

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 19, 2013

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Luker, Representatives Nielsen, Bolz, Bateman, McMillan, Perry, Sims, Dayley, Horman, Malek, Packer, Patterson, Trujillo, Burgoyne, Meline, Ringo

**ABSENT/
EXCUSED:** None.

GUESTS: Dawn Peck, Idaho State Police; Michael Henderson, Legal Counsel, Idaho Supreme Courts; Kevin Werre, Big Twin BMW; Sharon Harringfeld, IDJC; and Clark Rollins, ISP.

Chairman Wills called the meeting to order at 1:30 p.m. He announced the substitute page, **Jenevieve Mingas**.

MOTION: **Rep. Ringo** made a motion to approve the minutes of the February 7, 2013 meeting, with the following correction suggested by Rep. Packer: on Page 2, Paragraph 4, Line 2, "...list of personnel who may be 'too' battered...", should read "...list of personnel who may be 'also' battered..." **Motion carried by voice vote.**

H 153: **Rep. John Gannon** presented **H 153** stating that jury pay has not been raised since 1969, while the salaries of others in public service have increased substantially since that time. He said that while this legislation does not mandate that the counties pay more, it allows the counties, at their discretion, to pay \$50/day.

Rep. Sims stated that it is difficult to get people to serve on a jury currently, which she believes may be caused by the travel expense to service pay ratio of those in rural communities.

MOTION: **Rep. Packer** made a motion to send **H 153** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Gannon and Sims** will sponsor the bill on the floor.

H 101: **Dawn Peck**, Manager, Bureau of Criminal Identification, Idaho State Police, presented **H 101**. She stated that this legislation has three purposes: 1) it adds the definition of RAP Back; 2) in the definition of retainable offenses, removes the word "serious" from the definition of misdemeanor; and 3) changes in I.C. 67-3008 provide clear authorization for the retention of prints to take advantage of the RAP Back program, utilized for both humanitarian and criminal justice purposes.

In response to several committee questions, **Ms. Peck** explained that although there isn't currently a rule identifying the word "serious", Idaho State Police is working on a comprehensive re-write of the rules which will define a serious misdemeanor. Responding to committee concern that removing the word "serious" would include a host of small infractions, Ms. Peck stated they are only interested in incorporated Misdemeanors reported on a finger print card and Felonies, not infractions, and reiterated how important having a complete criminal history record is to the users of the data. She further explained that anyone who is ever finger printed, for any reason, including those finger printed for a position of trust, would be included in the system.

In response to a question regarding "humanitarian purposes", **Ms. Peck** explained that humanitarian purposes includes identifying an unidentified body/missing person.

Responding to questions regarding removing prints from the system, **Ms. Peck** stated that it is possible to have your fingerprints expunged from the system through written request. She also said that the comprehensive re-write of the rules would lay out the process for doing so and ISP plans to model their data base after the FBI.

ORIGINAL MOTION:

Rep Burgoyne made a motion to send **H 101** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION:

Rep. Perry made a substitute motion to **HOLD H 101** in committee.

VOTE ON SUBSTITUTE MOTION:

Chairman Wills requested a **roll call vote** on **H 101**. **Substitute Motion carried by a vote of 11 AYE and 6 NAY. Voting in favor** of the substitute motion: **Reps. Luker, Nielsen, Bateman, McMillan, Perry, Sims, Dayley, Horman, Malek, Patterson and Trujillo. Voting in opposition** to the substitute motion: **Reps. Bolz, Packer, Burgoyne, Meline, Ringo and Wills.**

S 1016:

Michael Henderson, legal counsel for Idaho Supreme Court, presented **S 1016** stating that this is one of a series of bills that the Supreme Court has recommended in its annual report concerning defects in the law. He said this legislation would repeal the now obsolete provision that states "A bail agent's license filed with the clerk of the district court is deemed proof that such bail agent is licensed pursuant to this chapter." I.C. § 41-1039(3). Clerks can now verify license status of a bail agent but viewing the Department of Insurance web site, which gives the most current information.

MOTION:

Rep. Bateman made a motion to send **S 1016** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Horman** will sponsor the bill on the floor.

S 1017:

Michael Henderson, legal counsel for Idaho Supreme Court, presented **S 1017** stating that this is a short bill that repeals Idaho Code Sections 19-3939 through 19-3944. These statutes outline the procedure of appealing a misdemeanor conviction from magistrate to the district court. He stated that long ago if you appealed a conviction to district court, you had a Trial De Novo and that is not the way the courts currently proceed. These sections are now obsolete, out dated and conflict with Idaho Criminal Rules. He said this legislation would repeal the outdated statutes and set forth the proper procedure to be followed in these appeals.

In response to committee questions from, **Mr. Henderson** explained that unless a person waives their right to a jury trial, they always get one, and it is a jury of your peers who make a decision on the facts, not the judge. He further explained that when appeals are made, they are usually a question of rule or procedure.

MOTION:

Rep Bolz made a motion to send **S 1017** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Patterson** will sponsor the bill on the floor.

Sharon Harringfeld, Director, Idaho Department of Juvenile Corrections (IDJC), reviewed the progress of IDJC. She stated that IDJC currently has 315 juveniles in its custody. She stated that the goals of the Behavioral Health Resources System are to serve juveniles at the community level; intervene early to address mental health and substance abuse disorder issues; maximize positive outcomes and evaluate their results. They are meeting those goals. With funding help, IDJC has been able to meet the needs of 50% of the juveniles in their custody at a local level. She said that the JJ Substance Use Disorder Services program has served 900 juveniles and of those discharged, 60% of those have not committed a new crime a year later, demonstrating that the program is a success. She spoke about the many programs available for juveniles now, thanks to state funding. She stated that there have been 5,000 less arrests than in the past ten years, a clear indication

that the system is working. She said the best investment you can make in crime prevention is to fund juvenile corrections.

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

Representative Wills
Chair

Danelle Heath
Secretary