

## MINUTES

# HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, February 27, 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:** Rep. Nielsen

**GUESTS:** Michael Henderson, Idaho Supreme Court; Olivia Craven, Pardons & Parole; Michelle Day, Pardons & Parole; Holly Koole, IPAA; Rob Luce, Department of Health and Welfare; Cameron Gilliland, Department of Health and Welfare; and Dawn Justice, Idaho Banker.

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

**Rep. Luker** gave the administrative rules Luker subcommittee report. He said the Luker Subcommittee met two days ago and reviewed **Docket No. 11-0501-1101** and **Docket No. 11-1101-1202**. He made the recommendation to the full committee to approve **Docket No. 11-0501-1101** as is and to approve **Docket No. 11-1101-1202** with the exception of **subsection 010.27** and **subsection 197.01**. He said ISP, after further reflection and based upon the action in the senate, requested that **subsections 010.27** and **197.01** not be approved.

**MOTION:** **Rep. Dayley** made a motion to accept the recommendation of the subcommittee and to approve the rules as submitted. **Motion carried by voice vote.**

**H 30:** **Michael Henderson**, legal counsel, Idaho Supreme Court, presented **H 30**. He said in Idaho Code there are more than two dozen statements that must be made under oath, but in fact these statements are not subject the penalty of perjury. He said an oath is something administered by another, and only specific persons can administer an oath. Currently, when you sign a statement you are not being administered an oath. Even if you signed a false statement, the element of perjury would be missing and you could not be prosecuted. Section two of the legislation would include the term "oath" as an affirmation. This legislation will also facilitate the electronic filing of documents in the future which will lower costs and make the process easier for court and counsel. He said this bill only deals with oaths and verifications, which doesn't have anything to do with acknowledgments.

In response to questions and comments, **Mr. Henderson** said Wills and Powers of Attorney would not be affected by this bill. He said this bill only applies to the law and some rules which requires an oath or verification and then it only enlarges the ways in which that can be satisfied.

**MOTION:** **Rep. Burgoyne** made a motion to send **H 30** to General Orders with committee amendments as follows: Amendment to Section 1 (2) should read "(2) This section shall not apply to acknowledgments." **Motion carried by voice vote.** **Rep. Burgoyne** will sponsor the bill on the floor.

**H 124:** **Olivia Craven**, Pardons and Parole Commission, presented **H 124**. She says this bill gives certain time frames to request remission of bond monies; within one year from the date of discharge of the offense for which the offender was serving parole and would additionally allow such money to be used for the extradition of parole violators. She said it can cost from \$0-7,000.00 to bring a violator back to the state. The \$500.00 bond does not pay all costs of extradition. She said offenders should go to the place where the where they have the most support and a lot of times that is in another state with their family. She said if we don't allow them to go and post the bond they will probably just abscond and go anyway.

In response to questions, she said waiving a bond is a judgment call and that the financial situation of the families is taken into consideration and will be waived if they do not have the funds to pay. She said the offenders will be given written notice that they only have one year to request a refund of their bond and will be required to sign for receipt. She said if the money is not claimed it will go through the unclaimed property process and try to locate them but the unclaimed money will not be going into the general budget. She said they will be giving the refund to the parole officer to disburse to the offender at the time of discharge. The unclaimed money would go into an account that is used only for extraditing expenses.

**MOTION:** **Rep. Meline** made a motion to send **H 124** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Meline** will sponsor the bill on the floor.

**H 214:** **Robert B. Luce**, Administrator, Family and Community Services, Department of Health and Welfare (IDHW), presented **H 214**. He said this legislation aimed at strengthening adoptions laws in Idaho. He said two adoptions have recently been unwound by the Utah Supreme Court after the children had been with the adoptive parents for 2-4 years and this bill is intended to prevent that from happening in Idaho. He said there are three major changes: 1) it establishes one date certain for putative fathers to act; 2) creates one exception to that date certain; and 3) directs the DHW to publish in print and host on the Web a public service announcement that describes the process and procedure for putative fathers to protect their rights. He said this bill also adds a reference to the factors set forth in IC § 32-717 through 32-717(e) to reflect the current practice and added a specific exemption to those factors listed to hopefully promote more adoptions in Idaho and fewer abortions. This legislation also adds a reference to the Indian Child Welfare Act of 1978, 25 USC 1902, et seq. ICWA. Under this bill, if a putative father can prove certain things he will be granted a ten day extension. He said the putative father must protect his rights by filing and registering on the putative father registry unless he can prove fraud.

In response to questions, **Senator Davis** said the current policy of Idaho has been developed while he has been in service. He said the sex lives of people in the early 1960s versus 2013 are substantially different. In the 1960s, a woman could and would identify the father but today we have a different standard. He said when a woman is deciding between adoption or abortion today, they want to know the answer to "what is the process of adoption and terminating the rights of the putative father." He said if the biological mother has uncertainty as to the putative father's involvement or the certainty of the adoption process, they have the legal alternative of abortion. He said it's a very hard decision but on balance he feels the better policy is to encourage the birth and adoption of the child rather than providing enhanced protections to the putative fathers.

**Rep. Luker** made a motion to send **H 214** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.**

**H 152:** **Rep. Trujillo** read a letter from her constituent, a forensics nurse, supporting **H 152** and commented that although the bill has been tabled, she wanted to read the letter out of respect for her constituent. (See attached letter.)

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at: 3:06 p.m.

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Representative Wills  
Chair

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Danelle Heath  
Secretary