

House Judiciary, Rules & Administration Committee

Minutes
2006



MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: January 17, 2006

TIME: 1:30 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** Representatives Clark and Bastian

**COMMITTEE
ORIENTATION:** Chairman Field welcomed everyone back and introduced the page, Katrina Smith from Oakley.

The Chairman then gave the members a heads up on some of the main issues to come before the Committee this session. Due to the Groene case, and Joseph Duncan's actions and past history, many pieces of legislation are currently being drafted dealing with sex offenders.

The Chairman asked the members to bring any legislation they were sponsoring forward as quickly as possible. It is the hope that all sponsors will get together with Senator Darrington and the Chairman to see if there is a possibility of consolidating several pieces of legislation into one piece. This will eliminate having the victims testify before the Committees any more than is absolutely necessary.

The Criminal Justice Commission held long meetings recently discussing gang related issues, sex offender issues and the burgeoning correction system, to mention a few. Director Reinke will be making a presentation on the work of the Commission on Wednesday, January 25, before the Committee.

One of the options for the Department of Correction Treatment Centers will be presented at the January 19 meeting.

There will be three more pieces of legislation on pseudoephedrine products brought before the Committee on January 31.

**REPORT BY
REP. SMITH ON
SUB-
COMMITTEES
DESIGNATED
TO REVIEW
RULES**

Vice Chairman Smith was recognized to discuss the Rules Review. There will be two subcommittees as follows: The Wills subcommittee which will review the Idaho State Police and Sexual Offender Classification Board and the Ring subcommittee which will review the Division of Veterans Services and Health & Welfare rules.

On the Wills subcommittee will be Rich Wills, Chairman; Representatives Bastian, Hart, Pence and Leon Smith, Ex Officio.

On the Ring subcommittee will be Bob Ring, Chairman; Representatives Shirley, McGeachin, Boe and Leon Smith, Ex Officio.

ADJOURN:

There being no further business to come before the Committee, the meeting was adjourned at 1:45 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** January 19, 2006
- TIME:** 1:30 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** None
- GUESTS:** Judge Smith, Judge Moss, Judge Dennard; Charles Jones, President of CentraCore Properties Trust; Bob Mackey, Community Education Centers; David Haas, Dept. Of Correction; Paul Panther, Deputy Attorney General; Tom Beauclair, Director, Department of Correction
- MOTION:** Chairman Field called the meeting to order and asked the members to review the minutes. Representative Smith moved to approve the minutes of the meeting held on January 17, 2006. Motion carried.
- PRESENTATION
BY JUDGE
DENNARD:** Judge Dennard was recognized to give a report on court cases involving children and families with thousand of cases proceeding without attorneys. Each member was given a handout (attached) regarding children and families in the courts in 2005. The Judge said the courts have an outstanding partnership with Idaho Legal Services. The courts are proud of the progress which has been made. In 2005, over 8,500 families received court-connected services such as mediation, parent education and supervised access, impacting more than 9,700 children nationwide.
- Court assistance offices serve almost 40,000 Idahoans. Idaho's seven judicial districts offer a broad range of pilot projects and specialized services to families. There are a number of other programs devoted to serving families that have been implemented or are being piloted in individual communities and on a statewide basis. In 2005, 273 parents were able to maintain a relationship with their children due to supervised access and supervised exchange services. Over 5,580 parents attended parent education classes for divorcing and never-married parents in 2005.
- PRESENTATION
BY JUDGE
MOSS:** Judge Moss, District Judge in District 7, was recognized to give a report on Mental Health Courts. The Judge said Idaho has become a model for the development of mental health courts across the country, particularly for rural jurisdictions. Each member was given a handout (attached) regarding Idaho Drug Courts & Mental Health Courts in 2005. Mental Health Courts were operating in six of the seven Judicial Districts at the end of 2005. Mental Health Court capacity has grown from 50 participants at the start of 2005 to a combined capacity of 105 participants by year-end.

County probation departments across the state provided critically important support, including offender supervision. The Idaho Department of Correction expanded its support to assure close community monitoring and accountability of participating offenders. Idaho Department of Health and Welfare dedicated countless hours to managing treatment services, expanding recovery support services, supporting professional training and other treatment improvement efforts. No drug or mental health court could operate without the committed partnership of community-based treatment agencies.

**JUDGE SMITH'S
PRESENTATION
ON DRUG
COURTS:**

Chairman Field took a moment, prior to hearing Judge Smith's presentation, to mention that a Joint Memorial has been drafted honoring Judge Smith. The memorial states that the Judge has been nominated by the President to serve on the Ninth Circuit U.S. Court of Appeals. The Chairman congratulated the Judge and said he will be missed in his role as Sixth District Judge. He was wished great success in his future endeavors.

The Judge said he would give the nomination his best shot. There are a lot of slips between the cup and the lip, but the opportunity is very much appreciated. Judge Smith pointed out that Judge Dennard coordinates all of the clerks services with regard to family courts. The judge is one of the best. Judge Moss was awarded the 2005 Kramer Award for Excellence in Judicial Administration for his leadership in the creation and ongoing achievements of the state's first mental health court.

The Judge said Idaho's first two drug courts were established at the end of 1998. After seven years, Idaho now has 44 drug and mental health courts. Children appear to bear a disproportionate impact of Idaho's meth epidemic, including drug-affected births, injuries, serious neglect and outright abuse.

Drug courts offer a meaningful alternative. A total of 77 drug-free babies have now been born to women participating in drug court, with 40 babies born in the past year. In 2005, the court treated 18 parents who had a child abuse or neglect case, with seven of these parents graduating and being reunited with their families.

Judge Smith discussed a handout (attached) which proposed three priorities for the Legislature to consider. These were a restructuring of the compensation system for the judiciary, adding additional resources where the needs are greatest to insure court cases are heard timely and fairly and expanding the use of drug courts, mental health courts, family courts, and other innovative approaches that have proven effective in addressing some of the most difficult and costly problems confronting Idaho and its courts.

Because the courts want these offenders to be able to have jobs, the drug court sessions are held after hours. In conclusion, the Judge asked the members to seriously consider the above mentioned proposals.

**PRESENTATION
BY
CENTRACORE
AND
COMMUNITY
EDUCATION
CENTERS ON
TREATMENT
CENTER
OPTION:**

Chairman Field said options will be studied for Department of Correction Treatment Centers.

Director Beauclair said there is currently a need for a 400 bed residential treatment center. The Director said that for every five people who need treatment, there are currently only two spots available. The companies could get a facility ready in six to 10 months. The first group to make a presentation was CentraCore Properties Trust and Community Education Centers.

The Chairman recognized Charles Jones, president and chief executive officer of CentraCore Properties Trust. Mr. Jones said there is a need for innovative solutions to address both the overcrowding of prisons and the recidivism rate. Idaho needs anywhere from 500 to 1,000 beds. Mr. Jones turned the podium over to Bob Mackey with Community Education Centers, the company who would work closely with CentraCore..

The Chairman recognized Mr. Mackey, who said his company currently owns high level security prisons. It also owns re-entry facilities which offer rehabilitation centers. There is a critical need in Idaho for at least 500 beds because Idaho is currently exporting inmates. This is very expensive to the state. There are very diverse inmate characteristics in Idaho.

Treatment is very important for both high and low security individuals. Low security individuals should be put into some type of a secure re-entry center. It is important to implement some type of educational and training programs in a very secure environment. This will break the cycle of recidivism. CEC is dedicated to providing a secure environment. The company has been doing this for over 35 years.

Public safety is paramount and the company operates according to very high standards. CEC is committed to partnering with the Department of Correction and university researchers to provide comprehensive treatment services with a goal of reducing recidivism.

RS 15413

Chairman Field recognized David Haas with the Department of Correction to explain the proposed legislation. Mr. Haas said a growing number of persons who are incarcerated require mental health treatment. Prisons and jails are increasingly required to provide such treatment. This legislation will facilitate the transfer of mental health records of incarcerated persons to ensure that such persons receive proper and continuous care from the time of their incarceration until the time they leave to re-enter society. Hopefully this will reduce recidivism due to mental health issues.

MOTION:

Representative Smith moved **to introduce RS 15413**. After some discussion, **motion passed**. Representative Hart asked to be recorded as voting "no" on the motion.

RS 15495:

Director Beauclair was recognized to explain the proposed legislation. The Director said the purpose of the legislation is to grant authority to probation and parole officers to place a probationer or parolee into a

mental health treatment facility in order to protect the probationer or parolee and/or the public. The legislation consists of language that includes, within the definition of "peace officer", state probation and parole officers who are exercising their authority to supervise probationers and parolees.

MOTION: Representative Smith moved **to introduce RS 15495. Motion carried.**

RS 15436: Representative Leon Smith was recognized to explain the legislation. This legislation deletes a sunset clause from the Small Lawsuit Resolution Act. The Act became effective in 2003 and, under current law, will terminate on June 30, 2006. With this legislation, the Act will continue in effect.

MOTION: Representative Boe moved **to introduce RS 15436. Motion carried.**

ADJOURN: Prior to adjournment, Chairman Field said there would be an informal meeting after adjournment on the floor with the sponsors of various pieces of legislation dealing with sex offenders in order to determine if some of the pieces might be consolidated into one piece. There being no further business to come before the Committee, the meeting was adjourned at 3:15 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: January 23, 2006

TIME: 1:30 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** Representative Ellsworth

GUESTS: Steve Tobiason; Director Beauclair; Bobbie Huskey

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Ring moved to approve the minutes of the meeting held on January 19, as written. Motion carried.

RS15589: The Chairman recognized Steve Tobiason to explain the proposed legislation. Mr. Tobiason said this legislation modifies bail statutes by recognizing bail creates a monetary incentive to ensure the attendance of the defendant in court. This legislation requires notice to the surety or its designated agent and the bail agent. It also provides a bail surety or agent with 180 days after payment of the bail bond to the court to locate and return a defendant who has failed to appear in court.

MOTION: Representative Clark moved **to introduce RS15589. Motion carried.**

**PRESENTATION
BY BOBBIE
HUSKEY:** Chairman Field recognized Director Beauclair to introduce Bobbie Huskey. The Director said Bobbie Huskey is president of a national consulting firm located in Chicago. Her team has conducted research, master planning, program development and program evaluation projects for states and jurisdictions throughout the country. She has been quoted in international, national and local publications. She is a clinical social worker who has operational experience as an administrator of community corrections.

Ms. Huskey said this presentation was an update on the key recommendations from the 2004 report, an update on implementation of the IDOC reentry programs and national research supporting the direction in which Idaho is currently going.

Ms. Huskey gave each member a handout (attachment.) The Department of Correction is well on its way to achieving most of the recommendations in the 2004 report and the reentry initiative. The Department is emphasizing education of inmates which reduces crime and the Department is preparing inmates for work. The department is also addressing physical addiction problems of inmates. Substance abuse treatment lowers risk and reduces crime. It is arranging for transitional housing for the homeless.

Idaho has a sufficient number of non-lawful probation violators and low-risk offenders to divert to community corrections programs. Reentry programs are consistent with evidence-based programs across the nation. Community corrections programs expand the capacity for non-violent offenders.

Ms. Huskey pointed out some problems Idaho is facing. Idaho is not able to prepare its inmates for successful reentry because for every five persons needing a rehabilitation program, the Department has the capacity to serve only two persons. Also, the Department lacks sufficient therapeutic capacity. Effective programs cannot be implemented if staff to offender ratio is too high or if staff is not well trained. Evidence-based reentry programs will help the individual succeed once released to the community and these programs will lead to a decline in the overall cost of correction in the future.

ADJOURN:

Chairman Field thanked Ms. Huskey for her presentation. The Chairman told the members that the next meeting would be an update from Juvenile Corrections and Bob Marsh, a professor at BSU, pertaining to child sexual predators. At the meeting on January 31, three pseudoephedrine pieces of legislation will be brought before the Committee and on February 1, all sexual predator legislation will be heard.

There being no further business to come before the Committee, the meeting was adjourned at 2:35 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

**HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE
RING SUBCOMMITTEE**

DATE: January 23, 2006

TIME: upon adjournment of full committee

PLACE: Room 412

MEMBERS: Chairman Bob Ring, Representatives Shirley, McGeachin, Boe, and Ex Officio Smith(24)

GUESTS: See attached sign in sheet

Chairman Ring called the meeting to order at 2:35 p.m.

DOCKET NO. 21-0101-0501 **Mr. Joe Bleymaier**, Idaho Division of Veteran Services, presented Docket No. 21-0101-0501. **004.** Incorporation by Reference changes were made because of an incorrect date. **201.** Weapons - eliminates the possession of knives in State Veteran Homes.

In a question from the committee, Mr. Bleymaier stated that eliminating knives was not an issue from comments at public hearings.

MOTION: **Representative Shirley** made a motion to recommend to the full committee that Docket No. 21-0101-0501 be adopted. **Motion passed.**

DOCKET NO. 21-0102-0501 **Mr. Joe Bleymaier**, IDVS, presented Docket No. 21-0102-0501. **002.** Mr. Bleymaier stated that there are no written interpretations for this rule.

MOTION: **Representative McGeachin** made a motion to recommend to the full committee that Docket No. 21-0102-0501 be adopted. **Motion passed.**

DOCKET NO. 21-0103-0501 **Mr. Joe Bleymaier**, IDVS, presented Docket No. 21-0103-0501. This Pending Rule is to correct inaccuracies. A change in Chapter 3 reflects Medicare certification in addition to Medicaid and makes all related changes. Section **004.** now reads after and should read before June 30, 2000. **008.** defines Medicare eligibility and states that if eligible for Medicare, an applicant or resident must elect to participate, unless participation is waived by the Home Administrator.

MOTION: **Representative McGeachin** made a motion to recommend to the full committee that Docket No. 21-0103-0501 be adopted. **Motion passed.**

DOCKET NO. 21-0104-0501 **Mr. Joe Bleymaier**, IDVS, presented Docket No. 21-0104-0501. This Pending Fee Rule sets a \$300 fee an administrator shall charge for opening and closing an interment site containing a pre-placed crypt. In addition to the fee charged under Paragraph 024.01a, the administrator shall charge a fee of \$300 for preparation of an interment site not containing a pre-placed crypt.

MOTION: **Representative Boe** made a motion to recommend to the full committee that Docket No. 21-0104-0501 be adopted. **Motion passed.**

DOCKET NO. 16-0224-0501 **Ms. Elke Shaw-Tulloch**, Health and Welfare Bureau Chief, presented Docket No. 16-0224-0501. The purpose of this Pending Rule is to protect the public by establishing acceptable processes and standards for the cleanup of clandestine drug laboratories. These rules define who is responsible for cleaning up properties where clandestine drug laboratories have operated and establish the acceptable standard to which a property must be cleaned. This rule also defines the process that creates and maintains a list of residential properties that housed a clandestine drug laboratory and provides a process for removing a property from the list once it has met the criteria specified in rule.

MOTION: **Representative Shirley**, made a motion to recommend to the full committee that Docket No. 16-0224-0501 be adopted. **Motion passed.**

DOCKET NO. 16-0505-0501 **Mr. Mond Warren**, Health and Welfare Bureau Chief for the Bureau of Audits and Investigations. This new Chapter of Rule identifies individuals with direct patient access in long term care settings who will be required to pass the department's criminal history and background checks on or after October 1, 2005. This is a federal pilot project funded by Congress to review the feasibility of requiring background checks nationwide for those who work in a long term care setting. Mr. Mond stated that the primary concern of providers is relating to costs. These rules specify that the cost of the background check will be paid for by the federal grant and will sunset on September 30, 2007.

Mr. Robert Vande Merwe, Lobbyist for Idaho Health Care Association, stated that they felt the background checks would be much more effective to keep bad actors out. They are concerned about the costs, but hope to find an efficient system that works when the grant expires.

MOTION: **Representative Boe** made a motion to recommend to the full committee that Docket No. 16-0505-0501 be adopted. **Motion passed.**

ADJOURN: There being no other business to come before the sub committee, the meeting was adjourned at 3:17 p.m.

Representative Ring
Rules Sub Committee Chairman

Shani Murray
Secretary

MINUTES

**HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE
WILLS SUBCOMMITTEE**

DATE: January 23, 2006

TIME: 2:40 p.m.

PLACE: Room 404

MEMBERS: Chairman Rich Wills, Representatives Bastian, Hart, Pence and Leon Smith, Ex Officio

**ABSENT/
EXCUSED:** None

GUESTS: Dawn Peck and Mike Becar, Idaho State Police; Kathy Baird, Sexual Offender Classification Board

**DOCKET
#11-1003-0501:** Chairman Wills recognized Dawn Peck to explain the pending rule governing Sex Offender Registry. Ms. Peck is the manager of the Idaho State Police Bureau of Criminal Identification. Ms. Peck appeared before the members to present the temporary and proposed rule changes for the Sex Offender Registry. Ms. Peck said the changes in the rule provide clear authorization for the link from the state's Sex Offender Registry Internet site to the National Sex Offender Registry Internet site. It also updates the rules to reflect changes in registration forms used to register sex offenders in the state.

MOTION: Representative Bastian moved **to recommend to the full Committee that Docket #11-1003-0501 be approved as adopted. Motion carried.**

**DOCKET
#11-1101-0501:** Mike Becar, Executive Director of the Idaho State Police/Peace Officer Standards and Training, was recognized to explain the pending rule. Mr. Becar said this mostly cleans up language. Exception language was added to the Advanced Certificate requirements. The rule updates the Level I Reserve curriculum. The language also update the rules governing the certification of vocational law enforcement programs and it updates the rules governing canine team certification.

MOTION: Representative Hart moved **to recommend to the full Committee that Docket #11-1101-1501 be approved as adopted. Motion carried.**

**DOCKET
#11-1102-1501:** Mr. Becar said this pending rule adds training and certification requirements for part-time Juvenile Detention Officers.

MOTION: Representative Pence moved **to recommend to the full Committee that Docket #11-1102-1501 be approved as adopted. Motion carried.**

**DOCKET
#11-1104-1501:** Mr. Becar said this pending rule establishes the training and certification requirements for correction officers and adult probation and parole officers. This is a new mandate for the Peace Officer Standards and Training Council which took effect July 1, 2005.

MOTION: Representative Bastian moved **to recommend to the full Committee that Docket #11-1104-1501 be approved as adopted. Motion carried.**

DOCKET #57-0101-0501: Kathy Baird, management assistant, Sexual Offender Classification Board, was recognized to explain the pending rule. An incorporated reference to the Practice Standards and Guidelines for the Association for the Treatment of Sexual Abusers is updated in Section 004. Specialized training requirements for psychosexual evaluators are moved from Section 040 to new Section 041 for further definition and clarity. The training standard for initial certification is increased to 200 hours within an unlimited time frame. The Certified Evaluator Application is modified to indicate that application fees are non-refundable. Section 150 is amended to include that an offender's refusal to participate in a polygraph examination will not be considered as failure to participate.

MOTION: Representative Pence moved **to recommend to the full Committee that Docket #57-0101-0501 be approved as adopted. Motion carried.**

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

Representative Rich Wills
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: January 25, 2006

TIME: 1:35 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** None

GUESTS: Dr. Steve Patrick, Professor, BSU; Dr. Bob Marsh, Professor, BSU; Director Brent Reinke, Dept. Juv. Corr.; Director Beauclair, DOC

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Smith moved to approve the minutes of the meeting held on January 23, as written. Motion carried.

SJM 113: Representative Field said this Joint Memorial honors Judge Randy Smith for all of his past accomplishments and his nomination to serve on the Ninth Circuit U.S. Court of Appeals.

MOTION: Representative Boe moved **to send SJM 113 to the floor with a Do Pass recommendation. Motion carried.** Representative Field will carry the Memorial on the floor.

**PRESENTATION
ON IDAHO
CRIMINAL
JUSTICE
COMMISSION:** Brent Reinke, Chairman of the Idaho Criminal Justice Commission was recognized to give a report on the Criminal Justice Commission. Director Reinke gave each member two handouts (attached) regarding the Commission. The Commission consists of 23 members whose purpose is to provide policy-level direction related to the state's criminal justice system. Funding is provided from the Department of Correction, the Department of Juvenile Corrections, the Idaho State Judiciary and the Idaho State Police. The Commission will make recommendations on sex offenders, methamphetamine, gangs and prison population growth.

Regarding sex offenders, the goal is to stop returning high-risk offenders to the community without front-end and back-end assessment, treatment and supervision. Maintain an active assessment and treatment program, improve public awareness, implement effective system management and improve the identification, apprehension and prosecution of sex offenders.

The overall goal to resolve the growing methamphetamine problem is prevention, education and treatment. To reduce gang activity, focus is placed on education and awareness, prevention, intervention and diversion and suppression/enforcement.

The overall goal regarding prison population growth is to provide adequate prison and community corrections capacity, provide research-

based treatment, and to fund and complete a master facility development plan.

The Commission will meet six times in calendar year 2006 to continue working on the four core areas, and to review other interrelated criminal justice issues.

**PRESENTATION
BY DR. ROBERT
MARCH ON
CHILD SEXUAL
ABUSE:**

Chairman Field welcomed Dr. Marsh, Associate Professor of the Criminal Justice Administration at Boise State University, to make his presentation to the Committee. Prior to beginning his presentation, Dr. Marsh introduced his associate, Dr. Steven Patrick.

Dr. Marsh said 422 cases relating to child sexual abuse were filed (259 adult cases, 163 juvenile cases) in district and juvenile courts in fiscal year 2005. This represents an increase of 51 cases over fiscal year 2004, a decline of 37 cases from 2003 and a decline of 12 cases from the 2002 report.

Victim gender was predominantly female. Fifty-four percent of the victims of adult defendants were between 12 and 15 years and twenty-seven percent were 11 years and under. Seventy-six percent of the victims of juvenile sex offenders were under 11 years of age.

Fifty-two percent of the adult abusers were acquaintances of their victims with 9% natural parents, 6% other relatives, 5% step-parents, and less than 1.23% were strangers. Thirty-eight percent of the juvenile abusers were acquaintances of their victims or their parents, and 40% were relatives.

Where adult disposition was known, the immediate sentence for those convicted was 38% probation; 19% prison; 30% retained jurisdiction.

Dr. March concluded his presentation by saying any conclusions about this information should be guarded because of the nature of child sexual abuse and the low incidence of reporting. A standardized data collection system statewide would greatly facilitate comprehensive data collection. Also, access to the original files and presentence reports, denied since 2000, would greatly improve the collection of accurate data and allow researchers to make more predictions and policy suggestions.

ADJOURN:

The Chairman said the meetings held on January 31 and February 1 would be held at 2:00 p.m. instead of the usual 1:30 p.m. There being no further business to come before the Committee, the meeting was adjourned at 2:35 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: January 31, 2006

TIME: 1:45 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** None

**UNANIMOUS
CONSENT
APPROVING
RULES:** Chairman Field called the meeting to order and asked for **Unanimous Consent** to accept the recommendations of the Administrative Rules Subcommittees to approve all rules submitted to the Judiciary, Rules and Administration Committee for its consideration. There being no objection, it was so moved.

RS15419: Representative Ring was recognized to explain the proposed legislation. This legislation reduces the allowable possession limits of pseudoephedrine from 500 grams to 20 grams. Representative Ring said 20 grams is more than sufficient for people to possess. It would give a family of five enough of a supply to last for 3 months. However, it is not a large enough amount for the manufacture of methamphetamine.

MOTION: Representative LeFavour moved **to introduce RS15419. Motion carried.**

RS15420: Representative Ring was recognized to explain. Representative Ring said the purpose of this legislation is to increase the length of imprisonment and the amount of fine for conviction of manufacturing, delivering or possession of methamphetamine, amphetamine or immediate precursors in the presence of children. Representative Ring said there are a great number of children adversely affected by the manufacture of meth in homes. In those homes, approximately 2/3 of the small children have significant amounts of meth in their blood. This legislation adds a mandatory minimum sentence in those cases of ten years, or a fine of not less than \$25,000, or both.

Representative Smith talked about trying to reduce the prison population and recommended that the mandatory minimum sentence language be removed from the legislation.

MOTION: Representative Shirley moved **to introduce RS15420.** In opposition to the Motion, Representative Bastian agreed that in these instances the law should be as stern as possible. However, the language appears to need more work.

SUBSTITUTE Representative Sali **moved to introduce RS15420 with changes which**

MOTION: would be on line 32, to strike the mandatory minimum fixed term and on line 32, removing “not less than”.

**AMENDED
SUBSTITUTE
MOTION:** Representative Clark moved **to return RS15420 to sponsor.** Representative Smith applauded Representative Ring for his work and said this is the number one issue to come before the Legislature. The problem is pervasive and no one seems to have a handle on it at this time. However, mandatory sentences would seem like the wrong way to proceed.

Representative Ring **withdrew RS15420** saying he will work on the language.

RS15679C1: Representative Ring was recognized to explain. Representative Ring said the purpose of this legislation is to place certain controls on the retail sales of pseudoephedrine products, and to provide penalties for violations. This is a complete rewrite of last year’s legislation. It makes it easy for law-abiding citizens to obtain pseudoephedrine products for the treatment of colds, but makes it more difficult for those who manufacture meth to buy large quantities. It puts no onus on the retailer. A small change in the language was requested by the retail merchants and that was on line 34, after “At the time of”, add the words “distribution or”.

MOTION: Representative Ellsworth moved **to introduce RS15679C1 with the change in the language adding “distribution or” on line 34 before the word “sale”.** **Motion carried.** Representative Bastian spoke in favor of the Motion. Representative Hart asked to be recorded as voting “no” on the Motion.

ADJOURN: Chairman Field said the hearing on the pseudoephedrine bills would be held on February 13. There being no further business to come before the Committee, the meeting was adjourned at 2:20 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: February 1, 2006

TIME: 1:30 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** None

GUESTS: Representative Mitchell

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes of the meetings held on January 25, 2006, and January 31, 2006. Representative Bastian moved to approve those minutes as written. Motion carried.

RS15537: The Chairman recognized Representative Clark to explain the proposed legislation. The purpose of this legislation is to add an additional aggravating circumstance that links sexual abuse and murder.

MOTION: Representative Wills moved **to introduce RS15537. Motion carried.**

RS1555: Representative Clark was recognized. This legislation creates a new section that would require the court at sentencing, when sentencing an offender for a crime that requires a violent sexual offender registration, to impose a split sentence that would allow for lifetime supervision on probation or parole. The legislation also changes the verification of address of violent sexual predators from 90 days to every 30 days. Lastly, this legislation would require mandatory electronic monitoring for all violent sexual predators on probation or parole.

MOTION: Representative Wills moved **to introduce RS1555. Motion carried.**

RS15504C2: Representative Mitchell was recognized to explain the legislation. This legislation amends section 18-8324, Idaho Code, to add language providing that within 30 days of registration as a violent sexual predator, the sheriff shall disseminate the name, address and a photograph to all major local radio and television media. Fees charged by the sheriff will be used for the purpose of public education relating to violent sexual predators and to offset the cost of newspaper publication.

MOTION: Representative Clark moved **to introduce RS15504C2. Motion carried.**

RS15632: Chairman Field recognized Representative Boe to explain. This legislation sets forth legislative intent, defines "human trafficking", increases the punishment for certain crimes if the crime of human trafficking is involved, and provides for restitution and rehabilitation costs

for victims.

MOTION: Representative Ring moved **to introduce RS15632. Motion carried.**

RS15833: Chairman Field turned the gavel over to Vice-Chairman Smith in order to explain this last piece of legislation. Representative Field said this legislation was drafted as a result of a day and a half of intensive meetings. This legislation provides that there will be no statute of limitations for certain felonies including sexual abuse of a child, lewd conduct with a child or an act of terrorism. This will hold the people guilty of these crimes accountable for their actions. This legislation is for the victims. It deals with the murder of innocence.

MOTION: Representative Wills moved **to introduce RS15833. Motion carried.**

ADJOURN: Prior to adjournment, Chairman Field said these pieces of legislation, as well as other pieces from the Senate, would be brought before the Committee to be heard on February 9, 2006. Also, the members were asked to prepare for longer meetings on both February 7 and February 9. There being no further business to come before the Committee, the meeting was adjourned at 2:25 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: February 7, 2006

TIME: 1:30 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** None

GUESTS: Representative Garrett; David Leroy, Attorney

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Smith moved to approve the minutes of the meeting held on February 1, 2006, as written. Motion carried.

RS15667C1: The Chairman recognized Mike Kane to explain the proposed legislation. The purpose of this legislation is to clarify that individuals who have pled guilty to or have been found guilty of a felony cannot be certified as peace officers in this state, irrespective of the fact that the felon's civil rights have been restored after serving a probationary period. The POST Council will also have the ability to deny certification to those who have committed misdemeanors on a case by case basis. The legislation also deletes obsolete language in the current law regarding financial assistance to POST Academy students.

MOTION: Representative Shirley moved **to introduce RS15667C1. Motion carried.**

RS15669: The Chairman recognized Mr. Kane to address the legislation. This legislation would add 911 centers and civilian employees of police departments or sheriff's offices to the list of persons that apply to the crime of making a bomb threat. When Idaho Code Section 18-3313 was originally passed, the making of a bomb threat was made a felony if the threat was made against a number of persons or institutions. For unknown reasons, civilian police dispatchers were left off the list. This bill will rectify the problem and clarify that if someone calls in a bomb threat to a dispatcher, he or she is guilty of a felony.

MOTION: Representative Clark moved **to introduce RS15669. Motion carried.**

RS15709: Representative Garrett was recognized to explain the proposed legislation. Representative Garrett said this is a happy piece of legislation dealing with children and families. It amends existing law relating to international adoption and the acquisition of an Idaho birth certificate. It provides that United States citizens parents, upon completion and finalization of their adoption abroad in accordance with the laws of the foreign country and the U.S. Department of Homeland Security, may file

for recognition of the foreign adoption in Idaho. The legislation requires a clerk of the court of any county in the state where an Idaho resident resides to accept said petition for its administrative adjudication, and to provide an Idaho birth certificate for the child. Under current law, if an adopted child wishes to become an Idaho citizen, he or she must be readopted. This legislation will allow these adoptive families to go through a simple administrative procedure. It will shorten the lengthy procedure which has been required in the past.

- MOTION:** Representative Clark moved **to introduce RS15709. Motion carried.**
- RS15770:** Representative Pence was recognized. Representative Pence **requested that RS15770 be returned as the language needed further work. There being no objection, RS15770 was returned to the Sponsor.**
- RS15775:** Representative Ring was recognized to explain the legislation. The purpose of this legislation is to provide for a civil penalty for refusal to submit to evidentiary testing for alcohol or drugs, and to provide for the collection and distribution of penalty monies. Representative Ring said when these cases come to trial, the jury wants to know the results of these tests. In this legislation, if a person refuses to be tested, that person will be subject to a civil penalty of \$250.
- MOTION:** Representative Bastian moved **to introduce RS15775. Motion carried.**
- RS15893:** Representative Ring was recognized. This piece of legislation **replaces RS15679C1.** It removes the language requiring a mandatory prison sentence and reflects changes recommended by Representative Sali and Representative Smith. Representative Smith pointed out that there is still a mandatory sentence in the language with the use of the word "shall" at the beginning of line 29, rather than the use of the word "may".
- MOTION:** Representative Smith moved **to introduce RS15893 with a change on line 29, deleting the word "shall" and inserting "may". Motion carried.**
- RS15850:** Representative McGeachin was recognized to explain. Representative McGeachin said this is a serious piece of legislation which allows a provision in law for the expungement of criminal records of those people who are found not guilty of a crime. State law currently allows the expungement of records for juveniles, but not for adults.
- MOTION:** Representative Sali moved **to introduce RS15850.** Representative Smith questioned the need for this law. Representative McGeachin yielded to David Leroy to answer questions. Mr. Leroy said there should be a rule regarding expungement of records when a person is found innocent which can be followed by all the judges. The judges do currently have the power to do this, but not all judges are aware of that power. This statute would give a fair, uniform procedure. It still allows the judge to deny the request for expungement if it would compromise public safety. **Motion carried.**
- ADJOURN:** Prior to adjourning, Chairman Field reminded the members that the sex offender bills are on the agenda to be heard on February 9. There being

no further business to come before the Committee, the meeting was adjourned at 2:30 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: February 9, 2006

TIME: 1:30 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** None

GUESTS: Please see attached sign-in sheets

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Vice-Chairman Smith moved to approve the minutes of the meeting held on February 7, as written. Motion carried.

MOTION: Prior to addressing the proposed legislation on the agenda, Chairman Field said that Representative Chadderdon requested that **RS15934 be returned to sponsor**. There being no objection **RS15934 was returned**. Vice-Chairman Smith moved **to introduce RS15844, RS15930, RS15935C1, RS15943, RS15976, RS15981, RS15987 and RS16001**. **Motion carried.**

H 533: Representative Clark was recognized to explain the bill. All this legislation does is add an additional aggravating circumstance that links sexual abuse and murder. On page 3 of the bill, subsection (h) has been added relating to a murder committed in the perpetration of, or attempt to perpetrate sexual abuse of a child under 16 years of age where the defendant killed, intended to kill or acted with reckless indifference to human life.

MOTION: Representative Wills moved **to send H 533 to the floor with a Do Pass recommendation**. **Motion carried**. Representative Clark will carry the bill on the floor. Representative Boe and Representative LeFavour asked to be recorded as voting "No" on the motion.

H 537: Representative Clark was recognized. The Representative asked that **H 537 be held in Committee** since there were other pieces of legislation coming from the Senate that covered the same subject.

**UNANIMOUS
CONSENT:** There being no objection, **H 537 was so held.**

H 536: Representative Boe was recognized to speak to the bill. This legislation sets forth legislative intent, defines "human trafficking", increases the punishment for certain crimes if the crime of human trafficking is involved, and provides for restitution and rehabilitation costs for victims. The legislation also requires reports regarding human trafficking victim

resources in Idaho and the relationship of these resources to federally-funded programs.

PRO: Charlotte Mallet was recognized to give her testimony. Ms. Mallet said she represented the American Association of University Women. Human trafficking is a worldwide problem. It is the second largest criminal industry in the world today. The business is lucrative and fueled by opportunity. Many very young women are married in Mexico, brought into the country and then subjected to force, fraud or coercion for the purpose of sexual exploitation or forced labor. These people come from impoverished families who need money to survive. Ms. Mallet said the system needs to have a process by which victims are helped since they sometimes do not speak English and do not know whom to trust. Raised public awareness in the community will serve to help identify these people and get them the help they need. Ms. Mallet praised the Interim Committee for the work they did on this subject.

PRO: Merikay Jost, legislative representative for the Idaho Council of Catholic Women, was recognized. Ms. Jost said it is vital to educate people in the community. There are five or six general training sessions coming up on human trafficking. Following those will be a presentation by the Idaho Coalition Against Sexual & Domestic Violence. Victims will not receive the help they need unless local, state and federal entities all work together to solve this problem.

MOTION: Representative Wills moved **to send H 536 to the floor with a Do Pass recommendation.** In answer to a question, Representative Boe pointed out that on line 14, page 2, of the bill, the court shall order the defendant to pay an amount determined by the court. The point is to take the money away from the one who is trafficking in order to provide restitution to the victim. **Motion carried.** Representative Boe will carry the bill on the floor.

H 535 Representative Mitchell was recognized. Representative Mitchell said section 18-8324 (7), Idaho Code, adds language that within 30 days of registration as a violent sexual predator, the sheriff shall not only publish in a newspaper the name, address, photograph of said person and the offense committed, but shall also disseminate the name, address, photograph of said person and the offense to all major local radio and television media. Fees deposited by the sheriff, as required by present law, shall be deposited in a special violent sexual predator account.

MOTION: Representative Clark moved **to send H 535 to the floor with a Do Pass recommendation. Motion carried.** Representative Mitchell will carry the bill on the floor.

H 534: Chairman Field turned the gavel over to Vice Chairman Smith in order to speak to the bill. The purpose of this bill is to eliminate the statute of limitations for felony prosecutions of child sexual abuse. Eliminating the time within which a criminal action can be brought against an abuser will send a strong and clear message that Idaho does not and will not tolerate the abuse of children and sexual predators will not be able to escape the consequences of their actions. The bill allows a clean up opportunity to bring the terrorism code citation

into this section and refers to the terrorism citations within the section. The bill adds felony child abuse to the list of crimes which have no statute of limitations, including murder, voluntary manslaughter, rape or terrorism.

Because memories fade, records can be lost and witnesses can be difficult to locate, the longer time passes, the more difficult it is to prosecute or defend a case. A prosecutor must take this into account in determining whether there is sufficient evidence to prosecute a criminal case, and a judge can dismiss a case without merit.

Chairman Field resumed her seat and explained that there are many people here today who want to testify, so all testimony will be heard and then there will be time for questions.

PRO: Paul Steed was recognized to testify. Mr. Steed said there is an infamous group of pedophiles in Idaho. These people look like ordinary citizens. Unless you are a victim or have a victim in your family, you really don't know the world these people live in. Representative Boe had given Mr. Steed an article saying one of the most important things to do is strengthen the reporting laws on children and remove the statute of limitations. In an ideal world, these victims would come forward and report the abuse. However, the victims are embarrassed and afraid and often do not come forward until after the statute of limitations has taken effect..

In the Grand Teton Council, there are four serial pedophiles. One offender gave the names of 24 of his victims. After he gave that information and he went to trial, he was convicted on two counts and sentenced to 150 days in jail. This same man went on to finish college, get married, took a job and enjoys life as we do today.

If the statute of limitations is eliminated, we will have an opportunity to address wrongs and do something about them. These young children do not come forward when they are abused. As the law stands now in Idaho, it makes the state appealing to these pedophiles. When you look into the mind of a pedophile, they don't stop just because one of their victims turns 23. By eliminating the statute of limitations, pedophiles would constantly be worried that their victims will wake up one day, find witnesses and prosecute them.

Mr. Steed's two young sons were sexually assaulted at a Scout camp by a camp leader when they were 12 and 14. They lost all their friends, were called willing victims or homosexuals and eventually had to be taken out of school. The needs of these victims must come first. The statute of limitations must be completely removed.

PRO: Mr. Ross Ruchti was recognized. Mr. Ruchti said he and his wife have six children, three boys and three girls. In high school, their middle daughter become belligerent, aggressive and was threatening suicide. After counseling, it was discovered that a 13 year old neighbor boy had molested both this daughter and a younger sister when they were 8 and 3 year old. The children never mentioned this molestation to the family. When they finally came forward, the police said they could not press charges because the abuse had taken place six years earlier and was

beyond the 5-year statute of limitations.

There should be no limitation for the filing of complaints for sex related crimes. Many victims repress the memories of their sexual abuse for many years. Yet, they suffer continuously. Both daughters continue to require weekly therapy/counseling sessions. In conclusion, Mr. Ruchti asked the members to give children added protection under the law. As it is currently written, it only protects the perpetrators, not the victims.

PRO: Mr. Jeff Bird was recognized. Mr. Bird spoke of his own sexual abuse and when he came forward to file a complaint against his abuser, it was too late with the current statute of limitations. Mr. Bird said his abuser held a pistol to his head and made a threat not only to Mr. Bird, but to his family. This man was never prosecuted in Idaho. He now lives within 20 minutes of his victim's house. He has never shown any remorse for the wrong he has done.

PRO: Rachael Hitchcock Loucks was recognized. Mrs. Loucks said she was verbally, emotionally and sexually abused at the age of 17. When one is abused, the natural reaction is to repress the memories of that abuse. When Mrs. Loucks did come forward, no one believed her in the prosecutor's office. She was told that she allowed this to happen and she was the one who needed help. Recovery is a long and difficult journey which must be lived every day. In conclusion, Mrs. Loucks asked the members to not let the victims feel abandoned by the laws that are supposed to protect them.

PRO: Fairy Hitchcock was recognized. Ms. Hitchcock was in favor of removing the statute of limitations for prosecuting abusive sexual crimes against children. Ms. Hitchcock is Catholic and is the convicted stalker of her daughter's rapist. Her case is being appealed at this time. Her daughter was raped and abused by a Catholic, home schooled Eagle Scout, when she was under the age of 18. When she learned that this abuser had been put in the Life Teen Core team leadership over 13-17 year olds in just a couple of months after one of his attacks on her daughter and his continued threats, she was more than a little alarmed. By the time the abuser was taken to court, the statute of limitations had run out and he couldn't be prosecuted.

PRO: Richard Scarborough was recognized. Mr. Scarborough said his son was physically molested from the age of nine to fourteen by a group of neighbors. After long years of suffering he finally revealed to his parents that he had been molested, and he identified his tormentors. In part, his delay in telling was due to fear. The offenders threatened to kill him and his family. In conclusion, Mr. Scarborough asked that the bill be passed.

PRO: Mary Ann Broberg was recognized. Her 12 year old child was abducted by a close family friend who kept her hidden in Mexico for five weeks. During that time, he brainwashed her to believe he was her protector and the only one who could save her from alien forces. When she was found, she denied that any sexual assault had occurred. After the perpetrator was sent to jail, he convinced two cell mates to burn down the Broberg's flower shop when they were released from jail. The blaze destroyed thirteen businesses. At trial, the perpetrator claimed mental defect and

was sent to a mental hospital where he spent five months before being released. When the daughter came forward to file a complaint, the statute of limitations had run out.

Although this bill will not become retroactive if passed, it will give any child who is sexually molested from this year forward an opportunity to bring their predator to justice. Removing the statute would empower the victims, increase the prosecution of pedophiles and act as a deterrent to future victimization.

PRO: Jeff Underwood was recognized. Mr. Underwood said 10 victims of sexual abuse talked to him about what happened in their youth and how it had affected their lives. His daughter was abducted, sexually abused and killed. Mr. Underwood urged the members to pass this law. There are 11 states that have no statute of limitations.

The Chairman pointed out that Mr. Underwood was the father of Gerrie Lee Underwood who had been raped and killed.

PRO: Hannah Bird was recognized. Ms. Bird said she has become a repository of other people's stories. Ms. Bird didn't want to know those things, but someone needs to hear the victims. The Birds are here for the children who haven't been assaulted yet. Victims must have the ability to trust someone. Victims are afraid all the time and they are broken. Currently, if the perpetrator does a really good job and breaks the child down, that child's 23rd birthday is a gift to the pedophile. If it is made easier for victims to prosecute, maybe there won't be so many victims in the future.

PRO: Lisa Underwood was recognized. Ms. Underwood said she was sexually abused from the age of four until she was about nine. There were three others who were also abused by the same offender. If the statute of limitations were eliminated, some of these abuses might have been prevented.

PRO: Deborah Steed was recognized. Mrs. Steed's two sons, Benjamin, age 12, and Adam, age 14, were sexually molested by a camp leader at a Boy Scout camp. They were forbidden to tell what was going on in camp. When they did come forward, the camp director chose not to do anything. Mrs. Steed said we can't do much about what we don't know and we can't help those who can't help themselves. We need to speak with a voice united telling victims we can support them. The state must support these victims. These victims desperately need help. The victims are depending on this law to pass.

PRO: Crystallynn Steed was recognized. Crystallynn read a letter from Elaine and Cornelius Hofman (attached.) The Hofmans offered their total support and encouragement for the efforts that are being made to improve the current laws that deal with sexual abuse. Crystallynn went on to say these victims are heroes when they report these occurrences. We need to fight for these victims. The current law only protects the guilty.

PRO: Mark Baker was recognized to give his testimony. Mr. Baker recognized that the Legislature has the power to change the laws in the state, which represents an awesome responsibility. The testifiers here today have all

been impacted by child abuse. Mr. Baker said Brad Stowell, the scout leader who was arrested at camp Little Lemhi for child molestation, targeted his victims like a wild animal stalks prey. Ben and Adam Steed were two of his victims. These two boys, ages 12 and 14, testified to the truth and were instrumental in stopping a serial pedophile. They saved the lives of countless other boys. Mr. Baker gave the secretary a copy of his testimony (attached).

In conclusion, Mr. Baker said let's set the standard in Idaho for other states to follow. These pedophiles shouldn't have a minute's rest while they live in Idaho. When these pedophiles decide to relocate, the last state for them to choose should be Idaho.

- PRO:** David Moore, Chief of Police, Blackfoot Police Department, was recognized. Through counseling, Mr. Moore discovered he had been abused in 1968 when he was 16 years of age, and he had repressed that memory until 1999. In concluding his remarks, he asked that the members be proactive and eliminate the statute of limitations. It took Mr. Moore 22 years to be able to deal with what happened in his youth. He asked that the law be passed for the victims.
- PRO:** Dane Watkins was recognized. Mr. Watkins said there is nothing that he, as a prosecutor, can say that hasn't already been said. The criminal justice system must be allowed to help the victim. This is part of the healing process. The state does not aid in that healing process with the current statute of limitations. If this Committee passes this bill, it sends a message which will say abusers can't hide and can't out wait the state.
- PRO:** Angela Stone was recognized. Ms. Stone said she stands before the members because of her children and their children. She wants them to have a healthier and happier life than she had.
- PRO:** Mike Bird was recognized. Mr. Bird asked that the bill be passed. When his son was abused, he had no idea that it had happened. Ultimately, it was only through his son's efforts that a pedophile was found in the neighborhood. The statute of limitations needs to be removed.
- PRO:** Joyce Underwood stood in support of the bill. She asked that the bill be passed on behalf of our children. Right now, the victims have few rights. Please help protect them.
- PRO:** Carolyn Baker was recognized. Ms. Baker asked that the statute of limitations be removed. Idaho must set standards and send a message that sexual predators will not be welcome.
- MOTION:** Representative Boe moved **to send H 534 to the floor with a Do Pass recommendation.** Representative Boe thanked all those who came forward to share their stories. Representative Boe spoke in support of the motion saying in completely eliminating the statute of limitations, it would enable victims to take the necessary therapeutic steps they need to begin the healing process. Also, when one victim reports, other victims might be encouraged to come forth. With passage of the bill a perpetrator will always live in fear that one of the victims will file a complaint against that

perpetrator.

**SUBSTITUTE
MOTION:**

Representative LeFavour moved **to send H534 to General Orders with Committee amendments attached, adding an emergency clause to the bill. Motion carried.** Representative Field will carry the bill on the floor.

ADJOURN:

There being no further business to come before the Committee, the meeting was adjourned at 4:30 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** February 13, 2006
- TIME:** 1:30 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** None. Tina Jacobson sat in for Representative Hart
- GUESTS:** Please see attached sign-in sheet
- MOTION:** Chairman Field called the meeting to order and asked the members to review the minutes. Vice Chairman Smith moved to approve the minutes of the meeting held on February 9, as written. Motion carried.
- H 579:** Michael Kane was recognized to explain the bill. The bill does two things. It deletes obsolete language in the current law regarding financial assistance to POST Academy students. The remainder of the bill makes it clear that if a felony has been committed, that offender may not become a peace officer irrespective of the fact that the felon's civil rights have been restored after serving a probationary period. As to misdemeanors, these will be judged by each individual case.
- MOTION:** Representative Wills moved **to send H 579 to the floor with a Do Pass recommendation. Motion carried.** Representative Wills will carry the bill on the floor. Representative LeFavour asked to be recorded as voting "No" on the motion.
- H 580:** Michael Kane was recognized to explain. This bill adds 911 centers and civilian employees of police departments or sheriff's offices to the list of persons that apply to the crime of making a bomb threat. The bill clarifies that if someone calls in a bomb threat to a dispatcher, he or she is guilty of a felony.
- MOTION:** Vice Chairman Smith moved **to send H 580 to the floor with a Do Pass recommendation. Motion carried.** Representative McGeachin will carry the bill on the floor.
- H 519:** The Chairman recognized Representative Ring to speak to the bill. The purpose of this legislation is to reduce the allowable possession limits of pseudoephedrine to 20 grams. Under current law, a person is allowed to have 500 grams. That amount could be made into more than a pound of methamphetamine. Twenty grams is enough for any family to treat any illness which they might have. This amount will treat a family of five for approximately four months.
- MOTION:** Representative Clark moved **to send H 519 to the floor with a Do Pass**

recommendation. In a discussion on the Motion, Representative Sali asked if it was the intent of the bill to give those people who are caught with more than 20 grams a mandatory sentence of 10 years. Representative Ring said that language was already contained in the legislation. Representative Sali questioned the Fiscal Impact on the Statement of Purpose and said it needs to be corrected. Representative Ring said accurate information on the Fiscal Impact is not available at this time.

Director Charboneau was recognized to discuss the Fiscal Impact. The Director said this would be a new thing for law enforcement to do. The Department does not know how many people would be incarcerated with this law in place.

SUBSTITUTE MOTION:

Representative Sali moved **to hold H 519 for a time certain until the meeting on Tuesday, February 21**, in order to determine what the Fiscal Impact would be. **Motion carried.**

H 530:

Representative Ring was recognized. This bill is a rewrite of a piece of legislation that was brought forward last year. The bill places certain controls on the retail sale of pseudoephedrine products and provides penalties for violations. This bill is far more consumer and retailer friendly. The bill puts some sidebars on the sale. The bill basically requires anyone who wishes to purchase pseudoephedrine to go to the retailer. These products will be kept in a locked cabinet or out of sight. The person purchasing the product will be required to show an identification card.

Director Charboneau was recognized. The Director said this bill is a bill that has been worked on for the last two years. The language has been compromised to bring this bill before the members today. Idaho is surrounded by states that control the sale of pseudoephedrine. Under this bill, retailers will not be required to maintain a list of those purchasing the products.

MOTION:

Representative Clark moved **to send H 530 to the floor with a Do Pass recommendation. Motion carried.** Representative Ring will carry the bill on the floor.

H 589:

Chairman Field said the wrong bill was pulled, so **H 589 will put at the top of the agenda for the meeting held on Wednesday, February 15.**

ADJOURN:

There being no further business to come before the Committee, the meeting was adjourned at 2:15 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** February 15, 2006
- TIME:** 1:30 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** Representative Sali. Tina Jacobson sat in for Representative Hart
- GUESTS:** Please see attached sign-in sheets
- MOTION:** Chairman Field called the meeting to order and asked the members to review the minutes. Representative Shirley moved to approve the minutes of the meeting held on February 13, as written. Motion carried.
- H 589:** Representative Ring was recognized to explain the bill. Representative Ring said the bill provides for an increased prison sentence, an increased fine or both for the conviction of the manufacture or sale of methamphetamine or amphetamine in the presence of a child. When these children are tested, between one-half and two-thirds have significant amounts of methamphetamine in their blood.
- If this legislation is passed, please send it to General Orders with a Committee amendment attached. When the legislation was drafted, on page 1, line 28, there was reference to "(a)(5)." This should have been "(a)(4)." Because of the horrors of methamphetamine, the bill will increase a prison term of up to ten years, or a fine of \$25,000, or both.
- MOTION:** Representative Boe moved **to send H 589 to General Orders with a Committee amendment attached as outlined above. Motion carried.** Representative Ring will carry the bill on the floor.
- H 582:** The Chairman recognized Representative Ring. Repeat DUI offenders are usually advised by their attorneys to refuse tests for alcohol concentration, or the presence of drugs in their blood. This makes it difficult for prosecutors to convict these offenders. Also, these tests are helpful for jurors in reaching a verdict. The purpose of this legislation is to provide for a civil penalty for refusal to submit to evidentiary testing for alcohol or drugs, and to provide for the collection and distribution of penalty monies.
- MOTION:** Representative LeFavour moved **to send H 582 to General Orders with the following Committee amendments attached: on page 1 of the bill, line 26, after "penalty of" delete two hundred fifty dollars (\$250) and insert "up to five thousand dollars (\$5,000). On page 2, line 24, after "sustain" delete two hundred fifty dollars (\$250) and insert "up to five thousand dollars (\$5,000). Also on page 2, line 33, after sustain"**

delete two hundred fifty dollars (\$250) and insert “up to five thousand dollars (\$5,000).

In a discussion on the Motion, Representative Bastian felt that a \$5,000 fine was rather onerous. Representative Smith pointed out that there are many other costs involved with a DUI conviction which put hardships on the offenders. In support of the Motion, Representative LeFavour said by using the words “up to”, the amount of the fine would be up to the discretion of the judge.

PRO: Jim Trent was recognized. Mr. Trent said he works with the Mothers Against Drunk Driving (MADD). They fully support the bill and they support the victims of these crimes. This will make people think about driving after drinking.

SUBSTITUTE MOTION: Representative Ellsworth moved **to send H 582 to the floor with a Do Pass recommendation.**

ROLL CALL VOTE: Roll Call Vote was requested on the Substitute Motion **to send H 582 to the floor with a Do Pass recommendation. Motion passed 9-6-1.** Representative Ring will carry the bill on the floor.

H 430: Richard Haas with the Department of Correction was recognized to explain the bill. Mr. Haas said a growing number of persons who are incarcerated require mental health treatment and prisons and jails are increasingly required to provide such treatment. This legislation will facilitate the transfer of mental health records of incarcerated persons to ensure that such persons receive proper care from the time they enter the criminal justice system until the time they leave it to re-enter society. This will enhance the quality of care and will hopefully reduce recidivism due to mental health issues. The bill states that only mental health professionals will be able to request those records.

MOTION: Representative Clark moved **to send H 430 to the floor with a Do Pass recommendation. Representative LeFavour spoke in favor of the Motion. Motion carried.** Representative Shirley will carry the bill on the floor.

H 581: Representative Garrett was recognized. This bill amends existing law relating to international adoption and the acquisition of an Idaho birth certificate to provide that United States citizens parents, upon completion and finalization of their adoption abroad in accordance with the laws of the foreign country and the United States Department of Homeland Security, may file for recognition of the foreign adoption in Idaho. It requires a clerk of the court of any county in Idaho where the resident resides to accept said petition for its administrative adjudication and to provide an Idaho birth certificate for the child.

Under current law, readoption is required which is an extensive and expensive process. These Idaho families and their children should not be required to have to go through this process all over again. This bill requires a simple administrative procedure.

Representative Garrett pointed out that the co-sponsor, Sen. Lodge is

also here to testify to the bill, as are several families in the audience. (Please see 7 attachments in support of the bill.) Representative Boe pointed to a typographical error in the Statement of Purpose and said it needed to be corrected.

- MOTION:** Representative Clark said this is a good bill and moved **to send H 581 with a corrected Statement of Purpose to the floor with a Do Pass recommendation.** Chairman Field asked if it was all right with the Senator and the audience if the bill was sent to the floor without hearing their testimony. Everyone agreed to this. **Motion carried.** Representative Garrett will carry the bill on the floor.
- H 431:** Dave Nelson with the Department of Correction was recognized. The bill grants authority to probation and parole officers to place a probationer or parolee into a mental health treatment facility to protect the probationer or parolee and/or the public. The amendment consists of language that includes, within the definition of "peace officer", state probation and parole officers who are exercising their authority to supervise probationers and parolees. This authority is not extended in situations involving persons who are not on probation or parole.
- MOTION:** Representative Smith moved **to send H 431 to the floor with a Do Pass recommendation. Motion carried.** Representative Bastian will carry the bill on the floor.
- H 432:** Representative Smith was recognized to explain. This is a very simple bill which strikes the sunset clause on the Small Lawsuit Resolution Act. The Act has had two operational years and it is working.
- PRO:** John Schroeder, attorney and member of the Idaho Trial Lawyers Association, was recognized. Mr. Schroeder has been selected as an evaluator in six cases. With this Act, the majority of cases were resolved without going to court. Mr. Schroeder asked that the Act be kept without a sunset clause. It saves the court time and money. Lawyers are willing to come to a decision faster.
- MOTION:** Representative Ellsworth moved **to send H 432 to the floor with a Do Pass recommendation.**
- PRO:** Marisa Lemieux was recognized to testify. Ms. Lemieux was in an automobile accident in 1991. After a lot of time passed and nothing was resolved with her case, her attorney decided to use the Small Lawsuit Resolution Act, which sped the process up and the case was quickly resolved.
- CON:** Allyn Dingel, representing State Farm Insurance, was recognized to give his testimony. Mr. Dingel said the lack of the Act's use statewide after sufficient time has passed demonstrates that it is not accepted by practicing trial lawyers, be they plaintiffs' or defense counsel. Mr. Dingel gave each member a handout showing that the Act was only used 149 times in the year 2004, and 130 times in the year 2005, statewide (attachment). There is a total absence of any use in 24 counties.

The sunset clause was placed in the legislation to allow a controversial

topic time to mature and be experienced as to whether or not it is worthwhile to continue its existence. Mr. Dingel recommended that a new 3-year sunset clause, until July 1, 2009, be inserted.

- SUBSTITUTE MOTION:** Representative Nielsen moved **to send H 432 to General Orders, changing the sunset date to 2009.**
- CON:** Woody Richards, attorney, representing Property Casualty Insurers Association, was recognized. Mr. Richards said problems with the Act have arisen such as what would ordinarily be one law suit became four law suits in order to stay under the \$25,000 limit. Also, attorneys fees were awarded in inappropriate situations. The recommendation would be to extend the time for another three years in order to make this a better Act and resolve any problems.
- PRO:** Attorney Kurt Holzer was recognized. Mr. Holzer has worked with the Act in about 40 cases. The Act is working for litigants to keep them out of the court system. The Act has never been used as a solution to all problems. The Act pulls each side together to reach a reasonable resolution. In conclusion, Mr. Holzer asked the members to vote against a further sunset clause and send the bill to the floor with a do pass recommendation.
- SUBSTITUTE MOTION:** Chairman Field said the Substitute Motion was **to send H 432 to General Orders adding an additional sunset clause of three years.**
- Speaking against the Substitute Motion, Representative Smith asked that the Act not be renewed every three years. The \$25,000 limit is in the legislation because of a compromise. If the insurance people want to amend the Act, it can be amended. The Act is being used and it is working. It should continue in effect. It will most likely be used more as time goes by.
- Representative Nielsen argued in support of the Substitute Motion. By extending the sunset clause, it will cause people to come together to resolve any problems much faster than if an amendment is drafted.
- ROLL CALL VOTE:** Roll Call Vote was requested. **Motion failed 1-12-3.**
- ORIGINAL MOTION:** The Original Motion was **to send H 432 to the floor with a Do Pass recommendation. Motion carried.** Representative Smith will carry the bill on the floor.
- ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 3:30 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** February 17, 2006
- TIME:** 2:05 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** Representatives Clark and Harwood. Ms. Tina Jacobson took Representative Hart's place at the meeting.
- GUESTS:** Patricia Tobias, Administrative Director of the Courts; Representative Jaquet, Ken McClure, Attorney; Michael Kane, Attorney; Barbara Jorden; Becky Nelson
- MOTION:** Chairman Field called the meeting to order and asked the members to review the minutes. Representative Smith moved to approve the minutes of the meeting held on February 15, 2006, as written. Motion carried.
- H 627:** Patricia Tobias was recognized to explain the bill. This bill provides that the payment convenience fee, as provided in section 31-3221, Idaho Code, would be deposited in the Idaho Statewide Trial Court Automated Records System (ISTARS) Technology Fund. The amount of the payment would continue to be tied to the cost of providing the option of payment by credit or debit card. Ms. Tobias said the Fiscal Note has been amended to set the convenience fee at between 2% and 3% of the amount of the debts paid by credit or debit card.
- MOTION:** Representative Wills moved **to send H 627, with the reprinted Statement of Purpose, to the floor with a Do Pass recommendation. Motion carried.** Representative Nielsen will carry the bill on the floor
- H 628:** Patricia Tobias was recognized. This bill addresses the authority of the Supreme Court to adopt, amend or rescind rules for the administration of the Idaho Judges' Retirement Fund. It would add a statutory provision conferring such authority on the court. Such rule-making authority would pertain only to administrative matters.
- MOTION:** Representative Nielsen moved **to send H 628 to the floor with a Do Pass recommendation. Motion carried.** Representative Ellsworth will carry the bill on the floor.
- H 629:** Patricia Tobias was recognized. This bill would increase the maximum fines for 20 misdemeanor offenses. It would increase the maximum fine for reckless driving from \$500 to \$1,000, and for repeat offenses from \$1,000 to \$2,000. There is an amended Fiscal Note on the bill indicating that it would appear that the additional funds generated annually would be between \$35,000 and \$70,000.

MOTION: Representative LeFavour moved **to send H 629, with the reprinted Statement of Purpose, to the floor with a Do Pass recommendation. Motion carried.** Representative LeFavour will carry the bill on the floor.

H 630: Chairman Field recognized Representative Jaquet to explain the bill. This legislation will criminalize acts in the form of a misdemeanor committed by any person on school grounds, including pupils, relating to serious threats of violence towards any person in or on school property using deadly or dangerous weapons and/or firearms.

Representative Jaquet cited an incident which occurred in her district in 2003. Threats were made at school by two students to shoot others that they didn't like. The officer was not able to take action against the two students who made the threat. When there is a real threat of violence at a school, the police should be able to get involved. Current law prohibits some serious threats, but doesn't always cover cases where a weapon is threatened, but is not in the hands of the person making the threat.

PRO: Michael Kane, representing the Idaho Sheriff's Association, was recognized. Mr. Kane said the bill would not have an impact on anyone under the age of 10. Also, the bill is not directed to the student who makes idle threats in a conversation. It is talking about using a weapon or threatening to use a weapon on school grounds.

In response to a question regarding prosecuting 11-years olds, Lori Fleming, deputy attorney general, said that would be up to adults who knew the details of the situation.

Heather Reilly, prosecuting attorney, was recognized to answer a question from the members. Ms. Reilly said the intent of the bill is to have the ability to intervene before a student actually goes home and comes back to school with a weapon. If the school can resolve the problem, that would be excellent. However, if the school can't, this will provide a tool for law enforcement to use. The bill is a preventative measure.

MOTION: Representative Nielsen moved **to send H 630 to General Orders with Committee amendments attached as follows: On line 12 of the bill, after the word "threatens" insert "on school grounds."** **Motion carried.** Representative LeFavour spoke against the Motion saying the bill doesn't seem like the proper way to solve the problem. Representative Bastian spoke in favor of the Motion. Representative Jaquet will carry the bill on the floor. Representative LeFavour and Ms. Jacobson asked to be recorded as voting "No" on the Motion.

H 631: Representative Pence was recognized to explain. This legislation provides the process by which a county, having three or less resident attorneys who are willing or qualified to act as the prosecuting attorney can fill the position on a temporary basis. The county may contract for prosecutorial services with another prosecuting attorney provided that the boards of county commissioners adopt resolutions so authorizing the prosecutor to fill the vacancy or appointment and/or contract.

MOTION: Representative Boe moved **to send H 631 to the floor with a Do Pass recommendation. Motion carried.** Representative Pence will carry the bill on the floor.

H 634: Ken McClure was recognized to explain the bill. This legislation would change Idaho code to make statements of apology and explanation made by a health care professional following an unintended outcome of medical care inadmissible in a malpractice action. This legislation will encourage open communication between patients and health care professionals. It will not inhibit the ability of a patient to file a malpractice action. Expressions of fault would still be admissible in court.

Mr. McClure said doctors have been schooled to defend and deny. This is probably not in the doctor's best interest and it is certainly not in the best interest of the patient. Under current law, patients become angry when doctors do not communicate with them and it makes the doctors appear to not care about the patients. If communication is freely allowed between the doctor and the patient, problems might be resolved without an action being brought against the doctor.

PRO: Becky Nelson, director of risk for a large group of primary health providers, said her employer changed its policy about three and a half years ago and started apologizing for mistakes. Since then, patient satisfaction has gone through the roof. The providers are much happier and the patients are so thankful. Communication has made a tremendous difference.

Barbara Jorden, a lobbyist for the Idaho Trial Lawyers' Association, said her group supports the bill, except for the word "explanation" on page 1, line 17 of the bill. If the doctor explains what happened in the unintended outcome, that information should be able to be included if the case should actually go forward. Ms. Jorden said this legislation has passed in 21 states. In all of these states, the word "explanation" is not contained in the bill except for the state of Illinois. If that word could be removed, the legislation would be acceptable to the trial lawyers.

In response to Committee questions, Mr. McClure said the word "explanation" was picked up from the state of Illinois. In order to prove malpractice, the person must have an expert witness, usually a doctor, who will testify that the care provided did not meet the local standard of care. You don't win a malpractice suit just because a doctor has apologized. Explanation will allow free and open discussion between the physician and the patient.

MOTION: Representative Ring moved **to send H 634 to the floor with a Do Pass recommendation.**

SUBSTITUTE MOTION: Representative Smith moved **to send H 634 to General Orders with Committee amendments attached deleting the work "explanation" at the beginning of line 17 of the printed bill.** Representatives Ring, Nielsen and Bastian spoke against the substitute motion and in favor of the original motion. **Motion failed.**

**ORIGINAL
MOTION:**

Chairman Field said the Original Motion was **to send H 634 to the floor with a Do Pass recommendation. Motion carried.** Representative Shirley will carry the bill on the floor.

ADJOURN:

There being no other business to come before the Committee, the meeting was adjourned at 3:35 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** February 21, 2006
- TIME:** 2:10 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** None
- GUESTS:** Please see attached sign-in sheets
- MOTION:** Chairman Field called the meeting to order and asked the members to review the minutes. Vice Chairman Smith moved to approve the minutes of the meeting held on February 17, 2006, as written. Motion carried.
- H 519:** The first item on the agenda was H 519 and the Chairman recognized Representative Ring to explain. Representative Ring said this is the bill which was presented to the Committee a week ago. At that time, there were some concerns regarding the fiscal note. Representative Ring met with Patricia Tobias and they concluded that it is not possible to estimate the number of offenders who may be convicted under this statute change. However, the fiscal impact now reflects the annual cost of incarceration of an individual in the Idaho state prison system.
- Under current law, a person is allowed to possess 500 grams of pseudoephedrine. This legislation will reduce the allowable possession limit to 20 grams. The 20 grams limit would make it legal to purchase 27 boxes of Sudafed or 9 boxes of Claritin D. That would last a person approximately 83 days. Asked why the amount went from 500 grams to 20 grams, Representative Ring said the amount most likely to be used by a family would be 20 grams. Representative Ring pointed out that the mandatory sentence is all ready in code.
- MOTION:** Representative LeFavour moved **to hold H 519 in Committee.**
- PRO:** Mayor Garret Nancolas was recognized to testify. Mayor Nancolas said the Caldwell Mayor's Youth Advisory Council discussed H 519 at a recent meeting. The Council believes that this bill has many positive implications in detouring methamphetamine use in the state of Idaho. The Council also believes that methamphetamine use is an epidemic that needs immediate attention. The Council unanimously supports the bill.
- PRO:** Director Charboneau, Idaho State Police, was recognized. In order to solve the meth problem, several resources must be utilized. This bill tells the public that Idaho will not tolerate the making of meth. This is a positive step to control the availability of meth. This is a very narrowly drafted piece of legislation. There are currently a number of drugs that

have a mandatory minimum sentence in code.

SUBSTITUTE MOTION:

Vice Chairman Smith moved **to send H 519 to General Orders with the following Committee amendments attached: on line 12 of the printed bill, strike the word “shall” and insert “may.” Also, delete the words “mandatory minimum fixed.” On line 13, delete “not less than”.**

Representative Ellsworth spoke in favor of the Original Motion.

Representatives Boe and LeFavour spoke in support of the Substitute Motion.

AMENDED SUBSTITUTE MOTION:

Representative Shirley moved **to hold H 519 in Committee for a time certain until Monday, February 27, to allow the sponsors time to work on the language in the bill.** Roll call vote was requested.

ROLL CALL VOTE:

On the **Amended Substitute Motion to hold for a time certain:** Voting AYE, Representatives Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Pence and Field. Voting Nay, Representatives Smith, Sali, Clark, Ellsworth, Harwood, Hart, Boe, LeFavour. **8-8-0. Motion failed.**

On the **Substitute Motion to send to General Orders:** Voting AYE, Representatives Smith, Clark, Nielsen, Ring, Shirley, Wills, Bastian, Boe, LeFavour, Pence. Voting Nay, Representatives Sali, Ellsworth, Harwood, McGeachin, Hart and Field. **10-6-0. Motion passed.** Representative Ring will carry the bill and Representative Smith will carry the amendments to the bill on the floor.

H 583:

Representative McGeachin was recognized to speak to the bill. This bill adds to existing law relating to criminal procedure to provide for the expungement of the criminal records of innocent persons. The bill says that any person who has not been found guilty or pled guilty to a crime may petition the court for the expungement of his or her arrest, incarceration, criminal case and all related records.

Upon the filing of a petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the petition and date of hearing. The prosecuting attorney and any other person with relevant information about the petitioner may oppose the petition and testify at the hearing.

If the court finds that the expungement of the petitioner’s record will not compromise public safety, it shall order all records sealed.

Representative McGeachin asked to yield to Mr. David Leroy.

PRO:

David Leroy was recognized to give his testimony. Mr. Leroy cited a case where Mr. Rick Koebbe was wrongfully arrested for a felony and the judge denied expungement of his records. There is currently no legal authority in Idaho for the requested relief. The question of expungement is often up to the creative lawyer and a judge’s discretion. Mr. Leroy handed each member an expungement order form (attached).

This legislation establishes a guideline which simply applies to a situation in which Mr. Koebbe finds himself today. This is a relatively narrow statute. It pertains only to those persons found not guilty of a crime. It requires that notice be given to the prosecutor and it requires a hearing.

This provides relief to a law-abiding citizen. It simply adds the same language as the current law regarding the expungement of juvenile records.

- MOTION:** Representative Smith moved **to send H 583 to the floor with a Do Pass recommendation.**
- CON:** Director Charboneau was recognized. This bill might have some unintended consequences. The financial impact of sealing these records is a concern. Also there have been occasions where charges have been dismissed and later the case needs to be retried. If the records are sealed forever, how can law enforcement review them.
- PRO:** Marty Durand, legislative counsel with ACLU, was recognized. ACLU supports this bill. Sometimes criminal charges are brought when they shouldn't be brought. ACLU supports the procedure in this bill. This is an important mechanism to correct the occasional error.
- PRO:** Mr. Rick Koebbe was recognized. Mr. Koebbe said he is a private citizen and he is the reason this legislation was drafted. Mr. Koebbe was stopped by the Garden City police for a minor traffic violation. As he drove away, the officer said he drove over his toe. Later, the officer said Mr. Koebbe deliberately ran over his toe. All the charges were finally dismissed after much litigation and expense, but the record was not expunged. It was a very emotional time for his family. The felony charge against a police officer still remains on Mr. Koebbe's record. This charge makes it difficult to rent a home or run his business. In conclusion, Mr. Koebbe said he would like to get his life back to normal.
- PRO:** Jim Ellis was recognized. Mr. Ellis said he runs a small business in Boise. In 2003, the police came to his office and arrested him in front of his staff. Evidence given to the police was fabricated and altered. Mr. Ellis spend four days in jail. His bail was set at \$500,000 for something he did not do. He now has a record.
- CON:** Heather Reilly, deputy prosecutor with the Idaho Prosecuting Attorneys Association, was recognized. The bill does not solve the problem with the cases where an innocent person is caught in the system. The current law does allow a sentence to be suspended or a sentence can be withheld. The court may terminate the sentence or set aside the conviction. Ms. Reilly said Mr. Koebbe could present to the court a written request for expungement. The prosecuting attorneys are concerned with the language of the bill. They do not necessarily disagree with the concept of the bill, but the language needs additional work.
- CON:** Michael Kane was recognized. Mr. Kane said a law such as this should be on the books. However, the legislation needs to be sent to general orders with the following amendments: On lines 20 through 21, insert "there is a demonstration of actual innocence" and on lines 28 through 31, delete that last sentence.
- SUMMARY:** Representative McGeachin was recognized. On lines 36 and 37 of the printed bill, the legislation answers the question of who can have access

to the sealed records. This bill will set up a process for a person who is falsely accused in order to have his or her record expunged.

SUBSTITUTE MOTION:

Representative Ring moved **to send H 583 to General Orders with Committee amendments attached.**

ROLL CALL VOTE:

Roll Call Vote was requested on the Substitute Motion. **Motion failed 3-13-0.**

ORIGINAL MOTION:

The Original Motion was **to send H 583 to the floor with a Do Pass recommendation. Motion carried.** Representative McGeachin will carry the bill on the floor.

H 632:

Representative Nonini was recognized to explain the bill. This is a housekeeping issue that is necessary since the certification for detention deputies became mandatory and separate from that of peace officers. This bill adds to those who are exempt from license requirements to carry concealed weapons detention deputies with certain credentials.

MOTION:

Representative Wills moved **to send H 632 to the floor with a Do Pass recommendation. Motion carried.** Representative Nonini will carry the bill on the floor.

H 633:

Representative Rusche was recognized to explain the legislation. This bill expands the "marijuana hotline" managed by the Idaho State Police to include a 24-hour hotline for reporting tips on methamphetamine laboratories and drug dealing. It also authorizes promotion and rewards for reporting and establishes a Drug Enforcement Donation Fund to support these activities. Also, a fine will be assessed to persons convicted of a drug crime.

MOTION:

Representative Bastian moved **to send H 633 to the floor with a Do Pass recommendation. Motion carried.** Representative Rusche will carry the bill on the floor.

H 675:

Representative LeFavour was recognized to explain. This bill creates a three-year pilot project to establish a model for providing Idaho school districts with clinically trained substance abuse and mental health specialist counselors and social workers to address critical shortages in mental health and substance abuse practitioners and services for young people in Idaho's rural and urban areas.

It is the intent to increase intervention, counseling and support services to address teen suicide, depression, drug addiction, classroom disruption, violence, incarceration and other negative outcomes that may result from leaving youth mental health and substance abuse issues untreated. The legislation provides for cooperation between schools, the Department of Health and Welfare and the courts to address the mental health and substance abuse needs of teens.

This project is modeled after the very successful Community Resource Worker Program that used Health and Welfare contracted practitioners to provide family support services through elementary schools. This project creates ways for schools, courts and health and welfare to work together

to address teen substance abuse and mental health issues before they reach the crisis stage.

At present, existing school counselors on the secondary level are forced to focus almost exclusively on academic counseling, testing, career planning and other academic issues.

The program has provided for eight counselors in eight districts. On page 3, line 39 of the printed bill a definition is given for "teens at risk." There is a new section which sets out what type of counselors would be hired. These would be people who are able to deal with crisis situations.

Under the initial pilot project, \$400,000 annually or a grant of \$1.2 million in one time funds will provide salaries and benefits for eight mental health and/or substance abuse specialist counselors and/or social workers.

In concluding her remarks, Representative LeFavour said there was a section of the bill which was inadvertently left out in the drafting process. That section would be (4) and would say: "By permission of school administrators, as prescribed in rule, teens not currently enrolled in a public school may, if assigned by a judge, participate in group or individual teen early intervention counseling sessions or services as appropriate." The remaining numbering in this section will be changed to (5) and (6) to reflect the change.

PRO: Ken Deibert with the Department of Health and Welfare was recognized. Mr. Deibert said the legislation which is a very narrow pilot project that is limited only to school districts, has a working group made up of Juvenile Corrections, schools, courts, probation officers, private providers, clinic providers and mental health counselors. The program would be funded by a general fund appropriation.

PRO: Tracy Warren, program specialist for the Idaho Council on Development Disabilities, was recognized. Ms. Warren said the Council supports early teen intervention. There is a huge need for this type of program.

MOTION: Representative Boe moved **to send H 675 to General Orders with Committee Amendments attached.**

ROLL CALL VOTE: Roll Call Vote was requested on the Motion. Voting AYE: Representatives Smith, Boe, Lefavour, Pence, Field. Voting NAY: Representatives Sali, Clark, Harwood, Nielsen, Shirley, Wills, McGeachin, Bastian and Hart. **5-9-2. Motion failed. H 675 will be held in Committee.**

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 5:50 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: February 23, 2006

TIME: 2:15 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** Representative Sali

GUESTS: Please see attached sign-in sheets

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Smith moved to approve the minutes of the meeting held on February 21, 2006, as written. Motion carried.

H 450: The Chairman recognized Steve Tobiason, representing Aladdin Bail Bonds, to explain the bill. Mr. Tobiason gave each member a handout showing a flow chart, sample bail bond, fugitive information, a state case, redline amendments to the bill and an Idaho operations overview on Aladdin Bail Bonds (attachment.)

This legislation modifies bail statutes by recognizing bail creates a monetary incentive to ensure the attendance of the defendant in court. It requires notice to the surety or its designated agent and the bail agent. It also provides a bail surety or agent one hundred eighty (180) days after payment of the bail bond to the court, to locate and return a defendant who has failed to appear in court.

The legislation should reduce the costs to law enforcement for locating and returning fugitive defendants to the state by motivating bail sureties and agents to locate and return defendants who have failed to appear in court.

The problem comes after the bail bond company has paid the full bail amount to the court. There is no one out there looking for the defendant. If the defendant is gone in a pre-trial situation, the case cannot go forward. Mr. Tobiason said in the year 2005, there were 400 total cases unable to return a defendant.

**AMENDMENTS
TO H 450:** Mr. Tobiason pointed out that in answer to concerns voiced over the legislation, there were suggested amendments in section (3) of the bill. Those amendments are: in line 7, add after "Idaho" the words "due to the efforts of the surety, bail agency and/or bail agent" and on line 8, after "forfeiture" add "and upon written application and required notice by the surety or bail agent.". On line 11, after the period, add "The lawful authority of the bail to arrest the defendant within the state shall continue during the one hundred eighty (180) day remittitur. Nothing herein

abrogates the common law authority of the bail to arrest the defendant.”

The bill tries to assure the appearance of a defendant. There are still 400 fugitives from the law somewhere. These fugitives have most likely left the state. The time frame for returning the defendants is 180 days because to locate and extradite them back to Idaho can be a very long process.

CON: Mr. Ken Owens, licensed bail agent/producer in Boise for 25 years, was recognized. Mr. Owens said he is a founding member of Professional Bail Agents of Idaho, holding various offices within the association, including his present position of Legislative Chairman.

Mr. Owens opposes all of the proposed changes contained within H 450 based on an objective analysis and investigation conducted within the members of the judicial system, as well as the professional bail agents/producers. This investigation has proven that only the people proposing the changes outlined in the bill are experiencing the alleged problems requiring the changes. The proposed changes are self-serving for the proponents of the bill and are not for the good of the criminal justice system, nor the traditional bail agent/producer.

Mr. Owens said Aladdin Bail Bonds seems to be the only company that is experiencing this problem. The issuing bail company should be responsible for the bail bond. The Association does not believe that this bill would in anyway be an asset in the state of Idaho. (Further testimony attached.)

CON: David Leroy was recognized. Mr. Leroy said this bill is about money. Mr. Leroy gave the members a handout (attached). This bill reflects a battle between the big industry and the little industry. A similar Senate bill last year was held in committee by unanimous voice vote. What has been posed as the problem here is simply not what the issue is. Mr. Owens indicated that if a bail bond agent is very careful up front, then there will be a high degree of likelihood that those people will make a court appearance. Aladdin is very large and has a person on its payroll who locates and brings these people back.

CON: Jack Green was recognized. Mr. Green said he has been a bail bondsman for over 10 years and a member of the Professional Bail Agents of Idaho. This membership promotes professionalism in the bail industry. It promotes legislation that is good for all concerned. It does not support legislation that is self-serving to only one party or organization.

This proposal opens a “loop hole” for bondsmen to argue that bail is not about money. In fact, it is all about money since bail agents post a bond for “monetary bail.” The bill is not necessary for bondsmen if they will write responsibly, collect premiums when initiating bonds, analyze risks, and exercise prudent recovery efforts. In conclusion, Mr. Green asked the committee to vote no on the legislation.

CON: Steve Rutherford from the City Attorney’s Office expressed concern over this bill. In order to allow an extra 180 days to return a person, the

administrative burden would be huge. Duplicating notices is very expensive. On line 30 of the bill, the word “accurate” has been added regarding the notice, which mandates that the bond be returned if any type of error has been made. This would represent a huge cost to the courts and the prosecutor’s office.

CON: Heather Reilly with the Idaho Prosecuting Attorneys Association was recognized. Ms. Reilly said the Association has many problems with the bill. However, Ms. Reilly focused on three main points. The purpose of a bail bond posted by anyone is primarily to ensure the defendant’s appearance in court. The removal of the requirement that the defendant satisfactorily excuse his failure to appear within the first 90 days after failure to appear would appear to mean the defendant may show up at his convenience, rather than when the court orders without providing any explanation or excuse for the non-appearance.

Finally, in the new paragraph, the additional 180 days after the 90 days currently allowed is too long, especially with mandatory language stating the court shall refund and return the entire payment of the forfeited bail to the bail agent. The money would be returned without any consideration for the costs to courts, prosecutors, defense attorneys and county. In conclusion, Ms. Reilly said this legislation is not the solution to the problem.

PRO: Robert Hayes, the CEO and Chairman of Aladdin Bail Bonds, was recognized. Mr. Hays said the point of this bill is not really about money. Aladdin is merely asking for a little more time to ensure that it is able to bring the defendants back into the judicial system.

MOTION: Representative Clark moved **to send H 450 to the floor with a Do Pass recommendation.**

SUBSTITUTE MOTION: Representative Bastian moved **to send H 450 to General Orders with the amendments as outlined previously.**

AMENDED SUBSTITUTE MOTION: Representative Wills moved **to hold H 450 for a time certain until March 1, to allow all parties to work on acceptable language. Motion failed by voice vote.**

ROLL CALL VOTE: Roll call vote was requested on the Substitute Motion to send the bill to General Orders with Committee amendments. Voting AYE: Representatives Smith, Clark, Ellsworth, Harwood, Nielsen, Ring, Bastian, Hart, Boe, Pence and Field. Voting NAY: Representatives Wills, McGeachin, Shirley and LeFavour. **11-4-1. Motion passed.** Representatives Clark and Bastian will carry the bill on the floor.

S 1301: William von Tagen, office of the Attorney General, was recognized. The purpose of this act is to update subsection (2) of Section 19-2520 Idaho Code relating to mandatory minimum sentencing. It adds a new section to provide for mandatory minimum sentences for recidivist sexual offenders. The amendment applies only to sexual offenders who are on the registry because they committed a prior sexual offense and are convicted of a second sexual offense for which registration is required. It

is felt the amendment will protect society by requiring lengthy incarceration of recidivist sexual offenders. The offenses listed for the violent sexual predators are very serious crimes. A qualifier for the mandatory minimum sentence to go into effect is that when these offenders are released, they commit sexual offenses again and again. The mandatory minimum sentence is 15 years.

- MOTION:** Representative Nielsen moved **to send S 1301 to the floor with a Do Pass recommendation.**
- SUBSTITUTE MOTION:** Representative LeFavour moved **to send S 1301 to General Orders with the following Committee amendments: on line 41 of the printed bill, delete “not less than” and insert “up to” before life. Motion failed.**
- ORIGINAL MOTION:** The Original Motion was **to send S 1301 to the floor with a Do Pass recommendation. Motion carried by voice vote.**
- UNANIMOUS CONSENT REQUEST:** Chairman Field said **H 519 was sent by the Committee to General Orders. One of the amendments to that bill removed the language regarding a mandatory minimum sentence.** Since mandatory minimum sentences that are currently in code had not been discussed, Chairman Field asked for **Unanimous Consent to bring H 519 back to Committee. There being no objection, the bill will be returned.**
- ADJOURN:** As the hour was late, the remaining Senate bills on the agenda were put over to the meeting scheduled for February 27, 2006. There being no further business to come before the Committee, the meeting was adjourned at 5:10 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: February 27, 2006

TIME: 2:10 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

ABSENT/
EXCUSED: None

GUESTS: William von Tagen, A.G.'s office; Kathy Baird, Sex Offender Classification Board; Senator Goedde; Michael Henderson, the Courts

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Bastian moved to approve the minutes of the meeting held on February 23, as written. Motion carried.

H 713: Senator Goedde was recognized to explain the bill. The purpose of this legislation is to clarify in law that it is illegal for a registered sex offender to be upon school grounds or within 500 feet of school grounds or areas where school activities involving students less than 18 years of age are taking place. An exception is provided for parents dropping off or picking up their children attending the school, students meeting the definition of sex offender enrolled in school, and parents attending parent teacher conferences. It provides a misdemeanor penalty for a violation. The penalty would be up to a year in jail.

PRO: Cliff Green, Idaho School Board Association, was recognized. Mr. Green said he represents 112 to 114 school districts in the state. Last November the Association voted to support the legislation before the Committee. However, the Association does have an amendment to the bill which is as follows: On page 1, following line 37 insert: "(c) When the offender resides at a state licensed or certified facility for incarceration, health or convalescent care. Representative Boe asked about adding an emergency clause.

MOTION: Representative Nielsen moved to send H 713 to General Orders with Committee amendments attached and an emergency clause added. Motion carried. Representative Chadderdon will carry the bill on the

floor. Representative Hart asked to be recorded as voting “No” on the motion.

S 1302: William von Tagen was recognized to explain the bill. This legislation amends Idaho Code section 19-2827 and the conditions under which a report is to be prepared by a trial judge setting forth findings required by Idaho Code, section 19-2515(8)(b). As a result of a U.S. Supreme Court decision, judges no longer make the determination as to whether the death penalty is appropriate. Since judges no longer make this determination, the report required is no longer necessary, except in cases where both parties have waived the jury for sentencing. The second part of this legislation deals with the finding of whether the sentence of death is excessive. Both of these changes are an attempt to bring Idaho statutes into conformity with court rulings concerning the death penalty.

MOTION: Representative Smith moved to send S 1302 to the floor with a Do Pass recommendation. Motion carried. Representative Smith will carry the bill on the floor. Representative LeFavour asked to be recorded as voting “No” on the motion.

S 1304: Mr. Von Tagen was recognized. The purpose of this act is to update subsection 3 to except all offenses requiring sexual offender registration as set forth in Idaho Code, section 18-8304, from the dismissal or reduction of conviction provisions of subsections 1 and 2 of the act. Sexual offenders are often compliant with probation conditions, but continue to present a significant risk of recidivism. Efforts of law enforcement agencies to protect their communities by identifying past offenders, conduct investigations, and quickly apprehend the offender who commits a successive sexual offense, are impaired so long as some sexual offenders are able to have their convictions dismissed or reduced to a misdemeanor.

This amendment will assist law enforcement in the protection of children and other potential victims and afford a much-needed added measure of protection to Idaho citizens. It makes it clear that the community has a right to know this information.

MOTION: Representative Smith moved to send S 1304 to the floor with a Do Pass recommendation. Motion carried. Representative Clark will carry the bill on the floor.

S 1303: Mr. von Tagen was recognized to explain. This legislation is designed to clarify and update the Misuse of Public Funds criminal provisions to include a prohibition of the use of public agency financial transaction cards for personal use. The current language in the Misuse of Public Funds criminal provisions predated the existence

and widespread use of such cards and does not make it clear that the use of such cards constitutes a use of public money. This legislation is designed to clarify that misuse of these cards falls within the prohibitions of the statute. The bill is intended to clarify existing law.

MOTION: Representative Shirley moved to send S 1303 to the floor with a Do Pass recommendation. Motion carried. Representative Shirley will carry the bill on the floor.

H 715: Michael Henderson representing the Courts, was recognized. Mr. Henderson said his office was contacted by a group who voiced some concerns with the bill. He asked that the bill be held for a time certain at the call of the Chair. There being no objection, the bill was so held.

H 716: Michael Henderson was recognized to explain. Under current code, criminal defendants who are placed on probation may have their convictions set aside if they have complied with the terms and conditions of probation, there is no longer cause for continuing probation and terminating probation and setting aside the conviction is compatible with the public interest. Similarly, defendants who are placed on retained jurisdiction and subsequently receive probation may have their felony convictions reduced to misdemeanors if they have complied with the terms and conditions of probation.

This bill would allow graduates of drug courts and mental health courts to seek the relief provided by this statute if they successfully complete the drug court or mental health court program and comply with all conditions of probation following their graduation. Allowing these persons to have their convictions set aside or reduced following a completely satisfactory performance in drug court or mental health court would provide them with an added performance incentive and would enhance the effectiveness of these courts.

MOTION: Representative Ellsworth moved to send H **716 to the floor with a Do Pass recommendation. Motion carried.** Representative Hart will carry the bill on the floor.

HJM 17: Representative Frances Field was recognized to explain the memorial. This memorial offers the support of the Idaho Legislature to the United States Congress in their efforts to ask for greater accountability by federal judges in their decisions to uphold the United States Constitution and the original intent set forth by the Founding Fathers.

Several members questioned the language of the bill, saying it seems to be a bit too strong when it says the U.S. Supreme Court

and lower federal courts, especially the U.S. Court of Appeals for the Ninth Circuit have repeatedly ruled inconsistently. This does not appear to be a memorial that should be sent to Congress.

MOTION: Representative Smith moved to hold HJM 17 in Committee.

SUBSTITUTE MOTION: Representative Ellsworth moved to hold HJM for a time certain at the call of the Chair. Motion carried.

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 3:25 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: March 1, 2006

TIME: 1:40p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

ABSENT/ Representative Ellsworth

EXCUSED:

GUESTS: Please see sign-in sheets

MOTION: Vice Chairman Smith called the meeting to order and asked the members to review the minutes. Representative Boe moved to approve the minutes of the meeting held on February 27, as written. Motion carried.

H 709: Vice Chairman Smith recognized Representative Shirley to explain the bill. This legislation requires a person to report deaths to law enforcement officials. This bill was brought forward because of a case found in Rexburg, Idaho, in 2004, where the badly decomposed bodies of a mother and a grown daughter were found. The mother had been dead for approximately three years and the daughter for approximately a year.

Current law does not require a person to report deaths. With this legislation, subsection (2) says that any person who fails to notify law enforcement shall be guilty of a misdemeanor and shall be punished by up to one year in jail, or by a fine not to exceed one thousand dollars, or by both such imprisonment and fine. Subsection (3) states that any person who is found guilty of a second or subsequent violation, shall be guilty of a felony.

Representative Shirley said the coroners have expressed concerns regarding the language on line 12 and 13, where the new language says a person shall promptly notify "a law enforcement officer or agency, which shall notify". Representative Shirley asked that this new language be stricken and the former language reinstated. Representative Shirley asked to yield to Mr. Kenneth Sakota for further testimony.

PRO: Mr. Sakota said he is a retired special agent with the FBI and a

brother and uncle of the deceased. Both of their bodies were decayed, mummified, and beyond recognition when they were found (see attached testimony.) Autopsies were conducted and the doctor said the two women could have been suffocated or poisoned, but due to the advanced decomposition, he could not determine the exact time or cause of death. To date, the husband and father who lived in the home with the bodies, David Kaneko, has not said one word about their deaths and has not cooperated with Law Enforcement. Currently, David has not been charged with any crime and is a free man.

Mr. Sakota closed his testimony by saying it is his family's recommendation that if a person knows or has any type of relationship with the deceased and does not report the dead body, this law should be a felony with a mandatory sentence.

MOTION: Representative Clark moved to send H 709 to General Orders with Committee amendments, as requested by Representative Shirley, attached.

SUBSTITUTE MOTION: Representative Wills moved to send H 709 to General Orders with the above Committee amendments attached and at the end of line 23 of the printed bill, add "or if the death has occurred beyond a reasonable amount of time for the coroner to determine the cause of death, the person may be charged with a felony of up to 20 years in prison. Motion carried. Representatives Harwood, Boe and Hart asked to be recorded as voting "No" on the Motion. Representative Shirley will carry the bill on the floor.

S 1300a: Chairman Field recognized Kathy Baird, management assistant, Sex Offender Classification Board. Ms. Baird gave the members a brief overview of the Board, saying that the Board is independent board generally funded by the Department of Correction. However, the Board does not work under the Department. Of the group of offenders, only those who are identified as high risk to offend again are actually registered with the Board.

MOTION: Representative Smith moved to send S 1300a to the floor with a Do Pass recommendation.

Some of the members asked Ms. Baird to explain what S /300a does. This bill expands the list of crimes for which an offender may be reviewed for violent sexual predator designation. An offender's failure to comply with the sexual offender registration requirements presents a risk to community safety and

demonstrates a willful disregard for the laws of this state. By including this crime in Idaho Code, it will enable the Board to review dangerous offenders who have been convicted of sexual offenses in jurisdictions other than Idaho, who reside in this state and evade lawful registration.

Ms. Baird said the amendment to the bill fixes a previous oversight by adding language on line 22 of the printed bill as follows: "including any violation of the duty to register as provided in this chapter and offenders who are recidivists as defined in this chapter". In conclusion, Ms. Baird said the Board only reviews high risk offenders.

Motion carried. Representative Field will carry the bill on the floor.

S 1311: The Chairman recognized Senator Keough to explain the bill. The Senator asked to yield to Jane Wittmeyer, Intermountain Forest Association, to go over the bill. Ms. Wittmeyer said there is a small team of three testifiers who would be explaining the legislation.

PRO: Bill Boyd, attorney representing Forest Capital, was the first to speak to the bill. Mr. Boyd said Forest Capital is an owner of large tracts of timber land in northern Idaho. This bill presents a modest but important change in the law dealing with adverse possession. Currently, if a claimant utilizes the law of adverse possession, that person can obtain property without ever paying for it. This is a law that is no longer logical. This legislation extends the time required to adversely possess real property from five years to twenty years. This would give an owner more time to resolve the issue of ownership and bring suit, if necessary. This change is intended to promote harmony between neighbors. Persons with valid existing rights will not be disturbed by this bill.

PRO: Kennon McClintock, representing Idaho Forest Owners Association and Forest Capital, was recognized. Mr. McClintock gave each member a handout (attached) on Adverse Possession in Idaho. Current Idaho law provides an avenue for people to take land and timber even though they are not the recorded owners of the land. This is an archaic principle which has long outlived its original intent.

Mr. McClintock suffered a loss due to adverse possession. The case involved several years, was brought over 1.07 acres and involved timber valued at \$5,000. Mr. McClintock's total loss amounted to \$26,700. Mr. McClintock said Forest Capital does

not use adverse possession. It has no desire to trespass or take its neighbor*s land. Forest Capital has lost \$40,850 to adverse possession.

PRO: Mark Benson, Potlatch Corporation, was recognized. Mr. Benson said the issue of adverse possession is important. The term of 20 years in the legislation is used because 20 years would seem to be a reasonable length of time. Potlatch has thousands of miles of forest land. Because of this, there are times when certain property lines are not visited for many years. With an extension to 20 years, if there is an instance of adverse possession, Potlatch will have time to resolve the issue. In early times, there was a reason for adverse possession. In the year 2006, bad fences make bad neighbors.

MOTION: Representative Wills moved to send 5 1311 to the floor with a Do Pass recommendation. Motion carried. Representative Clark will carry the bill on the floor.

S 1312: Megan Ronk, the Governor*s Criminal Justice Policy Advisor, was recognized. Ms. Ronk said this legislation is the result of recommendations made by the Criminal Justice Commission. The legislation closes several loopholes in current Idaho Code and will enhance public safety by increasing the registration and address verification requirements for sex offenders, especially violent sexual predators. In addition, the legislation increases the maximum penalty for sex offenders who fail to register, and increases the maximum penalties for several crimes that require sex offender registration. This will give prosecutors and judges greater flexibility when sentencing these offenders.

The legislation provides that violent sexual predators shall register with the sheriff every three months. The address of a violent sexual predator shall be verified every thirty days. Any offender subject to registration who fails to verify his address shall be guilty of a felony and shall be punished by imprisonment for a period not to exceed ten years and by a fine not to exceed \$5,000. The sheriff visits the offenders once every six months. This bill will allow law enforcement to keep better track of these offenders. The bill is proactive rather an reactive. It complements some of the other legislation brought forward this year.

MOTION: Representative Bastian moved to send S 1312 to the floor with a Do Pass recommendation. Motion carried. Representatives Clark, Boe and Field will carry the bill on the floor.

S 1336: Megan Ronk was recognized to explain. This legislation adds a new Chapter 85 to Title 18, Idaho Code, entitled the "Idaho

Criminal Gang Enforcement Act.” The legislation is the result of recommendations made by the Governor’s Criminal Justice Commission.

Gang activity has become increasingly prevalent in Idaho and it is important that law enforcement agencies, prosecutors and judges have the necessary tools to address this issue. The legislation provides definitions, extends sentences for gang members who commit certain crimes, criminalizes recruitment of criminal gang members and creates a new felony charge for supplying firearms to a criminal gang member.

Ms. Ronk said the legislation is not directed to wayward youth. A prosecutor will have to prove that a person is involved in criminal gang activity. There is a very high burden of proof. One of the intents of the bill is to stop the recruitment of new gang members. The legislation also contains an emergency clause.

In answer to a question regarding age limits in this legislation, David Hensley, the Governor’s legal council, said Idaho Code specifically states that no one under 10 years of age can be prosecuted in the juvenile justice system. It really is only those age 12 and up, engaging in criminal activity, that will be prosecuted. Also, the prosecutor must be able to prove guilt beyond a reasonable doubt.

PRO: Mayor Garret Nancolas was recognized to give his testimony. This legislation will have a huge impact on the school system. There are numerous situations where students are beat up and intimidated. Each crime leads to more serious crimes. This will provide a great tool. More severe consequences must be established for these crimes.

PRO: Mayor Tom Dale was recognized. The Mayor said we have a war on domestic terrorism. These people intimidate and terrify people. We need tools to fight this war. This problem is now being addressed as a statewide issue.

MOTION: Representative Bastian moved to send 5 1336 to the floor with a Do Pass recommendation. After Committee discussion on the Motion, Representative LeFavour called for the question and requested a Roll Call Vote.

ROLL CALL
VOTE:

Chairman Field said the Motion is to send 5 1336 to the floor with a Do Pass recommendation. Roll call vote: voting Aye: Representatives Sali, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, Pence and Field. Voting Nay: Representative LeFavour. 12-1-3. Motion passed. Representative Wills, Boe and Field will carry the bill on the floor.

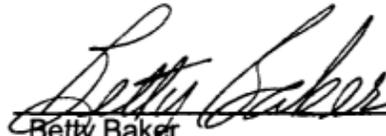
ADJOURN:

Prior to adjourning, Chairman Field said she had written a letter in support of the boys scouts who were abused at Camp Little Lemhi to the president of the Boy Scouts of America Grand Teton Council. Chairman Field said that the letter was to be sent on March 2, but the Post Register published the letter in its newspaper prior to that date and before the Chairman had the opportunity to talk to each of the Committee members about it. The Chairman felt she owed it to the Committee and to the children who were abused to write the letter. The members who were present all voiced their approval and said the letter needed to be written.

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



Representative Debbie Field
Chairman



Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: March 3, 2006

TIME: 12:35 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** Representatives Sali and Ellsworth

GUESTS: Robert Aldridge, Trust & Estate Professionals of Idaho, Inc.

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Ring moved to approve the minutes of the meeting held on March 1, 2006, as written. Motion carried.

Prior to addressing the agenda, Chairman Field said Representative Shirley had previously presented **H 709. Committee amendments had been suggested and the bill was sent to General Orders.** Since that presentation, the Attorney General's office had reviewed the amendments and drafted new language. Since the bill is already on General Orders, the Chairman asked if the members would accept the new amending language recommended by the Attorney General's office. Vice Chairman Smith recommended that the bill be brought back to the Committee to readdress the amendments.

**UNANIMOUS
CONSENT:** There being no objection, **H 709 will be returned to the Committee for further consideration.**

S 1318: Robert Aldridge was recognized to explain all of the bills on the agenda. The first one was S 1318. This bill clarifies how the Medicaid Estate Recovery division of Health & Welfare can recover assets from the estate of a decedent and clears up a number of uncertain areas of law. The bill clarifies that no recovery is made until both spouses are deceased and also removes the requirement to send a claim if no probate is filed at the first death.

The bill also clarifies how the lien filed by the Department with the Secretary of State may be released, in order to allow the sale of the property by the estate, or foreclosed, to expedite estate recovery.

MOTION: Vice Chairman Smith moved **to send S 1318 to the floor with a Do Pass recommendation. Motion carried.** Representative Smith will carry the bill on the floor. Representative LeFavour asked to be recorded as voting "No" on the Motion.

S 1319: This bill increases the cap for estate values from \$75,000.00 to \$100,000.00. This amount also matches the normal maximum amount

that a bank account would hold, due to FDIC insurance limits.

- MOTION:** Representative Clark moved **to send S 1319 to the floor with a Do Pass recommendation. Motion carried.** Representative Pence will carry the bill on the floor.
- S 1320:** This bill revises notice provisions applicable to proceedings for the appointment of a guardian of a minor. If an alleged “putative” father of a child, who is not married to the mother of the child, fails to register his paternity, the putative father is not entitled to notice in minor guardianship proceedings.
- MOTION:** Representative Wills moved **to send S 1320 to the floor with a Do Pass recommendation. Motion carried.** Representative Bastian will carry the bill on the floor.
- S 1321:** This bill provides that the doctrine of worthier title shall not be applied as a rule of law. The doctrine of worthier title causes a trust whose grantor intended it to be irrevocable to become legally construed as revocable, contrary to the grantor’s intent, and creates a variety of unintended adverse legal consequences for the trust grantor and beneficiary. The doctrine of worthier title has never been used in Idaho and most states have provided that the doctrine is not applicable or is abolished. Modern legal authority supports the proposition that the doctrine should not be legally recognized.
- MOTION:** Vice Chairman Smith moved **to send S 1321 to the floor with a Do Pass recommendation. Motion carried.** Representative Nielsen will carry the bill on the floor.
- S 1322:** This bill allows the guardian acting at the death of a decedent, or if none, the conservator acting at the death of a decedent, to make funeral-burial decisions and arrangements. Sections 2 and 3 extend the guardianship or conservatorship past the date of death of the decedent under those circumstances so that the guardian or conservator has legal authority to act.
- MOTION:** Representative Clark moved **to send S 1322 to the floor with a Do Pass recommendation. Motion carried.** Representative LeFavour will carry the bill on the floor.
- S 1323:** A question has arisen in the legal and banking community as to whether a trust can be created, or exist, without any current assets held by the trust, commonly called a “dry trust.” This bill clearly, under all circumstances, allows the existence of dry trusts.
- MOTION:** Representative Nielsen moved **to send S 1323 to the floor with a Do Pass recommendation. Motion carried.** Representative Hart will carry the bill on the floor.
- S 1324:** This bill raises the level at which a trustee may terminate a trust to \$100,000.00. There are substantial protections built into the statute as to how such termination must be pursued. This will give more flexibility to terminate a trust when its costs of administration are becoming too high to

justify continuation of the trust, while still keeping all the existing protections.

MOTION: Representative Clark moved **to send S 1324 to the floor with a Do Pass recommendation. Motion carried.** Representative Harwood will carry the bill on the floor.

S 1326: This bill modifies the uniform act to fit the Idaho Probate Code, which segregates guardianships and conservatorships into different areas of the probate code, as opposed to the uniform act, which has a single set of provisions for guardianships in general. The net effect of the bill is to provide a detailed and precise method for transferring and receiving guardianships and conservatorships and for recognizing foreign guardianships and conservatorships on a temporary basis.

MOTION: Vice Chairman Smith moved **to send S 1326 to the floor with a Do Pass recommendation. Motion carried.** Representative Clark will carry the bill on the floor.

S 1328: The bill makes it clear that the termination of parental rights also terminates the right to make an appointment by will for the guardianship of a minor. An appointment is only effective if, at the time of death of the appointing parent, no other parent was alive who has the right to make an appointment by will. It also clarifies the situation where a parent is still alive, but has had his or her parental rights terminated. Also, if one parent dies, but the remaining parent had the right to make an appointment, standard minor guardianship procedures would be used. The amendment removes any potential ambiguities or conflicts in the language.

MOTION: Representative LeFavour moved **to send S 1328 to the floor with a Do Pass recommendation. Motion carried.** Representative Shirley will carry the bill on the floor.

S 1335: The definition of "interested person" in the Probate Code is extremely important, since many other statutes in the Probate Code require notice to be given to, or consent obtained from, any interested person.. However, there are two expansions of the definition of an "interested person" buried in other areas of the probate code, but not referenced in the definition. This bill gives better notice of those two expansions. The exact language of those expansions is added by this bill.

MOTION: Representative Clark moved **to hold S 1335 for a time certain until the meeting to be held on March 7, 2006. Motion carried.**

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 1:20 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** March 7, 2006
- TIME:** 1:35 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** Representatives Sali, Ellsworth, Nielsen
- GUESTS:** Robert Aldridge; Patricia Tobias and Michael Henderson
- MOTION:** Chairman Field called the meeting to order and asked the members to review the minutes. Representative Ring moved to accept the minutes of the meeting held on March 3, 2006, as written. Motion carried.
- H 709:** The Chairman recognized Representative Ring to explain. Representative Ring said this bill was presented to the Committee last week. The main testifier to the bill expressed concern that the misdemeanor language in the bill was not strong enough and asked that amendments be added making the crime a felony. The bill was sent to General Orders with Committee amendments attached.
- However, several opinions on the language of the amendments were given including an opinion from the Attorney General's office. As a result of these opinions, the bill was returned to the Committee, and new language was presented in the form of a new subsection 3. Representative Ring asked to yield to Heather Reilly, Prosecuting Attorney. Ms. Reilly said the new language states that it was the intent to fail to notify law enforcement. This specific intent language is necessary.
- MOTION:** Representative Clark moved **to send H 709 to General Orders with the following Committee amendments attached:**
- On page 1 of the printed bill, delete lines 12 through 14 and insert: "tody of the body shall promptly notify either the coroner, who shall notify the appropriate law enforcement agency, or a law enforcement officer or agency, which shall notify the coroner. In line 20, following "notify" insert: "the coroner or", and delete lines 24 through 27 and insert:
- "(3) Any person who, with the intent to prevent discovery of the manner of death, fails to notify or delays notification to the coroner or law enforcement pursuant to subsection (1) of this section, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed fifty thousand dollars (\$50,000) or by both such fine and imprisonment."
- Motion carried.** Representative Shirley will carry the bill on the floor.

- H 762:** Representative Ring was recognized to explain. Representative Ring said this is a replacement bill. It addresses “Mom and Pop” methamphetamine cooking labs. The legislation says that if a person possesses more than 25 grams of pseudoephedrine, but less than 500 grams, such person shall be sentenced to a term of imprisonment of up to ten (10) years and fined not more than \$25,000.00. The purpose is to reduce the allowable possession limits to 25 grams. This would allow a person to purchase 34 standard boxes of Sudafed, or more than 9 boxes of Claritin D.
- MOTION:** Representative Bastian moved **to send H 762 to the floor with a Do Pass recommendation. Motion carried.** Representative Ring will carry the bill on the floor.
- S 1335:** Bob Aldridge was recognized. Mr. Aldridge said he presented this bill last week and at that time, some members asked for code references regarding “interested person” in the Probate Code. Mr. Aldridge said the references to “interested person” are contained in Idaho Code 15-5-406, 15-5-405 and 15-5-309 (attached).
- MOTION:** Representative Smith thanked Mr. Aldridge for the references and moved **to send S 1335 to the floor with a Do Pass recommendation. Motion carried.** Representative Smith will carry the bill on the floor. Representative Clark asked to be recorded as voting “No” on the Motion.
- S 1250:** Michael Henderson with the Courts was recognized. This bill is one of a series of bills that the Supreme Court has recommended in its annual report to the Governor concerning defects in the law. It would amend the provisions of Idaho Code pertaining to the procedures to be followed upon the filing of a petition under the Juvenile Corrections Act. The statute currently states that the court, upon the filing of a petition, shall make a preliminary inquiry. This legislation would change the word “shall” to “may.”
- MOTION:** Representative Clark moved **to send S 1250 to the floor with a Do Pass recommendation. Motion carried.** Representative Harwood will carry the bill on the floor.
- S 1251:** Mr. Henderson was recognized to explain. This bill would correct another defects in the law piece of legislation. It would repeal an obsolete statute which is Idaho Code, section 1-1612.
- MOTION;** Representative Wills moved **to send S 1251 to the floor with a Do Pass recommendation. Motion carried.** Representative LeFavour will carry the bill on the floor.
- S 1252:** Mr. Henderson was recognized. This bill is another in a series of bills that the Supreme Court has recommended in its annual report correcting a defect in the law. It would extend the provisions of Idaho Code Section 20-227 to mental health courts. It extends the arrest powers of parole and probation officers to persons under the supervision of mental health courts.
- MOTION:** Representative LeFavour moved **to send S 1252 to the floor with a Do Pass recommendation. Motion carried.** Representative McGeachin

will carry the bill on the floor.

ADJOURN:

Prior to adjourning, Chairman Field said the Committee would probably be through with all of its bills by the end of next week. There being no further business to come before the Committee, the meeting was adjourned at 2:00 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: March 9, 2006

TIME: 2:40 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** None

GUESTS: Please see attached sign-in sheet

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Ring moved to approve the minutes of the meeting held on March 7, 2006, as written. Motion carried.

S 1296: Chairman Field recognized Senator Davis to explain the legislation. This is a tenant at sufferance bill. This bill focuses on a tenant who is still in possession of a property after foreclosure. All this bill does is to extend Idaho's unlawful detainer action (eviction proceeding) to a tenant at sufferance. The legislation also contains an emergency clause.

MOTION: Representative Ellsworth moved **to send S 1296 to the floor with a Do Pass recommendation. Motion carried.** Representative Ellsworth will carry the bill on the floor.

S 1332a: Dale Higer, attorney with the Uniform Law Commission, was recognized to explain. This bill adds definitions and clarifies changes in the law since the Uniform Interstate Family Support Act was passed in 1996. The amendments to the Act would extend the time that the Act would be in full force and effect to on and after July 1, 2007. The legislation also deletes the requirement to give social security numbers.

MOTION: Representative Wills moved **to send S 1332a to the floor with a Do Pass recommendation. Motion carried.** Representative Ellsworth will carry the bill on the floor.

S 1399: The Chairman recognized Senator Keough to explain the bill. The purpose of this bill is to adjust the limitation on the homestead exemption allowed in collections and bankruptcy proceedings. The bill raises the exemption from \$50,000.00 to \$100,000.00. This homestead exemption has not been adjusted since 1992. An emergency clause has been added. This legislation updates the statute to today's reality.

MOTION: Representative LeFavour moved **to send S 1399 to the floor with a Do Pass recommendation. Motion carried.** Representative LeFavour will carry the bill on the floor.

- S 1403:** Senator Davis was recognized to explain the legislation. The Senator said this bill could not be used when he lost his son. This statute encourages the donation of anatomical organs. It allows minors (sixteen years of age and older) with parental consent, to make anatomical organ donations. It allows a parent to visit with a child and see if that child would desire to donate organs. The donation could only be made if there is a document of gift, signed by the donor's parent or adult guardian if the donor is sixteen years of age or older, but less than 18 years of age.
- MOTION:** Vice Chairman Smith moved **to send S 1403 to the floor with a Do Pass recommendation. Motion carried.** Representative Field will carry the bill on the floor.
- S 1300a:** Kathy Baird was recognized to explain. Ms. Baird said in 1998, Idaho enacted the Sexual Offender Registration Notification and Community Right-To-Know Act. This bill expands the list of crimes for which an offender may be reviewed for violent sexual predator designation. This legislation was reviewed by the Committee last week and sent to the floor with a **Do Pass recommendation.** Since that time, some concerns were raised concerning the language in the bill. Therefore, amendments were drafted clarifying that there are two separate qualifiers in the bill. The amendment simply adds the word "or" to the bill.
- MOTION:** Representative Clark moved **to send S 1300a to General Orders with Committee amendments attached as follows: On page 1 of the engrossed bill, delete lines 22 and 23 and insert: "tion, or any violation of the duty to register as provided in this chapter, or offenders who are recidivists as defined in this chapter,".** **Motion carried.** Representative Clark will carry the bill on the floor.
- S 1331:** The Chairman recognized Olivia Craven, Commission of Pardons & Parole, to explain. This legislation references mental health professionals designated by the department of correction and selected by the commission to examine and evaluate offenders prior to their release on parole.
- The department of correction has clinician staff designated who can perform the testing and skills to write evaluation reports to provide the information to the commission. If clinicians are allowed to conduct these interviews, there would be no additional cost to the commission or the department of correction. Clinicians are currently trained to do the testing required for the evaluation. This change brings the statute into consistent practice.
- PRO:** Paul Panther, Attorney General's office, was recognized. This bill requires that certain sex offenders receive a review by a psychologist or mental health professional. That person does not have to be licensed to perform this evaluation.
- MOTION:** Representative Shirley moved **to send S 1331 to the floor with a Do Pass recommendation. Motion carried.** Representative Nielsen will carry the bill on the floor.
- S 1297:** Heather Reilly, Idaho Prosecuting Attorneys, was recognized to explain.

The purpose of this bill is to remove the requirement that the prosecutor give notice to the defendant of "intent to seek the enhanced penalty" under Idaho Code 19-2520, at or before the preliminary hearing or waiver of the preliminary hearing.

The current strict notice requirement causes confusion because it is silent as to cases charged by the Grant Jury. Even with this amendment, prosecutors will still be required to provide notice to the defendant because the state is required to file the firearm enhanced penalties in the information or indictment and prove the enhanced penalty beyond a reasonable doubt.

The bill creates consistency among Idaho's enhanced penalty statutes. Notice to the accused will continue to be provided and due process will be protected.

MOTION: Representative LeFavour moved **to send S 1297 to the floor with a Do Pass recommendation**. Representative Smith said he could not support the motion unless language was added saying except in cases of indictment. **Roll Call vote was requested.**

ROLL CALL VOTE: The Motion was **to send S 1297 to the floor with a Do Pass recommendation**. **Voting AYE: Representatives Ring, Shirley, McGeachin, Bastian, Boe, LeFavour, Pence, Field. Voting NAY: Representatives Smith, Clark, Harwood, Nielsen, Hart. Motion carried: 8-5-3.** Representative LeFavour will carry the bill on the floor.

S 1397: Representative Rich Wills was recognized to explain. This legislation is designed to reduce the number of motor vehicle drivers choosing to drive while under the influence of drugs and alcohol, thereby making Idaho roads safer for law-abiding citizens.

The legislation increases the potential administrative license suspension for those drivers who refuse to provide specimens for evidentiary testing from 180 days to one year for the first refusal and from one year to two years for a second or more refusals within ten years.

For multiple DUI offenders, the legislation increases the maximum sentence a judge may impose for a felony conviction from five years not to exceed ten years and for aggravated DUI from ten years to fifteen years.

PRO: Lt. Marv Dashiell, Canyon County Sheriff's office, was recognized. Lt. Dashiell said he supports this legislation. A harsher penalty needs to be enacted as society recognizes the hazards and costs associated with the violators of the law. Stricter penalties, even on first time offenders could help curb the number of violators. With an increased time of suspension of a driver's license, the likelihood of a person being caught for violating probation increases.

In checking database information for the Canyon County Jail for counts of people booked into the jail from January 2005 to present for multiple offenses indicate 127 on view and warrant bookings for second offense, 65 for felony DUI, and 7 for aggravated DUI. The total number of all

classifications of DUI arrests during this period was 1674. Approximately 12 percent of the people booked into jail in Canyon County during this time were arrested for multiple offenses or felony charges.

PRO: Cindy Penner was recognized. Cindy said she is a MADD volunteer. She gave each member a handout from MADD (attached). Currently MADD has 250 cases statewide. Ms. Penner said she was in an accident involving a drunk driver in which her friend, Lori Simmons, a 37 year old kindergarten teacher, was killed, and Cindy and Lori's children were seriously injured in the crash. In conclusion, Ms. Penner asked the members to support the legislation.

PRO: David Cavanaugh, Bosie City Police, was recognized. Officer Cavanaugh said one out of every three people arrested for DUI refuse to take the test. If a person refuses on the second offense, the person's license is revoked for 6 months under current law instead of one year. Last year, arrests for DUI went up 20%. These people must be held accountable.

PRO: Heather Reilly was recognized. Ms. Reilly said under current law, these offenders are required to take evidentiary testing. Officers must establish probable cause before they request the evidentiary test. Currently, if offenders refuse the test, they are granted a 30-day grace period. Law Enforcement Legislative Council supports this legislation.

MOTION: Representative Nielsen moved **to send S 1397 to the floor with a Do Pass recommendation.**

SUBSTITUTE MOTION: Representative Bastian moved **to send S 1397 to General Orders deleting the 15 year penalty and reinstating the 10 year penalty.** After some discussion on the motion, Representative Shirley called for the question. **Representative Bastian withdrew the Substitute Motion.**

ORIGINAL MOTION: The Motion was **to send S 1397 to the floor with a Do Pass recommendation. Motion carried.** Representative Wills will carry the bill on the floor.

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 4:45 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** March 13, 2006
- TIME:** 2:15 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** Representative Sali
- GUESTS:** Senator Corder, Patricia Tobias, Brent Reinke
- MOTION:** Vice Chairman Smith called the meeting to order, saying the Chairman had been detained but would attend the meeting shortly. The Vice Chairman asked the members to review the minutes. Representative Wills moved to approve the minutes of the meeting held on March 9, 2006, as written. Motion carried.
- S 1400a:** Senator Corder was recognized to explain. This bill increases the allowable claim amount in small claims from \$4,000.00 to \$5,000.00 for specified civil proceedings assigned to magistrates. It also provides for collection of attorney's fees and costs by a prevailing plaintiff after a time certain and provides that the attorney's fee awarded to the prevailing party shall be a reasonable amount as determined by the court.
- The amendment to the bill adds the following language on page 3 of the printed bill in line 11: "Such attorney's fees and costs shall be set by the court following the filing of a memorandum of attorney's fees and costs with notice to all parties and hearing."
- MOTION:** Representative Clark moved to **send S 1400a to the floor with a Do Pass recommendation. Motion carried.** Representative Clark will carry the bill on the floor.
- S 1407:** Patti Tobias, administrative director of the courts, was recognized. The purpose of the bill is to add two new district judges, one in Kootenai County and one in Canyon County. These would be the first new district judge positions in Idaho since 1998. No district judge positions have been added in Kootenai County since 1998 and none in Canyon County since 1996.
- The judiciary has been able to keep pace with the increasing caseload by the use of senior judges and by having active judges assigned to cases in districts other than their own, when required. Idaho's increasing population, up more than 40% in Kootenai County and more than 51% in Canyon County, make it necessary to add these judgeships. A handout showing district court caseloads in Kootenai and Canyon County is

attached.

MOTION: Representative Bastian moved **to send S 1407 to the floor with a Do Pass recommendation. Motion carried.** Representative Smith will carry the bill on the floor.

S 1408: Patti Tobias was recognized to explain. This bill would address the unfunded liability of the Judges' Retirement Fund. The retirement plan is funded by civil filing fees, member contributions and employer contributions, as well as a return on invested assets.

According to actuarial reports, the Fund showed a positive assets-to-liability ratio through June of 2001. However, the downturn following the attacks of September 11, 2001, caused a 25% loss in value and a consequent unfunded liability. The unfunded liability stands at approximately \$7.5 million. There is now a negative cash flow; the annual filing fees and contributions are less than retirement payments and expenses.

This bill encompasses a 15-year plan to eliminate the unfunded liability. It would increase the filing fee deposited in the fund by \$14.00, from \$18.00 to \$32.00. This would be the first increase in the fee since 1990. Also, employee contributions would be increased from 6% to 7.65%; and employer's contributions would be increased from 7% to 10.73%.

MOTION: Representative Ellsworth moved **to send S 1408 to the floor with a Do Pass recommendation.** Representatives Bastian and Hart spoke in favor of the motion. Representative Nielsen questioned such a large increase at one time. **Motion carried.** Representative Ellsworth will carry the bill on the floor. Representative Clark asked to be recorded as voting "No" on the motion.

S 1409a: Patti Tobias was recognized. This bill would create a Senior Magistrate Judges Fund which would be used to purchase additional years of service for retiring magistrate judges pursuant to a schedule to be established. The funds would be generated by a \$6.00 increase in civil filing fees.

An amendment to the bill reads as follows: on page 1, delete lines 26 through 29 and insert: "restricted by any applicable limits and requirements established by the public employee retirement system of Idaho and by the United States internal revenue service.". Ms. Tobias provided each member with a sheet regarding senior judges (attached). Ms. Tobias said the court is trying to build capacity in this area in a cost effective manner. This bill would provide an incentive for these magistrate judges to work.

MOTION: Representative Clark moved **to send S 1409a to the floor with a Do Pass recommendation. Motion carried.** Representative Clark will carry the bill on the floor.

S 1275: Prior to addressing the last bill on the agenda, Chairman Field resumed her seat and said the Governor signed into law the removal of the statute of limitations on child sexual abuse.

Director Brent Reinke was recognized to explain the legislation. Before speaking to the bill, the Director presented the Chairman with a framed, autographed picture of several members of a committee which studied juvenile justice in Idaho called "The Road Crew" (handout attached). Director Reinke said Chairman Field, Senator Darrington and former representative, Celia Gould, never missed any of the meetings which were held around the state.

S 1275 clarifies that the POST council can certify Idaho Department of Juvenile Corrections' direct-care staff who also attend and successfully complete the Juvenile Detention Academy. The Department believes that having state direct-care staff certified by POST academy will increase the professionalism of these staff members, and will help reduce the risk of liability to the state.

MOTION: Representative Ellsworth moved **to send S 1275 to the floor with a Do Pass recommendation. Motion carried.** Representative Field will carry the bill on the floor.

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 3:15 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

- DATE:** March 15, 2006
- TIME:** 2:20 p.m.
- PLACE:** Room 404
- MEMBERS:** Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence
- ABSENT/
EXCUSED:** Representative Ellsworth
- GUESTS:** Please see attached sign-in sheets
- MOTION:** Chairman Field called the meeting to order and asked the members to review the minutes. Representative Shirley moved to accept the minutes of the meeting held on March 13, 2006, as written. Motion carried.
- HCR 45:** Chairman Field recognized Representative McGeachin to explain. This Resolution would establish September 14 as Missing Persons Day in Idaho and the song "The Room We Never Go In" commemorated as the song for Missing Persons Day. There are currently a number of non-profit organizations founded for the purpose of educating the public in an effort to prevent future abductions and disappearances and to provide assistance to families of the missing. Representative McGeachin asked to yield to Audra Burgener.
- PRO:** Ms. Burgener read from her testimony (attached). She said on September 14, 2001, Amber Hoopes was abducted. Today the family still has no answers as to what truly happened. Ms. Burgener believes that each disappearance should be handled as a worse case scenario. Although Amber was 20 years old when abducted, she is still someone's child. The age of a missing person does not change the sadness and heartache of those who lose them.
- The Amber Alert law helps to find missing children. There is no Amber Alert for missing adults. In concluding remarks, Ms. Burgener asked that September 14 be declared as Missing Persons Day. It will give a positive way to acknowledge missing people through community events and news coverage. Awareness, education and prevention need to be established.
- MOTION:** Representative Shirley moved **to send HCR 45 to the floor with a Do Pass recommendation. Motion carried.** Representative McGeachin will carry the bill on the floor.
- S 1327:** Mond Warren, Bureau Chief for the Department of Health and Welfare's Bureau of Audits and Investigations, was recognized to explain the legislation. This legislation will help the state protect vulnerable Idahoans by providing the statutory authority necessary to require criminal history background checks on providers and individuals who have access to

vulnerable adults and children.

This legislation states that the applicant is responsible for the cost of the background check. Section 1 authorizes the department to conduct background checks. Section 2 identifies the information collected in the background check process. Section 3 relates to the background application process.

Section 4 identifies the process for clearance or denial of applicants. Sections 6 and 7 provide necessary immunity to protect the employers and the department when making decisions based upon the information received from the background check.

In conclusion, Mr. Warren said this proposed legislation will provide the authority to conduct the background checks which are necessary to protect vulnerable Idahoans.

MOTION: Representative Smith moved **to send S 1327 to the floor with a Do Pass recommendation. Motion carried.** Representative Smith will carry the bill on the floor.

S 1354aa,aa: Michael Kane, representing the Sheriffs Association, was recognized. The purpose of the bill is to amend obsolete language found in Idaho Code, section 19-4408, pertaining to the service of search warrants. The bill clarifies that search warrants may be served by mail or facsimile or electronically in addition to personal service.

Two amendments were made in the Senate. Those amendments were as follows: On page 1, in line 13, delete "facsimile, or electronically" and insert: "facsimile transmission, or by electronic mail.". Then, on page 1 of the engrossed bill, line 14: following "mail" insert: "Unless an investigation necessitates otherwise, the officer should attempt notification prior to electronic mail service.".

Mr. Kane said a third amendment was suggested as follows: after the word "notification" in the last line of the bill, insert "of the person being served.".

This bill has nothing to do with obtaining the search warrant. This provides a method of obtaining evidence from third parties. That evidence might be bank records or telephone records.

MOTION: Representative Hart moved **to hold S 1354aa,aa in Committee.**

SUBSTITUTE MOTION: Representative LeFavour moved **to hold S 1354aa,aa for a time certain until the meeting on Friday, March 17, 2006.**

CALL FOR THE QUESTION: After a lengthy discussion on the language of the bill, with some members saying the language was too broad and the legislation was too confusing with all of the amendments, Representative Clark **called for the question which requires a 2/3 vote of the members. Roll Call Vote was unanimous.**

ROLL CALL The Substitute Motion was **to hold S 1354aa,aa for a time certain.**

- VOTE:** **Voting AYE: Representatives Sali, LeFavour and Field. Voting NAY: Representatives Smith, Clark, Harwood, Nielsen, Ring, Wills, McGeachin, Bastian, Hart, Pence. Motion failed 3-10-3.**
- ROLL CALL VOTE:** The Motion was **to hold S 1354aa,aa, in Committee. Voting AYE: Representatives Sali, Clark, Harwood, Nielsen, McGeachin, Hart, Lefavour. Voting NAY: Representatives Smith, Ring, Wills, Bastian, Pence, Field. Motion passed: 7-6-3. The bill will be held in Committee.**
- S 1414:** Representative Henbest was recognized. This legislation addresses the need for mental health treatment for victims of trauma arising out of covered criminal conduct. It amends the definition of “extenuating circumstances” under which the industrial commission may waive the current \$2,500 cap on mental health benefits, thereby allowing mental health treatment to continue for as long as is needed subject to annual review.
- The Fiscal Note is an estimate. The bill could have a potential fiscal impact of \$80,600 to the Crime Victims Compensation Fund. There will be no impact on the general fund.
- MOTION:** Representative Clark moved **to send S 1414 to the floor with a Do Pass recommendation. Motion carried.** Representative Henbest will carry the bill on the floor.
- S 1428:** Representative Sali was recognized to explain. The bill amends the requirements for carrying a concealed weapon and provides for notices of renewal. For licenses issued on or after July 1, 2006, the legislation extends the validity of the permit to 5 years. It allows a grace period to renew a license and it also clarifies that licenses are issued on behalf of the state of Idaho. The \$3.00 fee increase will have a positive effect to counties. Some archaic language has been deleted.
- MOTION:** Representative Clark moved **to send S 1428 to the floor with a Do Pass recommendation. Motion carried.** Representative Sali will carry the bill on the floor.
- H 814:** Chairman Field turned the gavel over to Vice Chairman Smith in order to present the bill. Representative Field said it is the Legislature’s responsibility to talk about judges’ salaries. Representative Field encouraged the members to sit in on mental health courts, drug courts or family court to see some of the things the judges do. These judges are very dedicated and their jobs are difficult and demanding. Often the judges receive death threats for doing their job and handing down their decisions.
- This bill is trying to bring judges compensation comparable with other states. Rather than requesting a one-time large amount, It was felt that this would be accomplished in a more acceptable manner if the salary increases were done over a 4-year period. That is what the bill does. It is a compromise bill to get the salaries where they need to be.
- PRO:** Patti Tobias was recognized to explain the reason for the bill in more

detail. Ms. Tobias gave each member a handout (attached) showing the restructure of the compensation system for a 21st century judiciary. This was presented by Chief Justice Gerald Schroeder in the State of the Judiciary address in January, 2006.

The handout showed a comparison of Idaho's judicial salaries to Boise/Ada County attorneys. It also showed a comparison to law school faculty and the law school dean. The salary of the Supreme Court justices is currently 49th in western states. District judges are ranked 47th in those same western states.

Ms. Tobias pointed out that compensation tools such as movement through a pay range, pay for performance, merit increases, bonuses or overtime pay are not available to the judiciary. It is the job of the germane legislative committees to set these salaries.

Ms. Tobias walked the members through the handout as if it were a slide show.

PRO: Justice Robert Bakes, who served on the Supreme Court as the Chief Justice, was recognized. The judge chaired the Idaho Judicial Council. Because of the low salaries currently paid to judges, applicants for the judiciary constitute less experienced and qualified lawyers. These applicants often had to start in the magistrate's court and move on up as they became more experienced. As time has passed, the applications to be judges have become smaller.

The Court must be able to attract qualified lawyers who are solid and have experience. They must be lawyers who don't have an agenda. Judgeships are difficult positions to hold. Often, the judges become somewhat isolated. Judges make important decisions in our society. Really qualified people cannot accept the responsibility of the judiciary without adequate compensation. Justice Bakes asked the members to give serious consideration to this bill.

PRO: Jane Wittmeyer, representing the Intermountain Forest Association, was recognized. Ms. Wittmeyer said the Forest Association supports this bill. The state of Idaho needs well-qualified, experienced judges. In order to attract these applicants, they must be paid adequate salaries. The Forest Association ends up with extremely complex cases. The judiciary needs to be as qualified as possible. The Association urges the Committee to look at this proposal to increase salaries over four years.

CON: Representative Smith said he supports giving the judiciary a 6% increase this year, but is opposed to the increases thereafter. He said that five states surrounding Idaho are paying their judiciary comparative salaries. You can't compare what the judges are paid to what others are paid. You need to talk about market value and compare a like market with a like value. There is a large list of candidates applying for judgeships. There also is an excellent retirement plan and there are plenty of perks in the job.

MOTION: Representative Smith moved to **send H 814 to General Orders with the 6% increase, but deleting the 4% increase for each fiscal year**

thereafter through 2010. Chairman Field recognized Patti Tobias and asked Ms. Tobias what Representative Smith was referring to when he spoke of double dipping by the judiciary. Ms. Tobias said there was no double dipping by the judiciary and never has been.

The Statement of Purpose on the bill was amended to show percentages. There originally was a dollar amount. It was not really a percentage bill. Judicial salaries have always been set by the judiciary committees in the Legislature.

Representative Smith said using the term “double dipping” was the wrong term. He meant the judges are paid retirement, but then can also work part-time. Representative Shirley said the judges are very deserving people. However, there must be a reasonable salary raise. The salary could be increased this year and then looked at on a yearly basis.

Clarifying the Committee Amendments, Representative Smith said subsection (a) would be retained, but subsections (b), (c), and (d) would be deleted.

SUBSTITUTE MOTION:

Representative Shirley moved **to hold H 814 in Committee for a time certain to clarify the language.** The Chairman pointed out that the Committee Amendments needed clarifying and not the bill. **Motion failed.**

ORIGINAL MOTION:

The Original Motion was **to send H 814 to General Orders with Committee amendments as indicated above. Motion carried.** Representative Smith will carry the bill on the floor.

S 1337:

Chairman Field asked for **Unanimous Consent that S 1337 be held in Committee. There being no objection, the bill was so held.**

ADJOURN:

There being no further business to come before the Committee, the meeting was adjourned at 4:40 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: March 17, 2006

TIME: 12:30 p.m.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** Representatives Ellsworth, Sali, Harwood, McGeachin

GUESTS: Heather Reilly, Prosecuting Attorneys Assoc.

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Shirley moved to accept the minutes of the meeting held on March 15, 2006, as written. Motion carried.

S 1425: Chairman Field turned the gavel over to Vice Chairman Smith in order to present the bill to the Committee. The purpose of this legislation is to allow an exemption for people accused of statutory rape to avoid the sex offender registry. The exemption would only apply to defendants nineteen or twenty years of age who are not more than three years older than the victim.

The bill has the okay of the Idaho Prosecuting Attorneys. Judges have the discretion to exempt these offenders from the registry. Representative Smith asked what the meaning of "all parties" was. Representative Field said that would mean all parties involved, including the victim.

MOTION: Representative LeFavour moved **to send S 1425 to the floor with a Do Pass recommendation.**

Heather Reilly was recognized to answer a question regarding the felony charge being changed to a misdemeanor. Ms. Reilly said this does not change the charge to a misdemeanor.

Motion carried. Representative Field will carry the bill on the floor.

S 1356a: Representative Boe spoke briefly to the bill, then yielded to Heather Reilly to explain in more detail. Ms. Reilly said this bill comes from Senator Jorgenson. It was drafted because of a case in which a significant other attempted to murder his girlfriend by stabbing her multiple times. He will be released from prison this summer. He has, since the beginning of the case until the current time, threatened to murder that victim.

The intent of the bill is to allow a petitioner to seek up to a 1-year protection order, or upon good cause being shown, the protection order may continue for an appropriate time period as directed by the court, or

be made permanent. This legislation only relates to domestic violence. Nothing else in the language of the bill changes. The court must be able to establish immediate and present danger.

The legislation also says that the order may be terminated or modified by further order of the court either on written stipulation filed with the court or on the motion of a party.

MOTION: Representative Wills moved **to send S 1356a to the floor with a Do Pass recommendation. Motion carried.** Representative Boe will carry the bill on the floor.

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 12:55 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary

MINUTES

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

DATE: March 31, 2006

TIME: 1:03 P.M.

PLACE: Room 404

MEMBERS: Chairman Field(18), Vice Chairman Smith(24), Representatives Sali, Clark, Ellsworth, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Hart, Boe, LeFavour, Pence

**ABSENT/
EXCUSED:** None

GUESTS: Senator Mel Richardson; Barbara Jorden, Trial Lawyers Assoc.

MOTION: Chairman Field called the meeting to order and asked the members to review the minutes. Representative Smith moved to approve the minutes of the meeting held on March 17, 2006, as written. Motion carried.

S 1441a: This bill is referred to as the "castle doctrine." A man's home should be his castle. The Senator gave a little background on why the bill was drafted. There are currently 15 other states that have put similar legislation into law. The bill brings protection against civil action. The Senator said he worked with all germane parties when drafting the bill.

The purpose of this legislation is to give a person immunity from civil action for using force to defend his life, family or property from those who would seek to harm them or for coming to the aid of another who is threatened. The legislation is not intended to apply if such force is used against law enforcement officers.

The bill would also allow the award of reasonable attorney's fees, court costs, compensation for loss of income and all expenses incurred by the defendant in defense of a civil action if the court finds that the defendant is immune from such an action. There currently is no law providing civil protection.

Representative Smith expressed concern about the mandatory language in section (2) of the bill. The judge should have the discretion as to the awarding of attorney's fees and medical expenses. The term "shall" should be deleted and "may" should be inserted in that section.

In response, the Senator said if that is the desire of the Committee, the mandatory language could be changed. The Senator asked that the bill be passed.

CON: Barbara Jorden, representing the Trial Lawyers, was recognized. Ms. Jorden said there were concerns about the language of the bill. Attorney's fees should never be awarded outright. The language should not be mandatory. The Trial Lawyers would like to see section (2) removed entirely. In the situation addressed by the bill, if the homeowner

does not have a reasonable defense, attorney's fees are still awarded.

- MOTION:** Representative Sali presented an amendment to the members which would resolve the problems in the language. It combines language contained in the original bill and language contained in the Senate amendment to the bill. Representative Sali **moved to send S 1441a to General Orders with Committee Amendments attached as follows:**
- “(2) The court shall award reasonable attorney’s fees and costs incurred by the defendant in any civil action if the court finds that the defendant is immune from such action pursuant to this section.”**
- Some of the members questioned whether the word “shall” should be changed to “may.”
- SUBSTITUTE MOTION:** Representative Smith **moved to use Representative Sali’s amendment, but changing the word “shall” to “may”.**
- AMENDED SUBSTITUTE MOTION:** Representative Clark **moved to hold S 1441a in Committee.** This would allow all interested parties to work on the language over the summer.
- CALL FOR THE QUESTION:** The majority of the members voted by voice vote to end the debate and vote on the motions.
- ROLL CALL VOTE:** The Amended Substitute Motion was **to hold S 1441a in Committee. Voting AYE: Representatives Smith, Clark, Bastian, Hart, Boe, LeFavour, Pence. Voting NAY: Representatives Sali, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Field. Motion failed 7-8-1.**
- ROLL CALL VOTE:** The Substitute Motion was **to send S 1441a to General Orders with Committee amendments attached including changing “shall” to “may”.** **Voting AYE: Representatives Smith, Clark, Wills, Bastian, Hart, Boe, LeFavour. Voting NAY: Representatives Sali, Harwood, Nielsen, Ring, Shirley, McGeachin, Pence, Field. Motion failed 7-8-1.**
- MOTION:** The Original Motion was **to send S 1441a to General Orders with Committee Amendments attached. Voting AYE: Representatives Sali, Harwood, Nielsen, Ring, Shirley, Wills, McGeachin, Bastian, Pence, Field. Voting NAY: Representatives Smith, Clark, Boe, Lefavour, Hart. Motion carried 10-5-1.**
- ADJOURN:** Prior to adjourning, the Chairman thanked the page and the secretary for their work. There being no further business to come before the Committee, the last meeting for 2006 was adjourned at 2:00 p.m.

Representative Debbie Field
Chairman

Betty Baker
Secretary