

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Monday, February 13, 2017
- TIME:** 1:30 P.M.
- PLACE:** Room EW42
- MEMBERS:** Chairman Luker, Vice Chairman Malek, Representatives Perry, Dayley, Trujillo, McDonald, Cheatham, Kerby, Nate, Chaney, Amador, Hanks, Zito, Zollinger, Gannon, McCrostie, Wintrow
- ABSENT/
EXCUSED:** None
- GUESTS:** Fred Birnbourn, Idaho Freedom Foundation; Holly Koole Libholtz; Jesse Taylor, American Bail Coalition; Teresa Baker, Idaho Association of Counties; Terry Dexoen, Ada County Sheriff; Mike Kane, Idaho Sheriff Association; Elisha Figuena, ODP; Tom Arkoosh, Idaho Association of Criminal Defense Lawyers
- Chairman Luker** called the meeting to order at 1:31 P.M.
- RS 25254:** **Rep. Harris** presented **RS 25254**. The proposed legislation will make changes to the current code regarding civil asset forfeitures in several regards. Notably, to include: vehicles would not be subject to forfeiture in connection with mere possession of a controlled substance; they would need to have been used in connection with trafficking offenses as enumerated, or to comprise ill-gotten gains. Property merely in proximity to a controlled substance is not subject to forfeiture absent a meaningful connection to a violation of the chapter. The presence of U.S. currency is not sufficient cause for a seizure or forfeiture and creating a right of replevin of property while proceedings are pending provided the owners can show necessity. Courts must determine whether a property forfeiture is proportionate to the crime alleged, as is currently reflected in case law and an obsolete publication provision is removed. An innocent owner is absolved of having to pay the state's costs associated with the seizure and law enforcement may not bypass the disposition procedures and retain property without judicial approval along with a reporting requirements regarding forfeited property are instituted.
- MOTION:** **Rep. Nate** made a motion to introduce **RS 25254**. **Motion carried by voice vote.**
- RS 25021:** **Rep. Malek** presented **RS 25021**. The proposed legislation will amend the law relating to the jurisdiction of peace officers as it pertains to conducting investigations. The current code allows for limited authority outside an officer's original jurisdiction but does not allow detectives to interview suspects, victims, or witnesses, or gather evidence outside their political jurisdiction within the state of Idaho. The intent of this amendment is not to allow or encourage regular enforcement efforts outside a peace officer's original jurisdiction, but provide a greater public safety by adding the ability for officers to conduct follow-up investigation, such as interviews and evidence gathering, on crimes that were committed within their jurisdiction. This amendment provides greater protection from suppression hearings and liability issues while improving overall public safety by removing an administrative hindrance to conducting proper criminal investigations.
- MOTION:** **Rep. Cheatham** made a motion to introduce **RS 25021**. **Motion carried by voice vote.**

- RS 25084:** **Teresa Baker** presented **RS 25084**. The proposed legislation requires counties to retain digital files of video and audio recordings for a minimum of two years as they, by default are considered temporary records. Given the size and volume of media files, plus the hard costs of management and storage, counties are currently unable to retain digital recordings for the minimum requirement of two years. This legislation will add language to define digital recordings and set a minimum retention requirement for specified media files based upon the evidentiary value of the media. These amendments will encourage counties to invest in digital recording devices by making the retention of county law enforcement records more achievable under county budgets.
- In response to questions, **Ms. Baker** responded this is intended to protect the privacy of people not in the videos themselves.
- MOTION:** **Rep. Malek** made a motion to introduce **RS 25084. Motion carried by voice vote.**
- RS 25141:** **Rep. Erpelding** presented **RS 25141**. The proposed legislation is to reject **Subsection 04.** of the Idaho State Police Administrative Code relating to Rules Governing Alcohol Beverage Control in order to align the rules with legislative intent.
- MOTION:** **Rep. Chaney** made a motion to introduce **RS 25141. Motion carried by voice vote.**
- RS 25171:** **Rep. Perry** presented **RS 25171**. The proposed legislation will remove the personnel cost of staff attorneys, who work for the district judges at the county level, from the counties and place them officially as employees of the Idaho Supreme Court. The purpose is to ensure staff attorneys are being paid by the entity which employs them. Secondly, this is intended to remove pressure from the county's justice fund levy.
- MOTION:** **Rep. McDonald** made a motion to introduce **RS 25171. Motion carried by voice vote.**
- RS 25207:** **Rep. Perry** presented **RS 25207**. The proposed legislation will re-direct twenty-two and one half percent from fines remitted for state motor vehicle violations from the public school income fund to the court fund. This is an alignment with historical motives of using these monies for court services.
- In response to questions, **Rep. Perry** said the amount would be approximately \$1.1 million.
- MOTION:** **Rep. McCrostie** made a motion to introduce **RS 25207. Motion carried by voice vote.**
- RS 25216:** **Rep. Malek and Alex LaBeau** presented **RS 25216**. The proposed legislation will establish procedures for a claimant in a civil action for damages due to asbestos exposure to disclose additional claims the claimant has filed with an asbestos trust. The Idaho Asbestos Bankruptcy Trust Claims Transparency Act establishes a method the courts in Idaho will use to determine whether a person filing a claim for an asbestos action has made a claim or recovered monies from any Asbestos Trust in the past. In order for the court to make this determination, the legislation would require the claimant to provide the court with information related to prior claims. Any action could be dismissed for noncompliance and a trial would not be set until at least 180 days after the requirements are met. The bill would allow the defendant to request a stay and a set time frame in which to provide information supporting additional trust claims made by the claimant, upon which the claimant would have ten days to respond.
- MOTION:** **Rep. Kerby** made a motion to introduce **RS 25216. Motion carried by voice vote.**

RS 25239: **Rep. Gannon and Holtzclaw** presented **RS 25239**. The proposed legislation will increase the penalty for the direct or indirect sale of heroin to users when a user of the heroin dies. The penalty under such circumstances becomes second degree murder. As discussed in the Statement of Intent, this law is directed against those who sell this highly addictive and extremely dangerous drug, which is becoming more widely used throughout our state. It is intended to send a strong message to discourage those who would come to our State and sell heroin to our citizens.

In response to questions **Rep. Gannon** said this would apply to any person selling or reselling heroin.

MOTION: **Rep. McDonald** made a motion to introduce **RS 25239**. **Motion carried by voice vote.**

RS 25251: **Michael Kane**, Idaho Sheriff Association, presented **RS 25251**. The proposed legislation is to place limits on private citizens who work with bail agents to arrest Idaho citizens. Currently there is no law in Idaho whatever that places any restrictions on "bounty hunters" in any way. This bill will still allow the practice of "bounty hunting" but will make it clear that the adjudicated mentally ill, fugitives, illegal aliens and persons under twenty one years of age may not act as bounty hunters. It also sets forth limits as to how bounty hunters identify themselves and prohibits them from representing themselves as police officers, and sets minor penalties for failing to abide by Idaho law.

In response to questions, **Mr. Kane** said this is similar to a bill from last year.

MOTION: **Rep. Amador** made a motion to introduce **RS 25251**.

SUBSTITUTE MOTION: **Rep. Trujillo** made a motion to return **RS 25251** to the sponsor. **Motion carried by voice vote. Reps Perry, McCrostie and Wintrow** requested to be recorded as **NAY**.

RS 25258: **Representative Rubel** presented **RS 25258**. The proposed legislation will make changes to the current code pertaining to mandatory minimum sentencing provisions for trafficking in controlled substances in order to provide for judicial discretion in such sentencing, as is the case for the overwhelming majority of criminal offenses.

In response to questions, **Rep. Rubel** said the charges remain a felony, the change is to strike the requirement of a minimum sentence.

MOTION: **Rep. Wintrow** made a motion to introduce **RS 25258**.

SUBSTITUTE MOTION: **Rep. Malek** made a motion to return **RS 25258** to the sponsor.

In response to questions, **Rep. Rubel** said the majority of judges tend to stick to the medium in sentencing unless there are extreme circumstances.

Rep. Kerby spoke in favor of the original motion to introduce the legislation to be able to hear testimony and have a thorough discussion on the topic.

Rep. Perry spoke in favor of the original motion to introduce the legislation to discuss how the change would impact corrections and citizens.

MOTION WITHDRAWN: **Rep. Malek** withdrew his substitute motion.

VOTE ON THE MOTION: **RS 25258. Motion carried by voice vote.**

RS 25119: **Rep. Thompson** presented **RS 25119**. The proposed legislation will more closely mirror the federal regulation and will clarify several issues that collection agencies are faced with. The amendment adds subsection (b) and relabels subsections (c) through (f).

MOTION: **Rep. Kerby** made a motion to introduce **RS 25119**. **Motion carried by voice vote.**

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

Representative Luker
Chair

Heidi McKay
Secretary