, reentry center	Rep. Manwaring
<a href="#">RS 29412</a>	DNA testing, employer	Rep. Cannon
<a href="#">RS 29151</a>	Motor owner guest, liability	Rep. Ruchti
<a href="#">RS 29320</a>	Driver's license, revoked, fines	Rep. Chaney
<a href="#">RS 29405</a>	Women's prison, funding	Rep. Chaney
<a href="#">RS 29423</a>	Child abduction prevention act	Rep. Chaney
<a href="#">RS 29429</a>	ARPA, extradition shuttle	Rep. Chaney
<a href="#">RS 29430</a>	ARPA, wastewater, corrections	Rep. Chaney
<a href="#">RS 29431</a>	ARPA, domestic violence	Rep. Chaney
<a href="#">RS 29432</a>	ARPA, dept of correction	Rep. Chaney
<a href="#">RS 29433</a>	ARPA, supreme court	Rep. Chaney
<a href="#">RS 29439</a>	State police, helicopter, air div	Rep. Chaney
<a href="#">RS 29440</a>	Correction, medical annex	Rep. Chaney
<a href="#">RS 29492</a>	Judicial council, membership	Rep. Chaney
<a href="#">H 543</a>	THEFT - Amends existing law regarding grand theft.	Rep. Mathias

\* Meeting to adjourn by 4:00 p.m.

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
[\*\*\*Register to Testify\*\*\*](#)

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Wednesday, February 09, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**Nancy Volle**, Program Manager for the Sex Offender Management Board (SOMB), presented the Committee with an agency update. She briefly described the Program's origination, identified the board members, described SOMB's purpose, and reviewed the Board's work in progress.

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

**DOCKET NO. 57-0101-2100F:** **Nancy Volle**, Program Manager for the Sex Offender Management Board (SOMB) presented **Docket No. 57-0101-2100F** to the Committee and explained that there are no changes beyond what was approved during the previous legislative session.

**MOTION:** **Chairman Chaney** made a motion to approve **Docket No. 57-0101-2100F**. **Motion carried by voice vote.**

**DOCKET NO. 50-0101-2100F:** **Ashley Dowell**, Executive Director of the Commission of Pardons and Parole, presented **Docket No. 50-0101-2100F**. She explained that the Commission held a public meeting to discuss the proposed changes; however, they did not receive public feedback. The Commission made widespread changes to the docket mainly to remove obsolete or unnecessary language, ensure clarity, to reflect current practices, and she pointed out some of the highlights.

**MOTION:** **Rep. Gannon** made a motion to approve **Docket No. 57-0101-2100F**. **Motion carried by voice vote.**

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

**MOTION:** **Rep. Young** made a motion to introduce **RS 29441, RS 29412, RS 29151, RS 29320, RS 29405, RS 29423, RS 29429, RS 29430, RS 29431, RS 29432, RS 29433, RS 29439, RS 29440** and **RS 29492**. **Motion carried by voice vote.**

**H 543:** **Rep. Mathias** presented **H 543** explaining that this proposed legislation would increase the current grand theft threshold from \$1000 to \$2500 for certain crimes and under certain circumstances. The current threshold was set by the legislature in 1993, and with inflation, the amount should be increased. This change would only benefit those who do not have a record of theft or first-time situations and not repeated offenders.

The following individuals spoke **in opposition** to **H 543**: **Fred Birnbaum**, Freedom Foundation; **Mike Maraglia**, Fraternal Order of Police; **Melinda Merrill**, NW Grocery Association; **Steve Madden**, Precinct 1923 GOP Voters; **Pam Eaton**, Idaho Retailers Association; **Holly Koole**, Idaho Prosecuting Attorneys Association. They expressed concerns about victims, saying theft is not a victimless crime. This legislation devalues victims in favor of inflation and the legal inconveniences experienced by those who violate this law. Concerns about whether the benefits included in this legislation will indeed be applied to individuals charged for the first-time or if repeated violators will also benefit. Retailers stated that the distinction between first time violators and individuals who get caught stealing for the first time needed to be considered. The lawless events occurring in Portland and San Francisco were mentioned, and how many little items can be stolen before adding up to \$1000, let alone \$2500. The police see the injury these types of thefts cause individual victims in their personal lives, and it was noted that with this increase, a stolen iPhone would not qualify as grand theft.

The following individuals spoke **in support** of **H 543**: **Teresa Molitor**, Idaho Criminal Defense Lawyers; **Mike French**, Idaho Association of Criminal Defense Lawyers; **Erica Marshall**, Idaho Justice Project; **Joe Miller**, Idaho Assn. Criminal Defense Lawyers. Defense attorneys have concerns about the impact the low current threshold for grand theft has on individuals lives, it is destroying their lives. And noted the distinction between professional retail thieves and individuals who steal out of impulse or need. Advocates for better justice expressed concern about the expenses of incarceration compared to the current threshold and that Idaho has an extremely high percentage of offenders in prison for grand theft. It was pointed out that raising the threshold does not let people "off the hook". Idaho has powerful misdemeanor codes, and violators would still face those consequences. Idaho does not have grades of felonies (A, B, C) like many other states, making it hard to compare the impact of the current threshold with other states.

**Rep. Mathias** summarized that the grand theft threshold needs to incorporate inflation in today's economy, and this change is overdue. Idaho's good economy is why we enjoy a lower theft rate than other states and not the current grand theft threshold. And the most compelling reason to raise the threshold is that it sets a culture for change and considers the seriousness of these charges in a balance with reason.

The Committee voiced concerns about the inconsistent statistical information offered today. Questions are yet unanswered about how Idaho's current grand theft thresholds compare to other states and what dependable statistics exist on the impact of this issue on public safety. Judiciary input on this issue is desired. The comparison of this proposed legislation to lawlessness was not appreciated by some committee members, reminding everyone that this legislation does not change a judge's discretion and that misdemeanor convictions will still carry up to one year in jail.

**MOTION:** **Rep. Ruchti** made a motion to send **H 543** to the floor with a **DO PASS** recommendation.

**Rep. Cannon** declared a rule 80.

Committee members expressed concern about the timing of this bill, about not having enough information to make a decision, and being conflicted between a potential need for policy change and a potential impact on public safety.

**SUBSTITUTE MOTION:** **Rep. Cannon** made a substitute motion to **HOLD H 543** in committee.



**AMENDED  
SUBSTITUTE  
MOTION:**

**Rep. McCrostie** made an amended substitute motion to send **H 543** to General Orders to change the threshold amount to a more agreeable figure.

**ROLL CALL  
VOTE ON  
AMENDED  
SUBSTITUTE  
MOTION:**

Roll call vote was requested. **Amended substitute motion failed by a vote of 3 AYE, 12 NAY and 2 Absent/Excused. Voting in favor** of the motion: **Rep. McCrostie, Ruchti, Nash. Voting in opposition** of the motion: **Rep. Hartgen, Kerby, Amador, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, Chaney. Reps. Ehardt and Scott were Absent/Excused.**

**ROLL CALL  
VOTE ON  
SUBSTITUTE  
MOTION:**

Roll call vote was requested. **Substitute motion carried by a vote of 13 AYE and 2 NAY with 2 Absent/Excused. Voting in favor** of the motion: **Rep. Hartgen, Kerby, Amador, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Chaney. Voting in opposition** of the motion: **Rep. Ruchti, Nash. Reps. Ehardt and Scott were Absent/Excused.**

There being no further business to come before the Committee, the meeting adjourned at 3:34 p.m

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #3**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Friday, February 11, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS 29478</a>	Admin hearings, contested cases	Rep. Troy
<a href="#">RS 29491</a>	Booking photographs	Rep. Green
<a href="#">RS 29443</a>	Sex offenders	Rep. Horman
<a href="#">RS 29314</a>	Butte county, stats area	Rep. Furniss
<a href="#">RS 29496</a>	Cybersecurity records, exemption	Rep. Manwaring
<a href="#">RS 29291</a>	Louise McClure, honoring	Rep. Troy
<a href="#">RS 29332</a>	Filings, foundations, trusts	Rep. Troy
<a href="#">RS 29477</a>	Sunshine Mine	Rep. Troy
<a href="#">RS 29529</a>	Unsolicited sexual material	Rep. Troy
<a href="#">RS 29400</a>	Public records, personal info	Rep. Erickson
<a href="#">RS 29363C2</a>	Fairness in rental applications	Rep. Ruchti
<a href="#">RS 29514</a>	Rent, lease, change in terms	Rep. Gannon
<a href="#">RS 29547</a>	Rental application fees	Rep. Gannon
<a href="#">RS 29507</a>	Divorce, property	Rep. Chaney
<a href="#">RS 29513</a>	Trespass, process servers	Rep. Chaney

COMMITTEE MEMBERS

Chairman Chaney

Vice Chairman Hartgen

Rep Kerby

Rep Amador

Rep Ehardt

Rep Scott

Rep Marshall

Rep Troy

Rep Young

Rep Nate

Rep Cannon

Rep Erickson

Rep Skaug

Rep Gannon

Rep McCrostie

Rep Ruchti

Rep Nash

COMMITTEE SECRETARY

Andrea Blades

Room: EW56

Phone: 332-1127

Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Friday, February 11, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Vice Chairman Hartgen, Representative(s) Ehardt, Nate, Cannon, Nash

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**RS 29478:** **Rep. Troy** presented **RS 29478** which pertains to administrative hearings and contested cases. She said there is a small but important correction to the proposed legislation, 67-5285(1) on line 16; the date needs to be changed from October 1 to August 29, and also on line 18, the date needs to be changed from November 1 to October 1.

**MOTION:** **Rep. Skaug** made a motion to introduce **RS 29478** with the following changes: 67-5285(1) on line 16, change the date of October 1 to August 29, and on line 18 change the date of November 1 to October 1. **Motion carried by voice vote.**

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 29491, RS 29443, RS 29314, RS 29496, RS 29291, RS 29332, RS 29477, RS 29529, RS 29400, RS 29363C2, RS 29514, RS 29547, RS 29507, RS 29513.** **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:33 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, February 15, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">HR 18</a>	New reentry center in Pocatello.	Rep. Manwaring
<a href="#">HR 16</a>	New ISP helicopter.	Rep. Chaney
<a href="#">HR 10</a>	New women's prison.	Rep. Chaney
<a href="#">HR 11</a>	ARPA/COVID-19 and extradition transport costs.	Rep. Chaney
<a href="#">HR 12</a>	ARPA/COVID-19 and wastewater improvement.	Rep. Chaney
<a href="#">HR 13</a>	ARPA/COVID-19 and victim services.	Rep. Chaney
<a href="#">HR 14</a>	ARPA/COVID-19 and facility maintance costs.	Rep. Chaney
<a href="#">HR 15</a>	ARPA/COVID-19 and Court technology costs.	Rep. Chaney
<a href="#">HR 17</a>	New medical annex at ISCI.	Rep. Chaney
<a href="#">H 540</a>	Amending RE: police training/ S.A.complaints.	Rep. Lickley
<a href="#">H 560</a>	Amending RE: powers of POST council.	Rep. Hartgen
<a href="#">H 596</a>	Repealing RE: motor owner guest liability.	Rep. Ruchti
<a href="#">H 598</a>	Amending RE: DNA analysis exceptions.	Rep. Cannon

\* Meeting to adjourn by 4:00 p.m.

***Public Testimony Will Be Taken by Registering Through the Following Link:  
[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Tuesday, February 15, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti (Roberts), Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**UNANIMOUS  
CONSENT  
REQUEST:** **Rep. Nash** made a unanimous consent request that **Rep. Troy, Amador,** and himself be excused from voting on **HR 10, HR 11, HR 12, HR 13, HR 14, HR 15, HR 16, HR 17, HR 18** due to their serving on the Joint Finance and Appropriation Committee (JFAC). There being no objection, the request was granted.

**HR 18:** **Rep. Manwaring** presented **HR 18** speaking in support of the permanent building fund request made by the Department of Correction for a new reentry center in District 29, Pocatello.

**Chairman Chaney** stated he will be presenting this germane committee's recommendations to JFAC on February 16th, and the nine house resolutions on today's agenda were intended to help him get the committee's input in a more formal way. The committee had previously expressed a desire to be more closely consulted when it comes to policy questions. This method was devised because this has profound policy implications and the JFAC committee had requested more input from the germane committees. Some members of the committee expressed their objection to this method and discussed a less formal approach where each committee member would give their opinion to then be passed along to the JFAC Committee in the Chairman's presentation.

**MOTION:** **Rep. Gannon** made a motion to send **HR 18** to the floor with a **DO PASS** recommendation.

The Committee voiced more concerns about the method of these being in House Resolution form.

**ROLL CALL  
VOTE:** A roll call vote was requested. **Motion carried by a vote of 11 AYE and 2 NAY, 4 ABSENT/EXCUSED.** Voting in favor of the motion: **Reps. Chaney, Hartgen, Kerby, Marshall, Young, Cannon, Erickson, Skaug, Gannon, McCrostie, and Ruchti.** Voting in opposition to the motion: **Reps. Scott and Nate.** **Reps. Amador, Ehardt, Troy and Nash were absent/excused.** Rep. Chaney will sponsor the bill of the house floor.

**Chairman Chaney** turned the gavel over to **Vice Chair Hartgen.**

**HR 16:** **Rep. Chaney** presented **HR 16** in support of the Idaho State Police (ISP) supplemental budget request for a new, first time ever, helicopter, hoist, hanger, and the needed support positions.

**Sheriff Chris Goetz**, Clearwater County Sheriff, representing the Idaho Sheriff's Association testified in support of **HR 16**. He explained that Clearwater County has had a contract helicopter program since 1978 and listed the different uses including search and rescue. Sheriff Goetz answered committee questions regarding helicopter ownership costs, storage, existing contracts in other counties, hours in use, and alternatives if contracted helicopters were not available.

**Colonel Kedrick Wills** of the Idaho State Police, spoke in support of **HR 16** and explained the advantages of using air support for a variety of law enforcement incidents. He said helicopters are a solution in law enforcement because of speed, agility, efficiency, and the advantage point they offer and that forty-six states have helicopter air support for law enforcement incidents. Helicopters are great tools for search and rescue incidents and pursuits; they are a force multiplier, he stated, because of the vantage point, law enforcement can solve more crimes and respond to incidents more quickly with increased safety for officers and for the public.

Committee members expressed concerns about the helicopter being used mainly for the Treasure Valley area and not evenly across the state. There were questions about costs pertaining to ongoing expenses after the initial start-up costs, and the staff required to support a helicopter unit. Committee members questioned the reimbursement process for counties if the state helicopter was utilized. There were questions about whether drones would be less expensive, and the limitations of their use. In response to committee questions, **Colonel Wells** compared contract helicopter expenses to this proposed infrastructure investment. He explained that availability at the time of a crisis is the main drawback of using contract helicopter services.

**Tammany Brooks**, Deputy Chief of the Boise Police Department, spoke in support of **HR 16**, saying it would benefit Boise and the Treasure Valley who currently have no aviation assets for police pursuits, searches for dangerous or missing subjects, or other high risk, high liability activities. He said it is currently challenging to manage these situations in a manner consistent with national best practices and that the unique elevated view a helicopter provides, is invaluable for better on-site decisions in a wide range of incidents. In response to Committee questions about drones, Deputy Chief Brooks explained that drones are in use and are helpful in many incidents, however, drones cannot be flown beyond the line of sight of the operator and there are many situations that this limitation excludes their use.

**Kieran Donahue**, Canyon County Sheriff, spoke in support of **H 16** explaining that a helicopter is an invaluable piece of equipment for search and rescue and extracting individuals off mountains. He stated that the more populated Idaho becomes, the more air support will be needed, and the faster law enforcement can respond to missing children reports and life and death calls for help. Sheriff Donahue does not expect agencies will have a problem sharing the equipment; there is a shared understanding of priorities assigned to calls and the helicopter would be put to work accordingly. In response to Committee questions, Sheriff Donahue explained that frequently search and rescue areas are too large for drones to be the right equipment; the battery life averages 20 minutes before they must return to their handlers. Different cost options were considered but from a law enforcement perspective, the priority and availability of the equipment were determined most important. In response to staff shortage questions, it was explained that helicopters are a force multiplier, and it can reduce the number of personnel required to respond to incidents.

**Colonel Kedrick Wills** responded to Committee questions about the life expectancy of a helicopter saying that the hours of use factor into the life of a helicopter and Utah's helicopters average 10-15 years.

**Major General Michael Garshak**, Adjutant General for Idaho, said pertaining to the military's life expectancy of helicopters some of the helicopters flying today were manufactured in the early 1980s and based on that, the life expectancy could be 30 years.

Committee members expressed concerns about the expense and liability of keeping and maintaining helicopters.

**ORIGINAL MOTION:**

**Rep. Scott** made a motion to **HOLD HR 16** in Committee.

**Rep. Chaney** addressed some of the Committee's concerns explaining that the availability of a helicopter in an instant is key to the needs of law enforcement, it is not possible to schedule these events, and the problem with contracting and borrowing from other government entities or other states is waiting for availability.

More concerns were voiced about having just one helicopter when it sounds as if there is a need for five already, and that its primary use would be in the Treasure Valley.

**SUBSTITUTE MOTION:**

**Rep Kerby** made a substitute motion to send **HR 16** to the floor with a **DO PASS** recommendation.

In committee discussion, it was said that this is a complex problem that boils down to public safety and not a cost analysis kind of decision. A helicopter is a significant investment for the State, a boost to public safety, and it is expected to last 20-30 years. It was also expressed that the Committee isn't "resolved" so committee resolution should not be communicated to JFAC, and that understaffing should be addressed before assessing the need for a helicopter.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:**

Roll call vote was requested. **Substitute motion failed by a vote of 4 AYE and 9 NAY, 4 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby and Ruchti. Voting in opposition** of the motion: **Reps. Scott, Marshall, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**ROLL CALL VOTE ON ORIGINAL MOTION:**

Roll call vote was requested. **Original motion carried by a vote of 10 AYE and 3 NAY. Voting in favor** of the motion: **Reps. Scott, Marshall, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Reps. Chaney, Hartgen, and Kerby. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**MOTION:**

**Rep. Marshall** made a motion to **HOLD** all the remaining resolutions **HR 10, HR 11, HR 12, HR 13, HR 14, HR 15, HR 16 and HR 17** in committee with the idea that there will be simple committee resolutions on these and not formal House Resolutions.

**UNANIMOUS CONSENT REQUEST:**

**Rep. Marshall** made a unanimous consent request to modify the motion. There being no objection, the request was granted.

**MOTION:**

**Rep. Marshall** made a modified motion to **HOLD** all remaining resolutions in committee but have a discussion about each topic so the Chairman can relay to JFAC the JRA Committee's opinion on each issue. **Motion carried by voice vote.**

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

**HR 10:**

**Chairman Chaney** asked for the committee's position on the subject of **HR 10** and a new women's prison.

**MOTION:**

**Rep. Marshall** made a motion to support **HR 10**.

**SUBSTITUTE MOTION:** **Rep. Gannon** made a substitute motion that the committee recommends support for the new women's prison with the understanding that out-of-state beds will abate.

**Director Tewalt**, Department of Correction, was asked to respond to specific questions about how a new facility would reduce dependence on county jails and out-of-state beds.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** Roll call vote was requested. **Substitute motion carried by a vote of 11 AYE and 1 NAY, 4 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby, Marshall, Young, Cannon, Erickson, Skaug, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Rep. Nate. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**HR 11:** **Rep. Chaney** introduced the subject of **HR 11**, the use of ARPA funding for extradition transport costs, and asked if there was any discussion.

**MOTION:** **Rep. Marshal** made a motion to support **HR 11**.

**ROLL CALL VOTE ON MOTION:** Roll call vote was requested. **Motion carried by a vote of 11 AYE and 1 NAY, 4 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby, Marshall, Young, Cannon, Erickson, Skaug, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Rep. Nate. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**HR 12:** **Rep. Chaney** introduced the subject of **HR 12**, the use of ARPA funding for prison wastewater improvements, and asked if there was any discussion.

**MOTION:** **Rep. Hartgen** made a motion to approve the recommendation contained in **HR 12**.

**ROLL CALL VOTE ON MOTION:** Roll call vote was requested. **Motion carried by a vote of 11 AYE and 1 NAY, 4 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby, Marshall, Young, Cannon, Erickson, Skaug, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Rep. Nate. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**HR 13:** **Rep. Chaney** introduced the subject of **HR 13**, the use of ARPA funding for victim services.

**Dana Weimiller**, Grant Councilor for the Council on Domestic Violence and Victim Assistance, spoke **in support** of **HR 13**. She explained that this additional funding is necessary because there is a critical demand for services and a sharp decline in federal funding this year and ARPA funding can fill the gap.

**MOTION:** **Rep. Cannon** made a motion to support **HR 13**.

**ROLL CALL VOTE ON MOTION:** Roll call vote was requested. **Motion carried by a vote of 10 AYE and 1 NAY. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby, Marshall, Cannon, Erickson, Skaug, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Rep. Nate. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**HR 14:** **Rep. Chaney** introduced the subject of **HR 14**.

**MOTION:** **Rep. Chaney** made a motion to support the use of ARPA funding for the Department of Correction facility maintenance costs.

**ROLL CALL VOTE ON MOTION:** Roll call vote was requested. **Motion carried by a vote of 10 AYE and 1 NAY, 4 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby, Marshall, Cannon, Erickson, Skaug, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Rep. Nate. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**HR 15:** **Rep. Chaney** introduced the subject of **HR 15**, the use of ARPA funding for Court technology costs.



**MOTION:** **Rep. Hartgen** made a motion to support **HR 15**.

A correction in the SOP was cited pertaining to the amount of ARPA funding involved. The correct amount is \$19 million. Committee concerns were expressed about the amount of ARPA funding.

**Sara Olmsfield** from the Idaho Supreme Court, was invited to explain about the \$19 million requested, to be spent over a three year period of time. The court would use the funding to acquire case resolution resources, a continuity of services infrastructure, system security and stability, and public protection equipment. Certain counties need to be upgraded to continue online services, and to address the current backlog of cases, she said. She spoke about the increases in certain kinds of cases and the impact of those cases on the court budget. Part of the funding would be used to acquire an online dispute resolution program which will allow for greater use of mediators to resolve cases. Also, there are increased costs related to the use of translators; over the past year translators in 42 different languages have been necessary. There have been delays due to this, there are limited translators, and their availability plays in. An online dispute resolution program will allow for use of translators from wherever they are and save the expense of bringing them to Idaho. Building a better computer system architecture will allow court clerks and judges to access case computer audios from wherever they are, reducing travel and improving efficiency. All these improvements will allow civil and criminal cases to move forward more quickly but it must be done securely, and the current system requires many improvements to accomplish this.

**SUBSTITUTE MOTION:** **Rep. Marshall** made a substitute motion to support the request with the caveat that it is used over a three year period of time, and the public is restored to speedy and efficient trials and court cases.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** Roll call vote was requested. **Substitute motion carried by a vote of 9 AYE and 1 NAY, 4 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby, Marshall, Cannon, Erickson, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Rep. Nate. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**HR 17:** **Rep. Chaney** introduced **HR 17**.

**MOTION:** **Rep. Chaney** made a motion to support **HR 17**.

**ROLL CALL VOTE ON MOTION:** Roll call vote was requested. **Motion carried by a vote of 8 AYE and 2 NAY, 4 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Chaney, Hartgen, Kerby, Cannon, Erickson, Gannon, McCrostie, and Ruchti. Voting in opposition** of the motion: **Reps. Nate and Marshall. Reps. Amador, Ehardt, Troy, and Nash were absent/excused.**

**H 540:** **Rep. Lickley** presented **H 540** pertaining to law enforcement training in connection to sexual assault complaints. She explained that law enforcement is already providing information to victims of domestic violence to connect them with services and that this legislation would expand this to include the victims of sexual assault.

**MOTION:** **Rep. Erickson** made a motion to send **H 540** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Lickley** will sponsor the bill on the floor.

**H 560:** **Rep. Hartgen** presented **H 560** which amends the current statute pertaining to the name of Misdemeanor Probation Advisory Committee to Misdemeanor Probation Training Council which better reflects their current bylaws.

**MOTION:** **Rep. Cannon** made a motion to send **H 560** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Hartgen** will sponsor the bill on the floor.

**H 596:** **Rep. Ruchti** presented **H 596** which is a clean-up bill repealing a section of Idaho Code regarding the inability to sue the driver of a vehicle if that person is not being compensated for being the driver. This statute was declared unconstitutional in a 1974 court case and it needs to be removed from code because it does not match current practices, he stated. There was some legal question about when this statute was last used and whether it should be repealed that could not be answered at this time.

**UNANIMOUS CONSENT REQUEST:** **Chairman Chaney** made a unanimous consent request to **HOLD** the bill until the meeting on February 21, 2022, to allow for some legal questions to be answered. There being no objections the request was granted.

**H 598:** **Rep. Cannon** presented **H 598** which amends a portion of the current statute to clarify DNA analysis exceptions. He explained that this legislation would allow employers in forensics to require DNA samples of their employees for the purpose of evidence integrity.

**MOTION:** **Rep. Erickson** made a motion to send **H 598** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Cannon** will sponsor the bill on the floor.

**MOTION:** **Rep. Marshall** made a motion to reconsider the vote on **HR 18** so that the committee message would be consistent. **Motion carried by voice vote.**

**UNANIMOUS CONSENT REQUEST:** **Chairman Chaney** made a unanimous consent request to **HOLD HR 18** in the committee. There being no objections the request was granted.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:56 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, February 17, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">H 658</a>	Execution, Confidentiality	Rep. Chaney
<a href="#">H 597</a>	MOTOR VEHICLES - Amends and adds to existing law to provide for reinstatement of a driver's license upon proof of penalty payment and to provide for the suspension of a driver's license upon a failure to pay an infraction penalty.	Rep. McCrostie
<a href="#">H 622</a>	DIVORCE ACTIONS - Amends existing law to provide for certain factors regarding the assignment of community property.	Rep. Chaney
<a href="#">HJM 4</a>	BUTTE COUNTY - States findings of the Legislature and resolves that it must be ensured that rural counties with large federal installations are not negatively affected by core-based statistical area designations.	Rep. Furniss
<a href="#">HCR 35</a>	LOUISE MCCLURE - States findings of the Legislature and recognizes the outstanding contributions that Louise McClure made to the people of Idaho through her selfless public service and commitment to the arts and recognizes March 30, 2022, as Louise McClure Day in honor of her extraordinary impact on Idaho and the world.	Rep. Troy

**Public Testimony Will Be Taken by Registering Through the Following Link:**  
[\*\*Register to Testify\*\*](#)

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney                      Rep Marshall  
Vice Chairman Hartgen                Rep Troy  
Rep Kerby                                Rep Young  
Rep Amador                              Rep Nate  
Rep Ehardt                                Rep Cannon  
Rep Scott                                 Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Thursday, February 17, 2022

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti (Roberts), Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt, Erickson

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**Chairman Chaney** provided instructions for remote testimony and turned the gavel over to **Vice Chairman Hartgen**.

**H 658:** **Chairman Chaney** presented **H 658**, which would keep certain information about the performance of the death penalty private. He reviewed what states have the death penalty and those states that have adopted different means to carry out an execution. If **H 658** is rejected a different method of execution will be required going forward in Idaho.

**Brian Kane**, Deputy with the AG's Office, assured the committee that proper review of death penalty cases occurs and that these amendments are necessary for the State to carry out executions. He said if this legislation isn't accepted then the method of execution is going to have to change because the State will be unable to perform executions.

**Josh Tewalt**, Director of the Department of Correction (DOC), spoke about the importance of agency transparency especially in conducting executions. The question is whether certain details involved in the process have the right to be protected or not. He explained the instructions in the Administrative Rules outlining the state's ability and process for performing executions and that the Board of Correction specifically reviewed this and made changes to allow for more transparency where possible and yet to protect the integrity of the process. As of today, capital punishment is the law in Idaho and unless the protections in **H 658** are put in place the DOC does not have the ability to carry out an execution according to law.

The committee asked questions about the 2012 execution and the news story. **Mr. Tewalt** responded that the news story was an alleged piece, and he verified the parts of those executions that were public information.

The committee questioned this legislation's necessity if the execution process is already supported in Administrative Rules. **Chairman Chaney** answered that the suppliers of the drugs needed to conduct an execution are not confident that the current Rules will protect their identity. The committee had questions about how many executions have occurred in more recent State history and how executions may have been prevented. Chairman Chaney responded two executions have been carried out over 30 years and none have been prevented.

**MOTION:** **Rep. Skuag** made a motion to send **H 658** to the floor with a **DO PASS** recommendation.

**Ken Burgess** representing the Idaho Press Club, spoke **in opposition** of the bill saying that everything pertaining to a public execution should be public including the drug information.

**Lauren Bramwell** representing the American Civil Liberties Union (ACLU) spoke **in opposition** of the bill. Secrecy will not make the drugs more available it will make the process longer, the public has the right to know where the drug is obtained and the drug's ingredients. The committee questioned whether the ACLU has an official position on the death penalty. Ms. Bramwell stated, the ACLU opposes the death penalty but stated that the issue with this legislation is its restricted access to information and that there is a better solution.

**Chairman Chaney** clarified that H 658 is intended to protect the identities of the drug suppliers and administrators and not the name of the drug used. **Director Tewalt** responded to more committee questions regarding options, and he explained that according to Idaho Constitution the only other execution alternative is a firing squad and he does not want to ask his staff to perform that method. Several drug companies have asked to be excluded from public disclosure and the Department of Correction does not have another way to obtain the necessary drug chemicals. The committee questioned whether **H 658** would create a problem with Eighth Amendment violations and Chairman Chaney responded it would not.

**MOTION:** **Rep. Marshall** made a motion to send **H 658** to the floor with a **DO PASS** recommendation.

Speaking to the motion, **Rep. Marshall** stated that it has never been accepted in this country that the citizens have the right to know every detail of what the government does. This is why there are different branches of government, to give citizens assurance that important things are carried out with the right balance of what can be disclosed. There was further discussion by the committee on the efficacy of this motion and the circumstances by which it has come about.

**ROLL CALL VOTE:** A roll call vote was requested. **The motion carried** by a vote of: **9 AYE and 5 NAY**. **Voting in favor** of the motion: **Reps. Chaney, Hartgen, Amador, Scott, Marshall, Young, Nate, Erickson, and Skaug**. **Voting in opposition** to the motion: **Reps. Cannon, Gannon, McCrostie, Roberts, and Nash**. **Reps. Ehardt and Erickson were absent/excused**. **Chairman Chaney** will sponsor the bill on the house floor.

**H 597:** **Rep. McCrostie** presented **H 597** amending existing law for the reinstatement of a driver's license under certain circumstances – upon proof of penalty payment and to provide for the suspension of a driver's license upon a failure to pay an infraction penalty. A different bill went through last year that caused an unintended problem, and this bill restores some language that was inadvertently removed.

**Michael Kane** representing AAA, spoke **in support** of the bill and explained how the discrepancy was discovered. The committee asked clarifying questions on the changes to the language regarding a conflict with ITD around the suspension of the license for 90-days.

**Chairman Chaney** answered a committee question about the emergency clause and why it is not listed as a true emergency. The courts said it was difficult to put all the changes back into the system so there needs to be some education among law enforcement and retrofitting among courts to accommodate this legislation.

**Matthew Conde** representing AAA spoke **in support** of the bill saying it has some elements of mercy and yet holds people accountable.

- MOTION:** **Rep. Cannon** made a motion to send **H 597** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. McCrostie** will sponsor the bill on the floor.
- Chairman Chaney** turned the gavel over to **Vice Chairman Hartgen**.
- H 622:** **Chairman Chaney** presented **H 622**; this bill amends existing law to allow judges to use more information to better determine the division of property in divorce cases where 50/50 split of property is not appropriate, like in the case of marital infidelity, abuse, cruelty, willful neglect, and abandonment. The bill allows judges to factor in the reasons for divorce when deciding the division of property.
- Chairman Chaney** and **Rep. Cannon** declared a rule of 80.
- The committee questioned the "mudslinging" this bill might open up. **Chairman Chaney** responded by saying there is some existing case law that would limit or prevent that. Very specific legal questions were involved.
- MOTION:** **Rep. Skaug** made a motion to send **H 622** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Chairman Chaney** will sponsor the bill on the house floor.
- Vice Chairman Hartgen** turned the gavel back over to **Chairman Chaney**.
- HJM 4:** **Rep. Furniss** presented **HJM 4** explaining this bill is intended to prevent rural counties with large federal installations from negatively being affected by core-based statistical area designations.
- MOTION:** **Rep. Young** made a motion to send **HJM 4** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Furniss** will sponsor the bill on the floor.
- HCR 35:** **Rep. Troy** presented **HCR 35** honoring **Louise McClure** for her contribution to Idaho during her lifetime.
- MOTION:** **Rep. Amador** made a motion to send **HCR 35** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Troy** will sponsor the bill on the floor.
- ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:17 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #3**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**3:00 P.M.**  
**Room EW42**  
**Monday, February 21, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Minutes approval 01/25, 01/27, 01/31, 02/09, 02/11.	Rep. Chaney
<a href="#">H 596</a>	TRANSPORTATION - Repeals existing law to remove an obsolete provision relating to motor owner guest liability.	Rep. Ruchti
<a href="#">H 617</a>	REAL PROPERTY - Adds to existing law to establish provisions regarding fairness in rental applications.	Rep. Ruchti
<a href="#">H 624</a>	LANDLORDS AND TENANTS - Amends existing law to provide that notice of an increase in rent or nonrenewal of a lease must be given at least 60 days before the increase or nonrenewal.	Rep. Gannon
<a href="#">H 623</a>	TRESPASS - Amends existing law to provide that a process server serving legal documents is not committing civil or criminal trespass.	Rep. Chaney
	Agency Update/Public Defense Commission	Kathleen Elliott, Executive Director
<a href="#">61-0101-2101</a>	General Provisions and Definitions - Proposed Rule	Kathleen Elliott, Executive Director
<a href="#">61-0102-2101</a>	Requirements and Procedures for Representing Indigent Persons - Proposed Rule	Kathleen Elliott, Executive Director

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
[\*\*\*Register to Testify\*\*\*](#)

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney                      Rep Marshall  
Vice Chairman Hartgen                Rep Troy  
Rep Kerby                                Rep Young  
Rep Amador                               Rep Nate  
Rep Ehardt                                Rep Cannon  
Rep Scott                                 Rep Erickson

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Monday, February 21, 2022

**TIME:** 3:00 P.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt, Skaug

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

**Chairman Chaney** called the meeting to order at 3:14 p.m.

**Chairman Chaney** welcomed everyone and provided instructions on how to registered to testify.

**MOTION:** **Rep. Cannon** made a motion to approve the January 25, January 27, January 31, February 9, and February 11, 2022, meeting minutes. **Motion carried by voice vote.**

**H 596:** **Rep. Ruchti** continued his presentation of **H 596** from the February 15, 2022 committee meeting. He explained that Idaho code 49-2415 is obsolete, and the Supreme Court has determined it unconstitutional. This legislation simply removes 49-2415 from Idaho's statutes and reduces confusion. The question raised at the February 15 meeting has been investigated; there was a slight change made to this statute in the late 1980s; it was only the addition of legal note and is inconsequential to this legislation.

**MOTION:** **Rep. McCrostie** made a motion to send **H 596** to the floor with a **DO PASS** recommendation.

**Reps. Cannon, Ruchti, and Chaney** declared a rule 80 stating a potential conflict of interest.

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

**H 617:** **Rep. Ruchti** presented **H 617** explaining that this legislation is intended to protect renters or potential tenants from the unscrupulous business practices of landlords or property management companies concerning renter application fees. He explained that there is a housing shortage in today's housing market in Idaho, the Treasure Valley, especially for rentals. With demand exceeding supply, it is alleged that the practice of charging rental application fees is being taken advantage of, and **H 617** would set some parameters on when and how rental application fees could be charged and collected.

**MOTION:** **Rep. Kerby** made a motion to send **H 617** to the floor with a **DO PASS** recommendation.

Committee members express concerns over the absence of an enforcement mechanism in the proposed legislation. There was discussion about whether an enforcement mechanism was necessary or if the legislation could be applied in connection with the Consumer Protection Act.



**Lisa Sanchez, Andrew Masser, Pam Roemer, Lori Dicaire** representing themselves and **Johnathan Baldauf**, Baldauf Masser LLP spoke **in opposition** to **H 617**. Some testified that the rental regulations currently in place are adequate. And other individuals testified that this legislation is needed to protect renters from paying hundreds of dollars in application fees, and property managers are allegedly taking many applications, even hundreds, for one available property. This particular legislation does not have an enforcement mechanism. While its intent is good, it needs to be improved to actually protect the right of renters who cannot afford legal representation.

**Alison Rabe, Angelica Moran, Nikki Eytchison, Kristen Pooley** representing themselves; **Spencer Henderson**, Realty Management Associates Inc & NARPM SW Idaho; **Cassandra Swanson**, SW Idaho NARPM; **Doug Taylor**, Lobbyist, Idaho Apartment Association; **Christine Pisani**, Idaho Council on Developmental Disabilities; **Paul Smith**, Idaho Apartment Association; and **Denise Caruzzi**, Boise/Ada County Homeless Coalition spoke **in support** of **H 617**. Some testified that the bill would be better with an enforcement mechanism, but because it is a step in the right direction, they do support **H 617**. Others said the bill is very helpful in its current form. It does set parameters for property managers, and if used in connection with the Consumer Protection Act, it should be sufficient to protect renters.

**SUBSTITUTE MOTION:**

**Rep. Gannon** made a substitute motion to send **H 617** to general orders to have an enforcement mechanism added.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:**

**Substitute motion failed by a vote of 2 AYE, and 12 NAY. Voting in favor** of the motion: **Reps. Scott and McCrostie. Voting in opposition** to the motion: **Reps. Hartgen, Kerby, Marshall, Troy, Young, Nate, Cannon, Erickson, Gannon, Ruchti, Nash, and Chaney.**

**ROLL CALL VOTE:**

**Motion carried by a vote of 10 AYE, and 4 NAY. Voting in favor** of the motion: **Rep. Hartgen, Kerby, Marshall, Troy, Erickson, Gannon, McCrostie, Ruchti, Nash and Chaney. Voting in opposition** to the motion: **Rep. Scott, Young, Nate, and Cannon.** Rep. Ruchti will sponsor the bill on the floor.

Committee members expressed concern about time with the number of items still remaining on the agenda.

**MOTION:**

**Rep. Kerby** made a motion to adjourn the meeting. **Motion carried by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 5:00 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #3**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**3:00 P.M.**  
**Room EW42**  
**Wednesday, February 23, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

SUBJECT	DESCRIPTION	PRESENTER
	Agency Update/Idaho Attorney General	Lawrence Wasden, Attorney General
<a href="#">H 599</a>	IDAHO CHILD ABDUCTION PREVENTION ACT - Adds to existing law to provide measures for the prevention of child abductions in Idaho.	Rep. Chaney Daton Lynch, Corp. & Policy Counsel, National Center for Missing & Exploited Children
<a href="#">H 499</a>	PERSI - Amends existing law to provide police officer member status to emergency communications officers.	Rep. Chaney
<a href="#">H 620</a>	BOOKING PHOTOGRAPHS - Amends existing law to provide that a booking photograph shall not be made public in certain instances and to provide certain exceptions.	Rep. Green
<a href="#">H 621</a>	PUBLIC RECORDS - Amends existing law to provide that certain cybersecurity records are exempt from disclosure.	Rep. Manwaring

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
***[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, February 23, 2022

**TIME:** 3:00 P.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

**Chairman Chaney** called the meeting to order at 3:54 p.m.

**Chairman Chaney** introduced the new page, **Audrey Payne**.

**Lawrence Wasden**, Idaho Attorney General, gave an update on the status of the Attorney General's Office. In 2021, the AG's office recovered forty four million dollars; for every dollar they were appropriated, they recovered one dollar and sixty six cents. The Office also provides legal advice to many state clients and has filed three lawsuits on the federal vaccine mandates. The Internet Crimes Against Children unit arrested fifty eight people in 2021 but is still struggling with a growing backlog of cases. In order to alleviate this, they are training local police in specific strategies. He also brought to the committee's attention the problems the office is currently facing. Turnover is up ten percent from previous years because the pay is insufficient, and the workload is not sustainable. Pay in the Attorney General's Office is fifteen percent behind other public sector employers. Therefore, they are requesting a budget which would allow at least a ten percent increase in salaries. Additionally, they would like lump sum spending authority which is critical for managing the budget and would reduce supplemental appropriation requests.

**Chris McCormick**, head of the Internet Crimes Against Children (ICAC) unit, explained how they detect, investigate, and prosecute those who use the internet to prey on children. Additionally, they conduct law enforcement training to further their ability to thoroughly investigate all cases. Most of the cases come from the National Center for Missing and Exploited Children but they also assist local agencies. ICAC has a nineteen-person unit that includes nine full time affiliates from police departments around the state. This year the unit has one thousand seven hundred pending cyber tips compared to seven hundred last year.

In response to questions about whether the money regained by the Attorney General's Office could be reinvested into the Office, **Attorney General Wasden** said that money is either earmarked by the courts for a specific purpose or it goes into the Consumer Protection Account which is emptied by the legislature every year to be re-appropriated as they see fit.

In response to questions about how the ICAC unit addresses the needs of indigenous tribes, **Mr. McCormick** explained that they have very little jurisdiction in those areas but are working to find ways to assist.

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

**H 599:**

**Rep. Chaney** presented **H 599** which provides the courts the tools necessary to intervene in an attempted abduction. This legislation would not create any new right to issue a custody order, it would not create any new basis for requesting a custody order, and would not add to the ability of the courts to intervene in child custody matters. It provides some improved support for law enforcement to recover individuals.

**Dayton Lynch**, Legal Counsel for the National Center for Missing and Exploited Children (NCMEC), said this legislation would add to existing law to provide measures for the prevention of child abductions in Idaho by identifying those who are at risk of family abduction and preventing that abduction from taking place. The law also includes statutory safeguards to prevent the measures from being misused.

In response to questions about possible additional burdens on the courts, **Mr. Lynch** said the court would have to review the petitions and determine the risk. However, there would be a framework for problems they already work with so there wouldn't be an additional burden.

In response to questions about similar laws in other states, **Mr. Lynch** said currently fifteen states have adopted similar laws.

**Rep. Chaney** declared Rule 80 and further explained these cases will ultimately end up in the courts, but this legislation would prevent the abduction from actually taking place.

In response to questions about how this legislation would keep from incriminating innocent parents, **Rep. Chaney** said each case would be examined based on a list of factors used to determine the risk and on a preponderance of evidence. The only people with grounds to file these petitions are those with equal or superior parental rights. This would allow for turning over the child's passport temporarily until the case comes before the court. Currently, nothing will be done for twenty-four hours after the parent has left with the child and at that point, a motion for contempt of court will be filed but nothing will come of that for three or more months. This legislation would allow for faster action while still requiring a high level of evidence.

**Mr. Lynch** said that imminent cases have a very high burden and only in these cases can a child be removed from the custody of the abducting parent. Other cases take more time to determine the risk of that particular situation. Additionally, the list of factors used to evaluate risk is based on research determining early risk factors for family abduction. There have been very few issues with this in the other states where it has been enacted.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Rep. Gannon** asked unanimous consent that **H 599** be moved to the bottom of the agenda. There being no objection, the request was granted.

**H 499:**

**Rep. Chaney** presented **H 499** which would amend existing law to allow emergency communications officers to be included in the PERSI Rule of 80 classification. He explained that the intense concentration, pressure, multitasking, and physical alertness required of a dispatch officer cannot be continued for the years required to reach rule of 90. At present, no one in this position has made it to full retirement.

**Fred Birnbaum**, Idaho Freedom Foundation, spoke **in opposition** to **H 499** because using stress as the qualifying factor for Rule of 80 would open it to a multitude of other positions. He argued that the cost will be born primarily by the employer and this could affect the General Fund. Additionally, with the labor force participation rate declining, it is unwise to encourage more people to leave the workforce earlier. The Rule of 80 should be restricted to those who are risking their lives because when these people reach a certain age they are no longer capable of carrying a person out of a burning building or chasing and wrestling a suspect to the ground.

**Robin Stellers**, Director of the Blaine County Emergency Communications, testified **in support** of **H 499** explaining the difficulties of working as a dispatch officer. These individuals are POST-certified and recognized as first responders. Workers' compensation recognizes PTSD as an injury caused by the work.

**Cara Murray**, **Joe Huff**, president of the Idaho Police Chiefs Association, and **Cortney Lyskoski** spoke **in support** of **H 499** because at a certain age or point a person is not able to do this work. It takes extreme multitasking abilities, focus, and quick decision-making. In order to keep the public safe, these people need to be allowed to retire early.

**Murphy Olmstead**, Lobbyist representing the Idaho Sheriffs Association, testified **in support** of **H 499** and explained there are forty-six primary dispatch centers and five hundred eighty dispatchers in Idaho. This legislation would help attract and retain employees in a critical field.

**Michael Sandvig**, president emeritus of the State organization of the National Alliance on Mental Illness, spoke **in support** of **H 499** because this position is trying on the mental health of the dispatcher. They need to be able to retire when they are not able to perform the job anymore.

**Rep. Chaney** closed by saying this legislation would provide hope and give dispatchers a reasonable time to perform their job knowing they will be able to make it to retirement.

**MOTION:**

**Rep. Marshall** made a motion to send **H 499** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Chaney** will sponsor the bill on the floor.

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

**H 620:**

**Rep. Erickson** and **Rep. Green** presented **H 620** explaining this legislation would amend existing law to provide that booking photographs shall not be made public in certain instances and to outline those exceptions. The mugshot would not be released before preliminary hearing and adjudications, especially in cases where mental health negatively affects a person's ability to work.

**Murphy Olmstead**, Lobbyist representing the Idaho Sheriffs Association, spoke **in opposition** to **H 620** because mugshots are tools law enforcement officers use to discover information and otherwise perform their duties. Additionally, this would require law enforcements officers to hire someone to change their IT departments.

**Jeri DeLange**, **Roni Ramos**, National Association of Social Workers, and **Beth Markley**, National Association of Mental Illness, spoke **in support** of **H 620** because publishing the mugshot gives the public a chance to convict people before they are adjudicated. It creates a stigma that is very difficult to overcome and can be particularly damaging to those who are already experiencing mental health difficulties.

**MOTION:** **Rep. Marshall** made a motion to send **H 620** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Erickson and Green** will sponsor the bill on the floor.

**H 621:** **Rep. Manwaring** presented **H 621** saying this legislation would amend existing law to provide that certain cybersecurity records are exempt from disclosure. Cybersecurity is used to protect computer systems from sabotage and being made public would open up systems to attack.

**MOTION:** **Rep. Gannon** made a motion to send **H 621** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Manwaring** will sponsor the bill on the floor.

**UNANIMOUS CONSENT REQUEST:** **Rep. Chaney** asked unanimous consent to **HOLD H 599** in committee at the call of the chair. There being no objection, the request was granted.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 5:48 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Friday, February 25, 2022**

Or upon adjournment

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">H 625</a>	DISTRIBUTION OF UNSOLICITED SEXUAL MATERIAL - Adds to existing law to provide for the crime of distribution of unsolicited sexual material.	Rep. Troy
<a href="#">H 616</a>	CORPORATE FILINGS - Amends existing law to establish provisions regarding filings by certain private foundations and charitable trusts.	Rep. Troy

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
***[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Friday, February 25, 2022

**TIME:** Upon adjournment

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt, Erickson, McCrostie, Scott

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

**Chairman Chaney** called the meeting to order at 11:28 a.m.

**H 625:** **Rep. Troy** (5) presented **H 625** which pertains to the distribution of unsolicited material and adds to existing law to provide for the crime of distributing unsolicited sexual material. Rep. Troy explained how **H 625** originated in her district, saying the law school offers pro bono legal work and through that work discovered this is a significant problem and it needs to be addressed.

In response to committee questions about whether this legislation would apply to the breakup of pre-existing relationships, she explained that prosecutors helped write the language of this legislation. In cases of pre-existing relationships the court would have to make those determinations based on intent.

**MOTION:** **Rep. Kerby** made a motion to send **H 625** to the floor with a **DO PASS** recommendation.

Committee concerns were raised about the broadness of **H 625**, the potential criminalization of individuals, and yet the undeniable need of addressing this issue. How it would apply to pre-existing relationships that end was of a specific concern. Committee members would like to have input from the prosecutor's office on this legislation.

**SUBSTITUTE MOTION:** **Rep. Skaug** made a substitute motion to hold **H 625** in committee at the call of the chair.

**UNANIMOUS CONSENT REQUEST:** **Chairman Chaney** made a unanimous consent request to amend the substitute motion. There being no objection, the request was granted.

**AMENDED SUBSTITUTE MOTION:** **Rep. Skaug** made an amended substitute motion to hold **H 625** in committee until the next scheduled committee meeting on Tuesday, March 1, 2022. **Motion carried by voice vote.**

**H 616:** **Rep. Troy** presented **H 616** pertaining to corporate filings and amending existing law to establish provisions regarding certain private foundations and charitable trusts. Rep. Troy introduced **Kate Haas**, Kestrel Law, who explained that this legislation originated from problems that have occurred in other states. It's intention is to protect Idaho foundations and charitable trusts from elected officials using the power of the state to target private organizations.



**MOTION:** **Rep. Nash** made a motion to send **H 616** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** Rep. Troy will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee the meeting adjourned at 11:54 a.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or upon adjournment**  
**Room EW42**  
**Tuesday, March 01, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Agency update/Public Defense Commission	Kathleen Elliott, Executive Director
<a href="#">61-0101-2101</a>	General Provisions and Definitions - Proposed Rule	Kathleen Elliott, Executive Director
<a href="#">61-0102-2101</a>	Requirements and Procedures for Representing Indigent Persons - Proposed Rule	Kathleen Elliott, Ex.Director, PDC David Carroll, Ex.Director, Sixth Amendment Center
<a href="#">H 541</a>	LIMITATIONS OF ACTIONS - revises provisions regarding an action to foreclose mortgage on real property.	Rep. Skaug
<a href="#">H 623</a>	TRESPASS - provides that a process server serving legal documents is not committing civil or criminal trespass.	Rep. Chaney
<a href="#">H 625</a>	DISTRIBUTION OF UNSOLICITED SEXUAL MATERIAL - provides for the crime.	Rep. Troy
<a href="#">H 629</a>	IDAHO ADMINISTRATIVE PROCEDURE ACT - revises procedures for contested cases and hearing officers.	Rep. Troy

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
***[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Tuesday, March 01, 2022

**TIME:** 1:30 pm or upon adjournment

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Reps. Ehardt, Scott

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

**Chairman Chaney** called the meeting to order at 1:33 p.m.

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

**Kathleen Elliott**, Executive Director of the Public Defense Commission (PDC), introduced **David Carroll**, Executive Director of the Sixth Amendment Center. He explained his background, his experience, the organization and its funding sources. Criminal defense is a uniquely American ideal and he gave a brief history of the evolution of public criminal defense in the United States. As published in the 2010 Idaho Public Defense System Report (Executive Summary attached), Idaho did not meet the Fourteenth Amendment obligation to provide Sixth Amendment services because there was no state entity charged with setting the rules and standards ensuring that the county governments were providing due process. Great systemic deficiencies were revealed throughout the state. As an example, none of the counties had workload controls in place. One county was found with one public defender carrying the workload of four attorneys; another county with 950 cases assigned to one attorney in a year. The PDC was established in statute to make indigent defense independent and to enforce oversight. Mr. Carroll spoke in support of the PDC Rules saying they are conservative compared to other states, and they are consistent with the parameters of the Sixth Amendment.

**Kathleen Elliott** introduced **Scott Zanzig**, Deputy Attorney General, and counsel on the ongoing Tucker vs Idaho lawsuit. He explained that the Supreme Court has made it clear that the public criminal defense process is ultimately the State's responsibility, even if the State has delegated the responsibility to its counties. If the Federal District Court finds Idaho's public defense system is not meeting constitutional requirements, the relief sought is significant. Idaho would have to come to the court with a plan for a new criminal defense system and get the court's approval to put that system in place, and hire monitors to ensure that every detail is being done correctly. In addition, fines and fees and Court oversight at a magnitude Idaho has not experienced before. The PDC Administrative Rules are a significant part of the defense in this case because the PDC was put in place for the express purpose of setting and holding a standard for public defense across the State.

**Rep. Cannon** declared Rule 80.

Responding to a committee question, about whether adoption or rejection of these proposed rules would have any bearing on how the Tucker case gets resolved, **Mr. Zanzig** explained that a legislative rejection of the PDC Rules could send a message that the State is unwilling to accept its responsibilities in the area of indigent public defense.

**Kathleen Elliott** explained that the PDC exists to protect constitutional rights. If the government is going to take away the constitutional rights of individuals a well defined process should be in place to ensure that those who cannot afford counsel have been provided with competent counsel. The Federal Sixth Amendment Center review of the public criminal defense system in Idaho involved seven counties, and those counties failed the review, they were not found to be providing constitutional public defense. The counties reviewed were Ada, Bonneville, Blaine, Canyon, Kootenai, Nez Perse, and Power county. The Sixth Amendment Center, Idaho Criminal Justice Commission Subcommittee, Idaho Legislature Interim Committee on Public Defense Reform recommendations hit three elements: there must be state funding for public defense, there must be a state structure providing state oversight, and there must be adoption of nationally recognized standards. Director Elliott provided annual statistical data for Idaho's public defense cases, attorney to client ratios, and State/County budgets and expenditures.

**DOCKET NOS.  
61-0101-2101  
AND  
61-0102-2101:**

**Director Kathleen Elliott** presented **Docket Nos. 61-0101-2101 and 61-0102-2101** and she explained why the proposed Administrative Rule changes are necessary. Public defense for indigent persons is all that stands between them and the loss of their constitutional rights. Because so much is at stake in public defense these rules need to meet constitutional standards. The PDC has engaged in negotiated rule-making for these Rules since 2016, and active negotiated rule-making did occur over this past year.

**Director Elliott** introduced **Tammy Zokan**, PDC Policy and Compliance Coordinator to address any committee questions on the appeal process. Ms. Zokan provided a brief overview of the attorney discipline process and responded to several specific committee questions.

**Director Elliott** responded to committee questions about the changes in the Administrative Rules and explained that except for the twenty one items that were modified during legislative negotiations last year, these rules are the same rules that were presented by her in detail the previous year.

**Rod Beck**, Chairman, Ada County Commission, spoke in **opposition to Docket Nos. 61-0101-2101 and 61-0102-2101**, saying there has been three separate commissions, one in 2017, then 2020, and now 2021. He submitted objections each time but he didn't feel heard. The Rules go beyond the law and he would like to see them rejected.

**Aaron Bazzoli**, Canyon County, spoke in **opposition to Docket Nos. 61-0101-2101 and 61-0102-2101**, saying the PDC Rules do not allow for adequate due process and the negotiations need to be more of a two way process.

**Teresa Molitor**, contract lobbyist representing the Idaho Association of Criminal Defense lawyers (IACDL), spoke **in opposition to Docket No. 61-0101-2101 and 61-0102-2101**. Objections were submitted during the negotiated rule-making process however repeatedly contentious issues were not discussed because they were not on that day's docket. The IACDL has existed since 1989, it has about 450 members, and it has been working to promote the expertise of criminal defense lawyers long before the PDC existed. The Rules call into question the competence of public defense lawyers, and attempt to micro-managing public defense lawyers. Issues of case load, meeting space, vertical representation are issues of funding and appropriate for the PDC to address. The additional rules and regulations placed on one sect of attorneys are inappropriate and unnecessary. The conditions are making it more difficult to recruit and retain public defenders in Idaho. Complying with the Rules takes time away from attorney case-loads, and instead of helping solve systemic problems they are making things harder.

**Elisa Massoth**, a private attorney and contract capital defense attorney in murder cases, spoke **in opposition to Docket Nos. 61-0101-2101 and 61-0102-2101** saying the regulations don't have enough due process. She has been practicing law for twenty-three years in Idaho and she explained her recent negative experience with the PDC, involving a waiver she was expected to sign in order to continue being listed on the Capital Defense Roster. She has no problem complying with the requirements of the PDC but signing away rights in order to remain on a PDC roster is beyond the power given to the PDC by statute – it is abuse of power. The PDC Rules are not ready for acceptance, more negotiations are needed, negotiations that actually allow for both sides to contribute.

**Anne Taylor**, Kootenai County Chief Public Defender, spoke **in opposition to Docket Nos. 61-0101-2101 and 61-0102-2101**. She explained that she has worked in public defense since 2004 and she is the current Chair of the Idaho Association of Criminal Defense Lawyers All Things Public Defense Subcommittee. The PDC Rules lack due process and lack true negotiated rule-making processes, and she described her negative experience with the negotiated rule-making process.

**Jordan Crane**, Bonneville County Chief Public Defender, said he has worked in public defense since 2005 and he **opposes Docket Nos. 61-0101-2101 and 61-0102-2101** because the rules are incomplete and give too much power to a commission. In 2010, when the Sixth Amendment Center report was done, Bonneville County had six public defenders. Thanks to help from the PDC they now have fourteen attorneys. However, he is having trouble obtaining and retaining attorneys to fill those positions because of the possibility that some state agency could remove them without recourse; and no one knows who can appeal it, the Rules are that unclear.

**Leslie Duncan**, Kootenai County Commissioner, spoke **in opposition to Docket Nos. 61-0101-2101 and 61-0102-2101** due to the lack of due process and lack of real negotiations.

**Tony Geddes**, Chief Ada County Public Defender, spoke **in opposition to Docket Nos. 61-0101-2101 and 61-0102-2101**. He has been working in public defense for 27 years, and is qualified to be lead attorney in death penalty cases, and he feels the problem is not lawyers, the problem is lack of resources. Putting more rules and regulations on attorneys who already have too much to do is not the way to improve the public defense system in Idaho. He agrees the PDC is a good thing, and a necessary thing, but the negotiations are not working because they are more of a monologue than a dialog.

**MOTION:** **Rep. Amador** made a motion to **reject Docket Nos. 61-0101-2101**.

**Mr. Geddes** responded to several very specific committee questions about the Public Defense Commission Rules.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Rep. Amador** made a **unanimous consent request to withdraw the motion.** There being no objection the request was granted.

**MOTION:**

**Rep. Amador** made a motion to **reject Docket Nos. 61-0101-2101 and 61-0102-2101 in their entirety.**

Committee discussion included that the Legislature created the Public Defense Commission (PDC) to improve criminal indigent defense in Idaho and gave the PDC the authority to make that happen. Ever since the PDC was put in place there has been conflict between them and the public defenders and attorneys who provide criminal defense. Rejecting the proposed Rules again this year does not accomplish anything. Since improving the Rules is progress and these rules are an improvement, though not perfect, but in line with Idaho Statute and better than what presently exists, maybe the committee should accept them and then work out the problems that arise.

The Tucker lawsuit has a real potential to initiate a large scale change in Idaho public defense in the form of a huge overhaul of the whole system. Being forced into a State public defense system has already happened in Utah and Colorado.

**MOTION:**

**Rep. Nate** made a motion to **reject Docket No. 61-0101-2101 and 61-0102-2101.**

**VOTE ON  
MOTION:**

**Motion carried by voice vote.**

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

**Chairman Chaney** placed the committee at ease at 3:22 p.m.

**Chairman Chaney** called the committee back to order at 3:36 p.m.

**H 541:**

**Rep. Skaug** presented **H 541** which revises provisions regarding an action to foreclose mortgage on real property. This bill is meant to provide clarification, however, the issues is still complicated. **Robert Canter**, mortgage expert, was introduced to explained the foreclosure process from a 10,000 foot view and he clarified details concerning the maturity date. Mr. Canter answered some specific committee questions about the right to foreclosure.

**Harold Scoggins**, Northwest Credit Union Association Legal Counsel, spoke **in opposition to H 541** saying it does not clarify maturity dates, it creates more confusion. And Mr. Scoggins responded to several very technical committee questions.

**Ken Howell**, Idaho Banking Association Legal Counsel, spoke **in opposition to H 541** saying that the current law has been in effect for seventy-one years without a problem. The current law says that the parties can agree in writing on what the maturity date is, and that upon the maturity date the statute of limitations begins running. There is no reason to change this, it just creates confusion.

**Brent Wright**, Idaho Banking Association CEO, spoke **in opposition to H 541** and he listed several organizations that also oppose **H 541**. He stated that this bill causes the opposite of what it is intended to accomplish and it will create more instances of litigation.

**Mr. Canter** spoke in more detail about maturity dates and addressed some of the committee's questions.

**MOTION:**

**Rep. Nash** made a motion to **HOLD H 541** in committee. **Motion carried by voice vote.**

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

**H 623:** **Chairman Chaney** presented **H 623** which provides that a process server who is serving legal documents is not committing civil or criminal trespass.

**Jonathan Baldauf, and Ted Teninty**, Tri-County Process Services, spoke **in support of H 623**. The process server performs an essential function of the court process and due process as they facilitate service of court papers in both criminal and civil court cases. It is common for process servers to be initially charged with trespass and then be required to appear in court and explain the reason they entered property before the charges are dismissed. A process that involves unnecessary time, expense, and stress on the part of the process server and adds to the court case-loads. This legislation would allow process servers the same rights as meter-readers, a bail-bondsman, postal-employees, allowing them to legally enter onto property to perform their duty and provides them with protection from prosecution.

**MOTION:** **Rep. Troy** made a motion to send **H 623** to the floor with **DO PASS** recommendation. **Motion carried by voice vote**. Chairman Chaney will sponsor the bill on the floor.

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

**H 625:** **Rep. Troy** presented **H 625** saying that it provides for the crime of distribution of unsolicited sexual material. She introduced **Katelyn Hargigan**, Associated Students of the University of Idaho Vice President, who spoke **in support of H 625** and introduced a psychological study conducted in 2019 that found that 72% of women have received an unsolicited nude image. Receiving these types of unsolicited materials from a co-worker, friend, or stranger is shocking and makes women feel unsafe, afraid of further harassment, and humiliated. Receiving unsolicited sexual material causes a person to feel targeted, afraid, and too embarrassed to tell anyone about what is happening. Ms. Hargigan feels she is speaking for many women in Idaho when saying that women need protection from unsolicited sexual material. This is harassment and it impacts mental health, self esteem and social interactions. Sending sexual material is a sexual act, and like any other sexual act it requires consent; if it is unsolicited it is not consensual. Electronic devices, software, and platforms have developed incredibly quickly and it is imperative that state law evolves with them. This legislation is intended to be a deterrent to sending unsolicited sexual material.

**Erica Marshall**, Director of the Idaho Justice Project, testified **in opposition to H 625** saying that this bill has good intentions however it will increase criminal liability and pull more people into our criminal justice system. There are expenses connected to this legislation. Ms. Marshall stated she has concerns with the broadness of **H 625**, that it will have unintended consequences and result in the needless incarceration of individuals. Words like "nudity" or statements like "intended to annoy" need to be better defined in this legislation. As the statute stands right now an unsolicited You-Tube video sent to a friend with the intent to annoy could be a violation of this statute. Ms. Marshall responded to committee questions.

**David Martinez**, Bannock County Chief Public Defender, and a member of Idaho Association of Criminal Defense Lawyers (IACDL) Legislative Committee, testified **in opposition to H 625** saying that while the intentions are good the statute is too broad, and it probably won't stand a First Amendment claim. And in the case of existing relationships it could be used against a person later as a retaliatory device.

**Jonathan Baldauf**, private defense attorney, spoke **in opposition to H 625** saying it is over broad and there are some major issues with the wording. **H 625** needs to be narrowly tailored.

**Holly Koole-Rebholtz**, Idaho Prosecuting Attorney Association, spoke **in support of H 625** saying that prosecutors were involved in crafting it, it is narrowly tailored, and some of the language was taken directly from existing statutes. Ms. Koole-Rebholtz responded to some very specific questions from the committee and stated that it is very difficult to find the perfect language in cases like this and much will be determined by intent.

**MOTION:** **Rep. Hartgen** made a motion to send **H 625** to the floor with a **DO PASS** recommendation.

Committee members expressed concerns with passing a broad statute and leaving it to the prosecutors and courts to "sort out" seems to go against the basic purpose of a committee and the constitution. And that the committee has a responsibility to protect people from this kind of harassment, terms like "nudity" are defined in other statutes.

**SUBSTITUTE MOTION:** **Rep. McCrostie** made a substitute motion to send **H 625** to General Orders. **Motion passed by voice vote.**

**H 629:** **Rep. Troy** presented **H 629** which revises procedures for contested cases and hearing officers. Section I of the Fourteenth Amendment reads that "No state shall deprive any person of life, liberty or property without the due process of the law." Due process originally meant a criminal trial when government was small and limited. In the 1930's government expanded the role of administrative agencies to include administrative hearings, conducted by agencies, which do not include the same standards surrounding trials. Administrative hearings today make significant impacts in people's lives and they assign to Agencies the roles of investigator, prosecutor and judge. This raises reasonable concerns about bias or perceived bias. The Office of Professional Evaluation (OPE) surveyed Idaho agencies and ranked the risk of bias. The survey did not find a high risk of bias, but they did find some. The list of agencies identified with higher risks of bias were read – there were more than a dozen.

**Rep. Troy** introduced **Amanda Bartlett**, Office of Professional Evaluation (OPE) Principal Investigator. Ms. Bartlett explained factors of the OPE Study in more detail. It is difficult to determine bias in administrative hearings, which are designed to deliver decisions on contentious issues, and this factor alone can be the reason for dissatisfaction with the process.

**Rep Troy** introduced **Dr. Kathranine Miller**, Small Animal Veterinarian in Moscow, who spoke **in support of H 629** by sharing her negative experience with the Board of Veterinarian Medicine and their administrative hearing board. She explained how she was denied meaningful due process when no investigation was conducted into the denied charge, and she was never given a chance to defend herself. The Board's charges and decision cost her clinic much time and expense. In the end she was unable to resolve the issue, and choose to settled despite a heavy fine and one year of professional probation. All charges should be investigated and the power of agency directors should be monitored and controlled, they should not be allowed to act as judge, jury and executioner.



**Rep. Troy** introduced **Bryan McCully**, current Chair of the Region Four Assistance Panel, but sharing his own personal story. He spoke **in support** of **H 629** sharing an experience when he and his wife were providing foster care, and a young child was placed in their home for 14 months and then suddenly removed and placed with a different foster family. This is usually a very traumatic experience for a child and for the foster family. The reason given was that the child was getting too attached to them. They met with people about the decision and asked for it to be reviewed, and it turned out that the same people who made the decision were the administrative review. Eventually he realized that the meetings that occurred were never about reviewing the correctness of their decision, they were simply to check a box and reinforce their decision. He has seen many cases like this in the foster care system, and there is no recourse for these little foster children or the people who care for them. There is a difference between due process and fair due process and it is super important for people to feel like they have received a fair review of a decision which definitely affects their life, liberty and pursuit of happiness.

**MOTION:** **Rep. Nash** made a motion to send **H 629** to the floor with a **DO PASS** recommendation.

Committee members spoke about their personal experiences with Administrative Hearings and were very supportive of **H 629**.

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

**ADJOURN:** There being no further business to come before the committee the meeting adjourned at 5:30 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**THE GUARANTEE OF COUNSEL**

**Advocacy &  
Due Process in  
Idaho's Trial Courts**

January 2010

**EVALUATION  
OF TRIAL-LEVEL INDIGENT DEFENSE SYSTEMS IN IDAHO**





**THE GUARANTEE OF COUNSEL**  
Advocacy & Due Process in Idaho's Trial Courts

**Evaluation of Trial-Level  
Indigent Defense Systems in Idaho**

January 2010

Researched & Written by:  
National Legal Aid & Defender Association



"The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel.

Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence."

***Gideon v. Wainwright*, 372 U.S. 335 (1963)**

Our Constitution is the founding contract of our collective interests, establishing the core tenets of a free society and protected by a government whose authority and power is vested upon it by its citizens. Of all the powers we give over to our government under this unique social contract, the authority to punish us for our crimes is the greatest and most fearsome. In 1963, the United States Supreme Court recognized in *Gideon v. Wainwright* the need to protect the individual against that power in ensuring due process. Declaring that it is an "obvious truth" that "lawyers in criminal courts are necessities, not luxuries," the Court ruled that states must provide counsel to indigent defendants in felony cases.

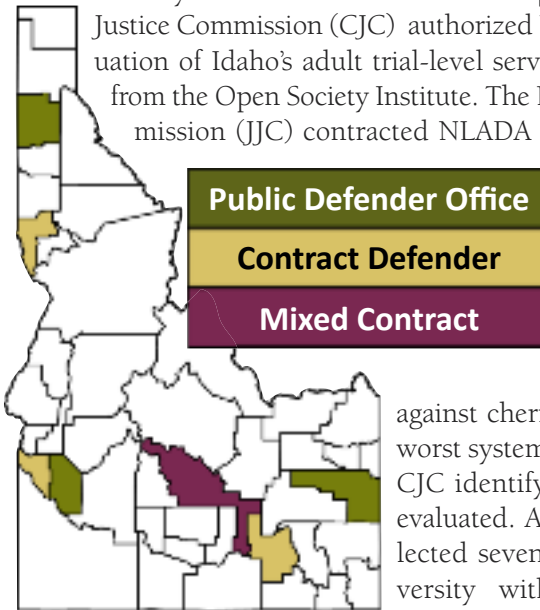
The National Legal Aid & Defender Association (NLADA) finds that the state of Idaho fails to provide the level of representation required by our Constitution for those who cannot afford counsel in its criminal and juvenile courts. By delegating to each county the responsibility to provide counsel at the trial level without any state funding or oversight, Idaho has sewn a patchwork quilt of underfunded, inconsistent systems that vary greatly in defining who qual-

ifies for services and in the level of competency of the services rendered. While there are admirable qualities of some of the county indigent defense services, NLADA finds that none of the public defender systems in the sample counties are constitutionally adequate.

The evidence to support this conclusion begins in Chapter II (page 5 – 18), with a spotlight on representation in Nez Perce County. Nez Perce County has made use of flat-fee contracts for defender services since before the *Argersinger* decision expanding the right to counsel to misdemeanor cases (1972). Flat fee contracting is oriented solely toward cost reduction, in derogation of ethical and constitutional mandates governing the scope and quality of representation — creating a conflict of interest between a lawyer's ethical duty to competently defend each and every client and her financial self-interest to invest the least amount of time possible in each case. The attorney handling misdemeanor and juvenile delinquency representation handles 322 percent of what national standards allow or to put it another way, she is carrying the caseload three attorneys could reasonably be expected to handle. And, this does

## Origin of the Study

In June 2007, the National Legal Aid & Defender Association (NLADA) released a comprehensive management audit of the Idaho State Appellate Public Defender. The report noted that many of the workload issues facing the appellate defender office could be remedied with improvements to the various county-based, trial-level indigent defense systems across the state. Subsequently, the Idaho Criminal Justice Commission (CJC) authorized NLADA to conduct an evaluation of Idaho's adult trial-level services, under a limited grant from the Open Society Institute. The Idaho Juvenile Justice Commission (JJC) contracted NLADA in April 2008 to expressly



make juvenile representation an equal focus of the evaluation.

To ensure that a representative sample of counties was studied — and to prevent

against cherry-picking only the best or worst systems — NLADA requested the CJC identify the Idaho counties to be evaluated. A sub-committee of CJC selected seven counties representing diversity with respect to geography, population and services delivery model:

Ada, Blaine, Bonneville, Canyon, Kootenai, Nez Perce, and Power.

not take into account mental commitments and termination of parental rights cases also assigned to her or her time dedicated to her private practice.

Chapter III (page 19 – 42), details the excessive workloads in the other sample counties. The failure to meet basic national standards in these counties underscores the failings of state government under *Gideon*. While a state may delegate obligations imposed by the Constitution “it must do so in a manner that does not abdicate the constitutional duty it owes to the people.” (*Claremont School Dist. v. Governor*, 147 N.H. 499, 513 (N.H. 2002)) In other words, the state has an obligation to ensure that the counties are capable of meeting the obligations and that counties actually do so. If the counties cannot meet the delegated responsibilities, the state — as the original obligor — must step in to

fulfill this obligation. At minimum, the state should therefore have a structure to assess whether counties are meeting *Gideon*. The NLADA assessment shows that the counties are not.

- If it were possible to evaluate the overall health of a jurisdiction's indigent defense system by a single criterion, the establishment of reasonable workload controls might be the most important benchmark of an effective system. Yet none of the studied counties have any workload controls in place, and the workloads in Nez Perce County and four of the remaining counties greatly exceed those allowed under national standards. In Bonneville, Canyon, and Nez Perce counties, attorneys are also allowed to maintain a private caseload of clients, without any monitoring of how many private cases they are handling in addition to their public caseload.
  - » In Bonneville County: A single attorney is assigned to handle more than four full-time attorneys' worth of work – and a caseload that allows only one hour and ten minutes per client. The office's five defenders are covering the number of cases 11 attorneys would be reasonably expected to handle per national norms, and their workload is compounded by the lack of investigative staff. The office has only \$6,000 in its budget for investigators, which is used almost exclusively on major felony cases. If any investigation is conducted in misdemeanor and juvenile cases, it is done by the attorney himself and rarely ever occurs.

## Methodology

The concept of using standards to address quality concerns is not unique to the field of indigent defense. In fact, the strong pressures of favoritism, partisanship, and/or profits on public officials underscore the need for standards to assure fundamental quality in all facets of government. For instance, realizing that standards are necessary to both compare bids equitably and to assure quality products, policy-makers long ago ceased taking the lowest bid to build a hospital, school, or a bridge and required winning contractors to meet minimum quality standards of safety. Likewise there must be minimum standards in the provision of counsel to the poor.

The American Bar Association's *Ten Principles of a Public Defense Delivery System* present the most widely accepted and used version of national standards for public defense. In the words of the ABA, the *Ten Principles* "constitute the fundamental criteria to be met for a public defense delivery system to deliver effective and efficient, high quality, ethical, conflict-free representation to accused persons who cannot afford to hire an attorney."

The ABA *Ten Principles* are a set of standards that are

interdependent. That is, the health of an indigent defense system cannot be assessed simply by rating a jurisdiction's compliance in each of the ten criteria and dividing the sum to get an average "score." For example, just because a jurisdiction has a place set aside in the courthouse for confidential attorney/client discussions does not make the delivery of indigent defense services any better from a client's perspective if the appointment of counsel comes so late in the process, or if the attorney has too many cases, or if the attorney lacks the training, as to render those conversations ineffective at serving a client's individualized needs.

The NLADA protocol combines a review of a jurisdiction's budgetary, caseload, and organizational information with site visits to observe courtroom practices and/or to interview defense providers and other key criminal justice policy-makers (e.g., judges, prosecutors, county officials). This methodology ensures that a variety of perspectives is solicited and enables NLADA to form as complete and accurate a picture of a public defense system as possible. NLADA site teams visited the sample counties beginning August 2007 and concluding February 2009.

- » In Canyon County: Felony attorneys are carrying workloads at 148.9 percent of national standards. Attorneys handling misdemeanor and juvenile cases averaged 954 cases per year, a workload that is 238.5 percent of national standard maximums.
- » In Ada County: The number of first-degree murder cases is "unprecedented" leaving the office unable to ensure that workloads are limited to a level that enables counsel to provide each client with high quality legal representation. The office received 238 felony cases in a single month in 2007, which projects to approximately 2,856 cases per year, or 952 per lawyer, permitting each lawyer to spend only 2.18 hours on each felony case. The number of misdemeanor cases in Ada County is staggering, with 12,000 cases per judge per year, so that misdemeanor attorneys have 200 to 300 open cases at every moment and probably 700 – 800 cases per year, allowing slightly more than two hours of attorney time per case.
- » In Kootenai County: All attorneys carry a mixed caseload, but the attorneys handling felonies have caseloads that range from 152 percent to 217 percent of national standards, and attorneys handling misdemeanor and juvenile cases have caseloads that range from 163 percent to 213 percent of national standards.
- One Bonneville County judge we spoke with recognized the public defenders' crushing workload, noting: "The public defender shows a lack of preparation in routine hearings — arraignments, probation violations, and pre-trials. I'm convinced he doesn't even see the client before the hearings, because he's sitting in my courtroom explaining the process to the defendant and trying to work out



how they're going to plea — things that should have happened well in advance. Typically a guilty plea is what he's going to recommend, because that's the safest thing to do for your client when you don't have time to investigate.”

- The Canyon County indigent defense system devolved during the course of this study: Despite attorneys either averaging 223 felony representation cases per year — 48.9 percent above the prevailing national caseload standard of 150 felony cases per attorney per year — or 954 mixed-docket misdemeanor, juvenile delinquency, Child Protection Act cases per year (a workload, at best, more than 238 percent of the standard maximum), Canyon County officials terminated the contract of the public defender law firm due to budget constraints. The first request for proposal suggested the lowest bidder would win the new contract. A lawsuit by the original public defender law firm alleged, “The state does nothing to ensure that any particular county has either sufficient funding or adequate policies, programs, guidelines and other essential resources in place to guarantee its indigent defendants are provided effective assistance of counsel as mandated by the United States and Idaho Constitutions.” Facing growing concern over the flat-fee bidding process, the Canyon County administrators quickly terminated the earlier request for proposals for defender services.
- The low level of compensation for public defenders offered by Blaine County creates a disincentive for contract attorneys to zealously advocate for their public clients to the same degree to which they advocate on behalf of their retained clients. NLADA notes that there are few trials, except in the most serious cases, and almost everything is pled out. There is no systemic litigation, such as challenging the denial of the right to a jury trial for a juvenile charged with a serious offense, and there is no independent use of investigators or experts to challenge the testimony of probation officers, mental health doctors, or state child welfare personnel.
- Even in Idaho's most populous county right to counsel services are problematic. Because Ada County is unable to sufficiently limit the workload of its public defenders many have acknowledged being worn out and having to cut corners. Defenders lack adequate support staff and resources, especially in capital cases. The investigation staff is not trained in mitigation work. And the office lacks paralegals and social workers.

One of the most glaring deficiencies is what passes for justice in the magistrate's division of Idaho's district courts where all misdemeanors are heard and where all felony charges begin. Chapter IV (page 43 – 56) details how people of insufficient means are routinely processed through Idaho's magistrate's courts without ever having spoken to an attorney. Local jurisdictions get around their constitutional obligation to provide lawyers in misdemeanor cases in a myriad of ways, including accepting uninformed waivers of counsel, pressuring defendants to “work out a deal” with the prosecutor prior to being given publicly-financed defense counsel, and threatening unfair cost recovery measures. Although misdemeanor convictions or sentences may not generally result in lengthy incarceration, the life consequences of convictions can be severe, including job loss, family breakup, substance abuse, and deportation — all factors that tend to foster recidivism.

Chapter V (pages 57-66) and Chapter VI (pages 67-74) continue the assessment of Idaho counties' public defense systems against the ABA *Ten Principles*. In Chapter V, NLADA focuses on the need to ensure that attorneys have sufficient time and confidential spaces within which to meet with their clients and on the requirement that the same attorney continues to represent the client from the moment of appointment and throughout the life of the case. Confidentiality is necessary both to effectuate the ethical obligation to preserve attorney-client confidences and to fulfill the responsibility of the system to provide a structure in which con-

fidentiality may be preserved – an ethical duty that is perhaps nowhere more important than in public defense of persons charged with crimes, where liberty and even life are at stake and client mistrust of public defenders as paid agents of the state is high. Continuous, or vertical, representation by the same attorney guards against “assembly line justice” that: inhibits the establishment of an attorney-client relationship fosters in attorneys a lack of accountability and responsibility for the outcome of a case, increases the likelihood of omissions of necessary work as the case passes between attorneys, is not cost-effective and is demoralizing to clients as they are re-interviewed by a parade of staff starting from scratch. Due to overwhelming caseloads, Idaho’s most populous county of Ada is forced to employ horizontal representation, where a client is passed from lawyer to lawyer at each stage of the case. And all seven of the counties studied lack time and places to meet privately with clients, so that most attorneys are meeting with their clients primarily, if not only, at the courthouse on the day of a court proceeding, resulting in proceedings having to be continued, lawyers lacking sufficient information to advocate on behalf of their clients, and clients lacking understanding of what is occurring in their case.

The lack of training, supervision, and the ability to assign cases only to attorneys who have sufficient experience and training to competently handle them is the focus of Chapter VI. While attorneys recently graduated from law school or those with only basic skills can effectively handle less complicated cases and those with less serious potential consequences, significant training, mentoring, and supervision are needed to foster the skills of even the most promising young attorney before allowing her to handle more complex cases. Training must be an on-going facet of every public defense system. As the practice of law grows more complex each day, even skilled criminal defense attorneys must undergo training to stay abreast of such continually changing fields as forensic sciences and police eye witness identification procedures, while also learning to recognize signs of mental illness or substance abuse in a client. And continuous and systematic supervision and evaluation must be provided, else attorneys are left to determine on their own what constitutes competent representation and will often fall short of that mark. Public defense attorneys throughout our study lamented the lack of training available to them, variously describing what they received as “sink or swim,” “on-the-job training,” “virtually non-existent,” “you got to do it to learn it,” and “dive in and do it.” Only three of the seven counties have the ability to match the experience of the attorney to the case-type they are being assigned to handle. And none of the counties studied have any formal supervision or evaluation procedures in place. An attorney’s practice model is what he sees from his peers in court. Without any measure of performance expectations, the standard of practice as demonstrated by those who have worked in the system longest is usually what passes for all who come later.

Chapter VII (page 75 – 88) assesses the representation of indigent children in Idaho. Juveniles facing delinquency proceedings are an afterthought to the troubled adult system. Children who come in contact with delinquency courts too often have been neglected by the full range of support structures that normally channel children in appropriate constructive directions. When they are brought to court and given a public defender who has no resources and a caseload that dictates he dispose of cases as quickly as possible, the message of neglect and worthlessness continues, and the risk the juvenile will commit more — and worse — crimes increases. The juvenile system can have the perverse effect of actually decreasing public safety and increasing the chance that more young people will fall into a lifetime of crime and imprisonment. In most instances, juvenile representation is provided by private attorneys under flat fee contracts. In those counties with public defender offices, delinquency cases are most often assigned to the newest and least experienced attorneys. And throughout the state, children are represented by lawyers with crushing workloads, extremely limited access to adequate resources for experts, social workers and investigative support, and a complete lack of specialized training for the assigned task. Idaho’s juvenile defenders lack the time, tools and training to provide effective advocacy for the clients of the juvenile courts.

In conclusion, NLADA believes the inadequacy of the indigent defense systems in Idaho is more a result

of the evolution of a system begun decades ago and not an affirmative attempt on the part of state and local policy-makers to deny anyone's constitutional rights. Indeed, the various county defender systems NLADA observed throughout Idaho mirror much of the history seen in many of her neighboring states for much of the past four decades. However, in neighboring state after state — Wyoming, Oregon, Montana, Nevada and Washington for example — the move from county-based right to counsel systems to statewide oversight, uniformity, and funding has occurred or is occurring as of the writing of this report. Sometimes the change has come under threat of litigation, while some states have simply recognized the old way of doing things cannot be sustained. It is time for the state of Idaho to meet its constitutional duty under *Gideon*, and its progeny.

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The National Legal Aid & Defender Association (NLADA), founded in 1911, is the oldest and largest national, nonprofit membership organization devoting all of its resources to advocating equal access to justice for all Americans. NLADA champions effective legal assistance for people who cannot afford counsel, serves as a collective voice for both civil legal services and public defense services throughout the nation and provides a wide range of services and benefits to its individual and organizational members.

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**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or upon adjournment**  
**Room EW42**  
**Thursday, March 03, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

SUBJECT	DESCRIPTION	PRESENTER
	Minute Approval, 02/21 and 02/25 meetings	Rep. Chaney
	H 730 CONSUMER PROTECTION ACT - prohibits the unfair collection of residential rental application fees. *This bill already had a public hearing as H 617.	Rep. Ruchti
<a href="#">S 1333</a>	FOURTH JUDICIAL DISTRICT - Amends existing law to revise the number of judges in the Fourth Judicial District and to revise provisions regarding resident chambers.	Rep. Hartgen
<a href="#">H 699</a>	EVIDENCE - Amends existing law to prohibit disclosure of communications made during a peer support counseling session for first responders and to provide exceptions.	Rep. Syme
<a href="#">H 624</a>	LANDLORDS AND TENANTS - Amends existing law to provide that notice of an increase in rent or nonrenewal of a lease must be given at least 60 days before the increase or nonrenewal.	Rep. Gannon
<a href="#">H 508</a>	SEX CRIMES - Amends existing law to provide a minimum penalty for certain sex crimes.	Rep. Christensen

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***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Thursday, March 03, 2022
- TIME:** 1:30 p.m. or upon adjournment
- PLACE:** Room EW42
- MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash
- ABSENT/  
EXCUSED:** Representative(s) Ehardt, Scott, Skaug
- GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.
- Chairman Chaney** called the meeting to order at 3:19 p.m.
- MOTION:** **Rep. Nash** made a motion to approve the February 21, and February 25, 2022 meeting minutes. **Motion carried by voice vote.**
- UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Chaney** made a unanimous consent request to move **H 699** to the top of the agenda due to scheduling conflicts. There being no objection, the request was granted.
- H 699:** **Rep. Syme** presented **H 699** which amends existing law to prohibit disclosure of communications made during peer support counseling sessions for first responders and provides exceptions. This legislation is custom tailored for police officers, firefighters, volunteer emergency responders, emergency medical service providers, and emergency communications officers, those who are referred to as "first responders". Individuals who handle a high rate of traumatic events need to defuse stress following highly charged incidents. Speaking freely with their peers is helpful and preferred to speaking with mental health professionals. These critical conversations need to be protected from disclosure and first responders are asking for this legislation. The exceptions to the confidentiality are any admissions of intent to commit a crime, or of a committed crime, or any suicidal ideations. Rep. Syme introduced **Joe Andreolie**, representing the Fraternal Order of Police, who spoke in more detail about the need for this legislation.
- MOTION:** **Rep. Erickson** made a motion to send **H 699** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Syme** will sponsor the bill on the floor.
- H 730:** **Rep. Ruchti** presented **H 730** which already had a public hearing as **H 617** in this committee on February 21, 2022. He reminded the committee that this bill prohibits the unfair collection of residential rental application fees, and protects renters from unscrupulous landlord practices. He explained that **H 617** was altered following its February hearing to incorporate the concerns raised during the hearing. **H 730** is essentially the same with some improvements, it has been refined for clarity and it includes an enforcement mechanism.
- MOTION:** **Rep. Gannon** made a motion to send **H 730** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Ruchti and Palmer** will sponsor the bill on the floor.

**S 1333:** **Rep. Hartgen** presented **S 1333** which amends existing law to revise the number of judges in the Fourth Judicial District by one and makes provisions regarding resident chambers. District Four currently has twelve district judges and one judge travels back and forth to serve Elmore County. Tracking of the court's numbers have justified the need for a full time judge in Elmore County. **S 1333** adds one judge to the Fourth Judicial District, raising the number to thirteen district judges, and provides that the new judge will be chambered in Elmore County.

**MOTION:** **Rep. Nash** made a motion to send **S 1333** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Hartgen** will sponsor the bill on the floor.

**H 624:** **Rep. Gannon** presented **H 624** which amends existing law to provide that notice of an increase in rent or a nonrenewal of a lease must be given at least 60 days before the increase or nonrenewal takes effect. Rep. Gannon explained that this legislation is intended to encourage better communication between landlords and tenants so there is time for both parties to make necessary plans. This legislation has been inspired by the current housing market crisis, rentals are running at a 98% occupancy, and the monthly costs are skyrocketing. To help reduce the negative effect, landlords and tenants need to start talking to each other earlier, and the traditional 30 days notice is not providing adequate time to make housing changes in this housing market.

**Rep. Gannon** responded to committee questions and concerns about how the change from thirty days to sixty days would impact existing leases that are defined in terms of "month to month", the long standing rental practice of requiring a first and last month's rent, and the established eviction process.

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

**Pam Roemer, Angelica Moran, Matt Barbee, April Hoy, Christy Roget, Mark Snowball**, representing themselves; and **Francoise Cleveland**, AARP; **Linda Beebe**, Jesse Tree volunteer; spoke **in support** of **H 624**, saying that rental costs in Idaho have increased 30% or more in a short time, and that in the current housing shortage alternative housing is very difficult to find. This situation is creating a significant hardship on renters, especially for those with moderate income, special needs or special circumstances, and older fixed income adult renters. Wages and other incomes are not keeping pace with the skyrocketing rent increases. The customary thirty day notice to communicate changes to a lease agreement is not an adequate these days to absorb sudden \$200- \$500 a month rent increases; and especially in the case of a forced move, it is not enough time to secure a different residence and relocate.

**Sandra Swanson**, SW Idaho National Association of Residential Property Managers (NARPM); **Spencer Henderson**, Realty Management Associates, Inc. and SW NARPM; **Doug Taylor**, Idaho Apartment Association; **Melissa Sharone**, NARPM and owner of a property management company; spoke **in opposition** to **H 624** saying that it interferes with the right to contract and alters a well established practice that could result in unintended consequences. It will cause confusion in an already complicated market and it could easily lead to an increase in rental deposits which would just slow down the process of getting people housed and relocated. Property owners already have the ability to work with people who need more time to secure a different residence and relocate and most landlords are willing to give people the time they need to make housing changes in the absence of pre-existing occupancy problems or payment arrears. The housing crisis has informally influenced a practice of extended notice, even 60 days, but thirty day notice for contract changes has been a long standing practice that is balanced, with an equal courtesy between the renter and the landlord. A new law because of the current housing market is not necessary.



**Rep. Gannon** explained to the committee that **H 624** is just intended to make one little adjustment to the way rental business is conducted and encourage the two parties to start speaking to each other sooner.

**MOTION:** **Rep. Marshall** made a motion to **HOLD H 624** in committee.

Committee concerns were raised that this bill will affect the free market in an unknown way and that disrupting the thirty day notice, a well established landlord tenant balance, could result in a more acute housing situation. The intentions of this legislation is good, but more refinement is needed, and the intent to help families could end up hurting families.

**ROLL CALL VOTE ON MOTION:** A roll call vote was requested. **The motion failed, by a vote of 6 AYE, 6 NAY, 5 ABSENT/EXCUSED. Voting in favor** of the motion **Rep. Marshall, Troy, Young, Nate, Cannon, and Erickson. Voting in opposition** to the motion **Rep. Kerby, Gannon, McCrostie, Ruchti, Nash, and Hartgen.** Reps. Amador, Ehardt, Scott, Skaug, and Chaney absent and excused.

**MOTION:** **Rep. McCrostie** made a motion to send **H 624** to general orders. A roll call vote was requested. **Motion failed, by a vote of 5 AYE, 7 NAY, 5 ABSENT/EXCUSED. Voting in favor** of the motion **Rep. Kerby, Gannon, McCrostie, Ruchti, and Nash. Voting in opposition** to the motion **Rep. Marshall, Troy, Young, Nate, Cannon, Erickson, and Harten.** Reps. Amador, Ehardt, Scott, Skaug, and Chaney absent and excused.

**MOTION:** **Rep. Marshall** made a motion to adjourn the meeting. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee the meeting adjourned at 4:43 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or upon adjournment**  
**Room EW42**  
**Wednesday, March 09, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 600</u></a>	JUDICIAL COUNCIL - Amends existing law to revise provisions regarding membership of and appointments to the Judicial Council and to revise a certain duty of the Judicial Council regarding a vacancy on the Council.	Rep. Chaney
<a href="#"><u>S 1332</u></a>	WITNESSES - Amends existing law to provide for confidential relations and communications for employees and volunteers at a domestic or sexual violence program in certain instances.	Rep. Nash
<a href="#"><u>S 1240</u></a>	RESTRICTIVE COVENANTS - Adds to existing law to provide for the prohibition and removal of racially restrictive covenants for real property	Rep. Mathias
<a href="#"><u>S 1288</u></a>	DISTRICT JUDGES - Amends existing law to revise provisions regarding the appointed term of certain district judges.	Rep. Hartgen
<a href="#"><u>S 1279</u></a>	COUNTY JAILS - Adds to existing law to authorize the use of a temporary guard or private security service in certain instances.	Rep. Hartgen
<a href="#"><u>S 1334</u></a>	IDAHO CORRECTIONAL INDUSTRIES ACT - Amends existing law to authorize training programs with certain private employers in telecommunications.	Rep. Chaney

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
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COMMITTEE MEMBERS

Chairman Chaney  
Vice Chairman Hartgen  
Rep Kerby  
Rep Amador  
Rep Ehardt  
Rep Scott

Rep Marshall  
Rep Troy  
Rep Young  
Rep Nate  
Rep Cannon  
Rep Erickson

Rep Skaug  
Rep Gannon  
Rep McCrostie  
Rep Ruchti  
Rep Nash

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, March 09, 2022

**TIME:** 1:30 pm or upon adjournment

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Ehardt

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

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

**H 600:** **Rep. Chaney** presented **H 600** which amends existing law pertaining to membership of and appointments to the Judicial Council, and it revises the duty of the Judicial Council pertaining to Council vacancies.

There were several committee questions, the committee did not feel comfortable voting at this time.

**MOTION:** **Rep. Skaug** made a motion to hold **H 600** for a time certain until the March 21 committee meeting. **Motion carried by voice vote.**

**S 1332:** **Rep. Nash** presented **S 1332** which amends existing law to provide for confidential relations and communications for employees and volunteers at a domestic or sexual violence programs in certain instances. He introduced **Senator Wintrow** who explained in more detail why **S 1332** is necessary.

**Craig Kinsbury, David Clayborn, Beatrice Black** spoke in support of **S 1332**, because it provides more protection to individuals trying to escape circumstances of domestic and sexual violence. It extends the same confidentiality protections to program employees and volunteers as is afforded to counselors and attorneys.

**Senator Wintrow** responded to committee questions and **Rep. Nash** concluded the presentation by saying that this bill is intended to protect women and children who need the protections included in this legislation.

**MOTION:** **Rep. Hartgen** made a motion to send **S 1332** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nash** will sponsor the bill on the floor.

**S 1240:** **Rep. Mathias** presented **S 1240** which adds to existing law to provide for the prohibition and removal of racially restrictive covenants for real property. Racial language that excludes and prohibits, was made illegal in the 1968 Fair Housing Act; however, it was never actually removed from existing covenants. This bill is designed to have the language removed.

**Rep. Mathias** introduced **Senator Wintrow** who spoke in more detail on the subject, provided examples of racially restrictive language in existing covenants from her district and elaborated the importance of passing **S 1240**. **S 1240** creates a modification document that goes in the chain of title. The modification document says the racially restrictive language is null and void and puts it on record with the county clerk's office. A standard modification document has been created for this purpose to be used in all the counties and all the county clerks across have agreed to waive any filing fee. This is a voluntary thing, the county clerks are not required to find all the properties that have this racially restrictive language in their covenants, and it is up to the property owner to voluntarily modify their covenants.

**MOTION:** **Rep. Scott** made a motion to send **S 1240** to the floor with a **DO PASS** recommendation.

**Professor McCay Cunningham**, from the College of Idaho, spoke about historical context and how racially restrictive language got in housing covenants. He provided a brief history of racial prohibitions and explained the practice of "red-lining" which was a practice by the federal government that blocked out people of color from homeownership. During the Great Depression, to stabilize the economy the federal government began a program to encourage homeownership in middle-income households. It created an agency and offered financial incentives, and 100% loans to get the idea to take off. This same agency created city planning maps that zoned people according to race in several cities in the United States, people of color lived in the red-lined areas. During this dark historical period in the United States, 1934-1968 an underwriting manual was created by the same federal agency and circulated to banks, mortgage brokers and local governments excluding black Americans among other races of color from owning homes or property, especially in certain areas. This practice of "red-lining" and racial covenants was outlawed in the 1968 Fair Housing Act. However, the racially restrictive language was designed to "run with the land", a legal term that means it is attached to the land, as opposed to the individual who originally drafted it, and this legal designation has carried it forward into today's covenants.

**MOTION:** **Rep. Marshall** made a motion to call for the previous question. Roll call vote requested. **Motion carried by two-thirds vote, 12 AYE, 3 NAY, 2 Absent/Excused. Voting in favor of the motion Reps. Kerby, Amador, Scott, Marshall, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, and Hartgen. Voting in opposition to the motion Reps. Ruchti, Nash, and Chaney. Reps. Ehardt and Troy absent and excused.**

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

**S 1288:** **Rep. Hartgen** presented **S 1288** which amends existing law to revise provisions regarding the appointed term of certain district judges. **S 1288** is brought about by the Secretary of State's office to clear up an ambiguity in Idaho Code concerning the election of district court judges. District Judges stand for election or judicial nomination election on the primary date of non-presidential election years and only if there is not a majority will they appear on the November ballot. **S 1288** clarifies that if a district court judge is appointed by the governor, and it is less than one year in the cycle to an election, they do not need to stand for election in that election year.

**MOTION:** **Rep. Cannon** made a motion to send **S 1288** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Hartgen** will sponsor the bill on the floor.

**S 1279:** **Rep. Hartgen** presented **S 1279** which adds to existing law to authorize the use of a temporary guard or private security service in certain instances. **S 1279** is brought about by the Sheriff's Association and will allow the county sheriff to hire temporary guards from contract security services to provide secure transport of county jail inmates to nearby or far away facilities. And provide that prisoners may be safely kept at hospitals, long-term care or hospice care. This allows deputies to be used in more appropriate and productive manners.

**Rep. Hartgen** introduced **Terry Derden**, Chief Legal Advisor for the Ada County Sheriff's Office who explained that **S 1279** makes it clear that the County Sheriffs does have the statutory authority to contract with private security in certain cases. In cases where jail inmates need to stay at a facility outside of the jail. An example of that would be if an inmate needs to go to the hospital to have a baby. Currently, two deputies are required to perform security during a hospital stay and two other deputies are called in to backfill their shifts at the jail. Contracting with an outside security service to perform this kind of security will be more cost-effective, also in the case of private secure inmate transports.

**MOTION:** **Rep. Kerby** made a motion to send **S 1279** to the floor with a **DO PASS** recommendation.

**Mr. Derden** responded to detailed committee questions about the range of this statute and the use of deadly force.

**SUBSTITUTE MOTION:** **Rep. Troy** made a substitute motion to **HOLD S 1279** for time certain, the March 17, 2022 committee meeting.

**Chief Aaron Shepherd**, Ada County Sheriff's office explained that **S 1279** is about saving money but it is also about the fact that the Sheriff's Department is short-staffed and is not able to provide officers for hospital security when inmates are hospitalized or conduct transports without calling deputies in on their days off. The staffing alternatives presented in **S 1279** are a solution to this problem. There is significant concern about burnout with the deputies. Chief Shepherd responded to committee questions and described the training contract security officers are expected to have.

**VOTE ON SUBSTITUTE MOTION:** **Substitute motion carried by voice vote.**

**S 1334:** **Rep. Chaney** presented **S 1334** which amends existing law to authorize training programs with certain private employers in telecommunications. This bill involves Correctional Industries (CI), and it allows inmates to be trained in telemarketing jobs while incarcerated so they are better suited to find meaningful employment upon release from prison. He introduced **Director Josh Tewalt**, Department of Correction (DOC) to explain how this would work in more detail. Director Tewalt explained that telemarketing is a high turnover industry and if inmates are trained in this field they can serve as a stable employment pool for telemarketing businesses.

There were many committee questions about how this would be controlled and how the public would be protected. **Director Tewalt** explained in detail the combination of DOC controls; and the built-in controls of telemarketing businesses, which includes training, standards, restrictions, and levels of access.

**MOTION:** **Rep. Kerby** made a motion to send **S 1334** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Chaney** will sponsor the bill on the floor.

**Vice chairman Hartgen** turned the gavel over to **Chairman Chaney**.

**ADJOURN:** There being no further business to come before the committee the meeting adjourned at 3:15 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #3**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or upon adjournment**  
**Room EW42**  
**Tuesday, March 15, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	February 1 and 3 meeting minutes for approval.	Rep. Chaney
<a href="#"><u>S 1289aa</u></a>	LEGISLATURE - Adds to existing law to authorize either or both houses of the Legislature to intervene in certain actions regarding constitutionality of an Idaho statute.	Rep. Skaug
<a href="#"><u>S 1321</u></a>	ASSAULT AND BATTERY - Amends existing law regarding assault or battery upon employees of a public or consumer-owned utility.	Rep. Hartgen
<a href="#"><u>S 1322</u></a>	SEXUAL OFFENDER REGISTRATION - Amends existing law to revise provisions regarding address verification and registration of sexual offenders.	Rep. Hartgen
<a href="#"><u>S 1323</u></a>	RAPE - Amends existing law to revise provisions regarding penetration and rape.	Rep. Troy
<a href="#"><u>S 1324</u></a>	MINORS - Amends existing law to remove provisions regarding sexual abuse and sexual battery of certain minors.	Rep. Hartgen
<a href="#"><u>S 1325</u></a>	SEX CRIMES - Amends, repeals, and adds to existing law to revise provisions regarding certain sex crimes.	Rep. Chaney

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
[\*\*Register to Testify\*\*](#)

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney                      Rep Marshall  
Vice Chairman Hartgen                Rep Troy  
Rep Kerby                                Rep Young  
Rep Amador                              Rep Nate  
Rep Ehardt                                Rep Cannon  
Rep Scott                                 Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Tuesday, March 15, 2022

**TIME:** 1:30 pm or upon adjournment

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt (Zollinger), Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Rep. Ehardt

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Chaney** made a unanimous consent request to amend the agenda to include the minutes from February 17 and February 23, 2022 for committee approval. There being no objection the request is granted.

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Chaney** made a unanimous consent request to move the approval of the minutes to the bottom of the agenda. There being no objection the request is granted.

**S 1289aa:** **Rep. Skaug** presented **S 1289aa** which adds to existing law to authorize either or both houses of the Legislature to intervene in certain action regarding the constitutionality of an Idaho statute. It creates an express right for the legislature to intervene in any legal challenge of an Idaho statute. At present a judge has to take action before the legislature can intervene and by then key legal arguments are lacking. The legislation has been reviewed and supported by the Idaho Attorney General's Office.

**Rep. Skaug** responded to several very specific committee questions about what this legislation is intended to do.

**Rep. Ruchti** declared a Rule 80.

**Rep. Kerby** a motion to send **S 1289aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.**

**S 1321:** **Rep. Hartgen** presented **S 1321** which amends existing law regarding assault and battery upon employees of a public or consumer-owned utility. **Jason Hudson**, representing the American Federation of Labor and Congress Industrial Organization (AFL-CIO), was introduced and he explained the collaboration involved with **S 1321** and spoke in more detail about the problems that have inspired his legislation. In emergencies and other crises the first thing required is the public utilities, electric, gas, water, has to be shut off to allow first responders to do their job safely. There have been incidents of assault and battery when utility workers are trying to do their job and this law is intended to give them some legal protection.

**Kyle Beierle, Ben Cook, and Eric York**, public utility workers, spoke in support of **S 1321** and described their experiences of being fired upon and assaulted by property owners when accessing public utilities for maintenance and other necessary work.



**Will Hart**, Executive Director of Idaho Consumer Owned Utilities Association (ICOUA), and representing twenty-one different rural electric cooperatives and municipal power companies across Idaho, spoke **in support** of **S 1321**. He explained that instances of assault on their front-line workers, especially linemen and those who work with first responders, have increased over the past 3-4 years.

**MOTION:** **Rep. Troy** made a motion to send **S 1321** to the floor with a **DO PASS** recommendation.

During committee discussion concerns were raised about the section of code this amendment is being placed in.

**MOTION:** Due to the motion maker's absence **Rep. McCrostie** made a motion to send **S 1321** to the floor with a **DO PASS** recommendation.

**ROLL CALL VOTE:** A roll call vote was requested. **The motion carried with a vote of 11 AYE, 3 NAY, 3 ABSENT/EXCUSED.** Voting **in support** of the motion **Reps. Kerby, Amador, Marshall, Cannon, Erickson, Gannon, McCrostie, Ruchti, Nash, Hartgen, and Chaney.** Voting **in opposition** to the motion **Reps. Scott, Young, and Nate.** **Reps. Ehardt, Troy, and Skaug were absent/excused.** **Rep. Hartgen** to sponsor the bill on the floor.

**S 1322:** **Rep. Hartgen** presented **S 1322** which amends existing law to revise provisions regarding address verification and registration of sexual offenders. **Director Ashley Dowell**, Pardons and Parole Commission, and Chairman of the Sex Offender Subcommittee of the Idaho Criminal Justice Commission (ICJC), was introduced to explain the bill further. She explained that the ICJC Sex Offender Subcommittee was assembled to review germane statutes and identify, remove or revise statutes that are unclear, unconstitutional, unenforceable or no longer in use. The Sex Offender Subcommittee was comprised of members from various backgrounds including prosecution, public defense, state appellate public defense, Sex Offender Management Board, the Criminal Division of the Attorney General's Office, legislators, the Fraternal Order of Police and the Idaho State Police Sex Offender Registry. The next four pieces of legislation are a direct result of the work of the ICJC Sex Offender Subcommittee, they have been reviewed and unanimously approved by the committee members, and by the Idaho Prosecuting Attorney Association and the Fraternal Order of Police. She explained the process of the Sex Offender Registry and said **S 1322** simply takes into consideration legitimate postal delays and will make the process more practical for the Sheriffs who are charged with enforcing it.

**MOTION:** **Rep. Amador** made a motion to send **S 1322** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Hartgen** will sponsor the bill on the floor.

**UNANIMOUS CONSENT REQUEST:** **Chairman Chaney** made a unanimous consent request to move **S 1324** to the top of the agenda. There being no objection, the request was granted.

**S 1324:** **Rep. Hartgen** presented **S 1324** which amends existing law to remove provisions regarding sexual abuse and sexual battery of certain minors. **Ashley Dowell**, Director, Pardons and Parole Commission, and Chairman of the ICJC Sex Offender Subcommittee was introduced to explain **S 1324** in more detail. Director Dowell explained that this legislation is a recommendation from the ICJC Sex Offender subcommittee and it removes two unenforceable and unused portions of code. In 2002 a court determined that certain language pertaining to photographing a minor child is unenforceable, this ruling is referred to as the "Bonner Ruling". Prosecutors do not charge this offense in this section of code due to this ruling and that's why it is being removed. The crime it addresses, is still a chargeable crime existing in a different section of code.

**John Dinger**, Ada County Prosecutor's Office, was introduced to answer some committee questions. He assured everyone that even though these two provisions are being removed from code they still have the ability to prosecute the crime associated with photographing unclothed minor children in a different area of code.

**MOTION:** **Rep. McCrostie** made a motion to send **S 1324** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** Rep. Hartgen will sponsor the bill on the floor.

**UNANIMOUS CONSENT REQUEST:** **Chairman Chaney** made a unanimous consent request to move **S 1325** to the top of the agenda. There being no objection, the request was granted.

**S 1325:** **Rep. Chaney** presented **S 1325** which amends, repeals, and adds to existing law to revise provisions regarding certain sex crimes. The committee had several questions, **Ashley Dowell**, Director, Pardons and Parole Commission, and Chairman of the ICJC Sex Offender Subcommittee and **John Dinger**, Ada County Prosecutor's Office, were introduced to explain **S 1325** in more detail.

**MOTION:** **Rep. Amador** made a motion to send **S 1325** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** Rep. Chaney will sponsor the bill on the floor.

**UNANIMOUS CONSENT REQUEST:** **Chairman Chaney** made a unanimous consent request to begin the introduction of **S 1323** in **Rep. Troy's** absence. There being no objection the request was granted.

**S 1323:** **Chairman Chaney** presented **S 1323** which amends existing law to revise provisions regarding penetration and rape. He introduced **Ashley Dowell** Director, Pardons and Parole Commission, and Chairman of the ICJC Sex Offender Subcommittee who spoke in more detail about the legislation.

**MOTION:** **Rep. Kerby** made a motion to send **S 1323** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** Rep. Troy will sponsor the bill on the floor.

**MOTION:** **Rep. Nash** made a motion to approve the meeting minutes from February 1, February 3, February 17 and February 23, 2022. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee the meeting adjourned at 2:30 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or upon adjournment**  
**Room EW42**  
**Thursday, March 17, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>S 1340</u></a>	THEFT - Amends existing law to revise the definition of "owner."	Rep. Cannon
<a href="#"><u>S 1320</u></a>	VITAL STATISTICS - Amends existing law to provide that original birth certificates and other records will be made available upon request to adoptees for adoptions that occur on or after July 1, 2022.	Rep. Young
<a href="#"><u>S 1339</u></a>	PUBLIC RECORDS - Amends and adds to existing law to provide that public records requests be made to the custodian of records, to provide for the Legislative Services Office to be designated as the custodian for legislative records, and to revise terminology.	Rep. Yamamoto
<a href="#"><u>S 1279</u></a>	COUNTY JAILS - Adds to existing law to authorize the use of a temporary guard or private security service in certain instances. No further testimony will be taken.  *Public testimony was already taken on S1297 at the 03/09/22 meeting.	Rep. Hartgen
<a href="#"><u>H 782</u></a>	Judicial council, salary	Rep. Chaney

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
[\*\*\*Register to Testify\*\*\*](#)

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Thursday, March 17, 2022
- TIME:** 1:30 pm or upon adjournment
- PLACE:** Room EW42
- MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt(Bryan Zollinger), Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash
- ABSENT/  
EXCUSED:** None
- GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.
- Vice Chairman Hartgen** called the meeting to order at 1:32 p.m.
- S 1340:** **Rep. Cannon** presented **S 1340** which amends existing law to revise the definition of "owner". This legislation corrects a technicality, adding language to the definition of "owner" in the criminal code that deals with theft.
- Vice Chairman Hartgen** turned the gavel over to **Chairman Chaney**.
- MOTION:** **Rep. Kerby** made a motion to send **S 1340** to the floor with a **DO PASS** recommendation.
- Jeff White**, Fraud Prosecutor from the Ada County Prosecutor's Office, **spoke in** support of **S 1340** and offered to answer any committee questions about the legislation. .
- Rep. Cannon** and **Chairman Chaney** declared a Rule 80.
- VOTE ON MOTION:** **Motion carried by voice vote.** Rep. Cannon will sponsor the bill on the floor.
- S 1320:** **Rep. Young** presented **S 1320** which amends existing law to provide that original birth certificates and other records will be made available upon request to adoptees for adoptions that occur on or after July 1, 2022. Last year's bill has been improved and is now before the committee. Adoptees who are 18 years older will be able to obtain their adoption records but there is a process involved. Adoptees will have to register with the existing voluntary adoption registry and wait 30 days so the Department of Vital Statistics can notify the birth parents, who will be contacted if they have maintained current contact information. The birth parent will be given an opportunity to indicate if they would like contact and how would they like that contact to take place, or if they prefer no contact, and the third option is redacting their name. This would mean the adoptee would still get the birth record, however the name of the parent who requested the redaction would be withheld. The redaction has a sunset, a five year hold, and after 5 years the adoptee may submit another record request and the same process occurs. This legislation gives people who were not comfortable with the practice of adoption record access a chance to opt out.
- MOTION:** **Rep. Scott** made a motion to send **S 1320** to the floor with a **DO PASS** recommendation.

During discussion committee members voiced their support of **S 1320**, though it is not perfect legislation it is a step forward in the area of adoptee access to birth records. With the old school thought behind shielding these kind of records dying out this legislation draws a line in the sand and makes a clear statement that going forward there will be significant change in policy.

**VOTE ON MOTION:**

**Motion carried by voice vote.** Rep. Young to sponsor the bill on the floor.

**UNANIMOUS CONSENT REQUEST:**

**Chairman Chaney** made a unanimous consent request to move **S 1339** to the bottom of the agenda. There being no objection the request was granted.

**S 1279:**

**Rep. Hartgen** presented **S 1279** which adds to existing law to authorize the use of a temporary guard or private security service by Sheriffs in certain instances. Testimony was taken during the March 3rd meeting, no additional testimony will be taken today.

**MOTION:**

**Rep. McCrostie** made a motion to send **S 1279** to the floor with a **DO PASS** recommendation.

**SUBSTITUTE MOTION:**

**Rep. Gannon** made a substitute motion to send **S 1279** to General Orders.

During committee discussion members expressed concerns about broadness, qualifications of private security guards, and the idea of private security guards managing inmates in these situations.

**VOTE ON SUBSTITUTE MOTION:**

**Substitute motion failed by voice vote.**

**VOTE ON MOTION:**

**Motion carried by voice vote.** Rep. Hartgen will sponsor the bill on the floor.

**H 782:**

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

**Rep. Chaney** presented **H 782** pertaining to judicial council, judges, and salary. Currently the Judicial Council is comprised of seven members, the Chief Justice of the Supreme Court, who acts as Chairman; a district court judge, appointed by the Idaho Supreme Court; two non-judicial attorneys who are appointed by the Idaho State Bar, and three public members appointed by the Governor. All of the members, except the Chief Justice are confirmed by the Senate. **H 782** changes the membership, and inspiring this legislation is the perception that the Judicial Council is not a diversity point of view. This bill would change the way the members of the Judicial Council are chosen in an effort to increase the public confidence in a non biased Judicial Council.

**Senator Abby Lee** spoke in support of **H 782** saying that participating in the process of Senate confirmations brought concerns to her attention. Consider how this seven member council is comprised, one member is the Chief Justice, and three members are appointed by the Governor and confirmed by the Senate, and the other three members are selected by the Idaho State Bar Commission, including the district judge position. Current statute is giving the Idaho State Bar Commission the power to directly nominate three members of the Judicial Council when the Bar Commission is not comprised of elected individuals. This legislation adjusts that and creates better transparency.

**Chairman Chaney** and **Senator Lee** responded to several committee questions, there was concern expressed about changing the balance of power in the Judicial Council.

**Ken McClure**, ILRA, spoke in support of **H 782** saying his organization has had concern about the selection of judges for a long time. The selection process is limited, closed; the Bar controls who gets to go forward to the Governor and the Governor has no other choice but to choose from the Bar nominees. The process is non-transparent, it is in a box.

**Judge Juneal Kerrick**, Idaho Supreme Court, spoke in opposition of **H 782** saying that the Courts touch all citizens and so judicial recruitment and selection is important to everyone. The collaboration involved in the creating of the current statute that was passed in 1967 was considerable and involved meetings that were held across the state. This is a policy, legislative decision, but she cautioned about making decisions in a hurry, without all the information. A decision is only as sound as the information on which it is based, the court is urging an alternative process involving a blue ribbon committee to consider a cross section of persons. The Court has had very little time to respond to this legislation, and there is critical concern about the fact that this policy change is linked with a judicial pay bill.

**MOTION:** **Rep. Amador** made a motion to send **H 782** to the floor **without** recommendation.

**Judge Kerrick** answered committee questions about the process involved to evolve the current statute, and judicial recruitment, and retention. Any existing problems with judicial recruitment could more directly be linked to district judge pay and workload and the fact that judges incur considerable personal expense to stand for public election then the members of the Judicial Council.

**SUBSTITUTE MOTION:** **Rep. Marshall** made a substitute motion to **HOLD H 782** in committee until a time certain, the March 21, 2022 meeting.

**Judge Kerrick** responded to several committee questions.

**AMENDED SUBSTITUTE MOTION:** **Rep. Gannon** made an amended substitute motion to lay **H 782** on the table.

**ROLL CALL VOTE ON AMENDED SUBSTITUTE MOTION:** Roll call vote requested. **Amended substitute motion failed by a vote of 7 AYE, 10 NAY, 0 ABSENT/EXCUSED.** Voting in support of the motion **Reps. Ehardt(Zollinger), Scott, Nate, Gannon, Ruchti, Nash, and Hartgen.** Voting in opposition of the motion **Reps. Chaney, Kerby, Amador, Marshall, Troy, Young, Cannon, Erickson, Skaug, and McCrostie.**

During committee discussion the committee expressed concerns about changing a process that has been in place for fifty years.

**UNANIMOUS CONSENT REQUEST:** **Rep. Marshall** made a unanimous consent request to change his substitute motion to hold until a time certain to a motion to **HOLD H 782** in committee, there being an objection the request is not granted.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** Roll call vote requested. **Substitute motion failed by a vote of 7 AYE, 10 NAY, 0 ABSENT/EXCUSED.** Voting in support of the motion **Reps. Ehardt(Zollinger), Scott, Nate, Gannon, Ruchti, Nash, and Hartgen.** Voting in opposition of the motion **Reps. Chaney, Kerby, Amador, Marshall, Troy, Young, Cannon, Erickson, Skaug, and McCrostie.**

**ROLL CALL VOTE ON MOTION:** Roll call vote requested. **Motion carried by a vote of 10 AYE, 7 NAY, 0 ABSENT/EXCUSED.** Voting in support of the motion **Reps. Chaney, Kerby, Amador, Marshall, Troy, Young, Cannon, Erickson, Skaug, and McCrostie.** Voting in opposition of the motion **Reps. Ehardt(Zollinger), Scott, Nate, Gannon, Ruchti, Nash, and Hartgen.** **Chairman Chaney** will sponsor the bill on the floor.

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

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:51 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or upon adjournment**  
**Room EW42**  
**Monday, March 21, 2022**

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Minutes from February 7, 15 and March 3, 9 meeting.	Rep. Chaney
<a href="#">S 1339</a>	PUBLIC RECORDS - Amends and adds to existing law to provide that public records requests be made to the custodian of records, to provide for the Legislative Services Office to be designated as the custodian for legislative records, and to revise terminology.	Rep. Yamamoto
<a href="#">S 1378</a>	ENDANGERED MISSING PERSON ALERT - Adds to existing law to establish endangered missing person alerts and to provide criteria for activation of an alert.	Rep. Kerby

***Public Testimony Will Be Taken by Registering Through the Following Link:***  
***[Register to Testify](#)***

***If you have written testimony, please provide a copy to the committee secretary.***

COMMITTEE MEMBERS

Chairman Chaney            Rep Marshall  
Vice Chairman Hartgen    Rep Troy  
Rep Kerby                    Rep Young  
Rep Amador                 Rep Nate  
Rep Ehardt (Zollinger)    Rep Cannon  
Rep Scott                    Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
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MINUTES  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**

**DATE:** Monday, March 21, 2022

**TIME:** 1:30 pm or upon adjournment

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Representative(s) Ehardt, Nate, Erickson, Skaug

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

**Chairman Chaney** called the meeting to order at 1:29 p.m.

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Chaney** made a unanimous consent request to move **S 1378** to the top of the agenda. There being no objection the request was granted.

**MOTION:** **Rep. Nash** made a motion to approve the meeting minutes from February 7, 15, 2022 and March 1, 3, 9, 2022. **Motion carried by voice vote.**

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

**S 1378:** **Rep. Kerby** presented **S 1378** which adds to existing law to establish endangered missing person alerts and to provide criteria for activation of an alert. He explained **S 1378** is a result of collaboration following the Fruitland **Michael Vaughan** missing person incident. It is an improvement to the missing person reporting process, making in more responsive and allowing for a more centralized collaboration/coordination efforts between certain agencies. It identifies expedited instances in missing person reports to activate formal law enforcement search processes sooner in certain instances. Nationally, Idaho has the least amount of collaboration and cooperation between agencies in the cases of missing person report response.

**MOTION:** **Rep. Nash** made a motion to send **S 1378** to the floor with a **DO PASS** recommendation.

**Lisa Anderson**, Greater Idaho Chapter of the Alzheimer's Association; **Heather Cunningham**, Idaho Council on Domestic Violence and Victim Assistance; **Christine Pisani**, Idaho Council on Developmental Disabilities spoke **in support of S 1378**. Speaking to specific segments of society, it was explained that society's vulnerable and marginalized individuals need additional protections because they are more frequently the victim of human trafficking incidents.

**MOTION:** **Rep. Nash** made a motion to move to the previous question.

**ROLL CALL  
VOTE:** Roll call vote requested. **Motion carried with a vote of 10 AYE, 0 NAY, 7 ABSENT/EXCUSED.** Voting in support of the motion **Reps. Kerby, Amador, Marshall, Troy, Cannon, Gannon, McCrostie, Ruchti, Nash and Hartgen.** **Reps. Ehardt, Scott, Young, Nate, Erickson, Skaug, and Chaney were absent/excused.** **Rep. Kerby** to sponsor the bill on the floor.

**S 1339:** **Rep. Yamamoto** presented **S 1339** which amends and adds to existing law to provide that public records requests be made to the custodian of records, and provides that the Legislative Services Office (LSO) will be designated as the custodian of records for legislative records. **S 1339** is intended to streamline the legislative public records request process allowing for specific time frames to be met.

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

In response to committee questions **Rep. Yamamoto** explained with **S 1339** formal public records requests will go directly to LSO instead of going to individual representatives. The committee's comments were very supportive of **S 1339**.

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

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:59 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
1:30 pm or upon adjournment  
Room EW42  
Wednesday, March 23, 2022

For members of the public to observe the meeting, please click on the following link:  
<https://www.idahoptv.org/shows/idahoinsession/ew42/>

SUBJECT	DESCRIPTION	PRESENTER
	Minutes approval for the 03/15, 03/17, 03/21 meetings.	Rep. Chaney

COMMITTEE MEMBERS

Chairman Chaney	Rep Marshall
Vice Chairman Hartgen	Rep Troy
Rep Kerby	Rep Young
Rep Amador	Rep Nate
Rep Ehardt	Rep Cannon
Rep Scott	Rep Erickson

COMMITTEE SECRETARY

Andrea Blades  
Room: EW56  
Phone: 332-1127  
Email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Wednesday, March 23, 2022

**TIME:** 1:30 pm or upon adjournment

**PLACE:** Room EW42

**MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/  
EXCUSED:** Reps. Kerby, Amador, Ehardt, Marshall, Troy, Young, Nate, and Gannon.

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

**Chairman Chaney** called the meeting to order at 1:15 p.m.

**MOTION:** **Rep. Nash** made a motion to approve the March 15, 17, and 21, 2022 meeting minutes. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:18 p.m.

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Representative Chaney  
Chair

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Andrea Blades  
Secretary