

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

- DATE:** Thursday, March 07, 2013
- TIME:** 1:30 pm or Upon Adjournment
- 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:** Brent Reinke, IDOC; Holly Koole, IPAA; and Mike Kane, ISA.
Chairman Wills called the meeting to order at 2:20 p.m.
- MOTION:** **Rep. Bolz** made a motion to approve the minutes of February 19, 2013. **Motion carried by voice vote.**
- MOTION:** **Rep. Bolz** made a motion to approve the minutes of February 21, 2013. **Motion carried by voice vote.**
- S 1034:** **Mike Kane**, Idaho Sheriff's Association (ISA), presented **S 1034**. He said Idaho Code Section 20-625 has been on the books since the civil war and is now an obsolete statute that requires the Sheriff to get written permission from the Governor before moving a prisoner to another facility. He said this legislation repeals Idaho Code Section 20-625 and allows the Sheriff to transfer prisoners without the need for the Governor's approval.
- MOTION:** **Rep. Nielsen** made a motion to send **S 1034** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nielsen** will sponsor the bill on the floor.
- S 1035:** **Mike Kane**, Idaho Sheriff's Association (ISA), presented **S 1035**. He said 15 years ago legislation determined that detention officers may be appointed as peace officers with the same powers as regular line peace officers to make arrests for violation of probation or pursuant to a court order. He said detention deputies have to be certified by the POST. He said when a person commits a crime within the confines of the jail, you have to bring in a road officer to make the arrest. This legislation allows the Sheriff's detention deputies to act with full power of peace officers. They will have the authority to arrest a person when there is probable cause and believe that a crime has been committed in the jail without the need for a warrant. He said the detention deputies are trained and constantly recorded.
- In response to questions, he said detention officers would be able to arrest citizens while they are in the facility. He said typically the citizen arrest would be a visitor bringing contraband into the jail or a newly released inmate who defaces jail property on his/her way out. He said to file a false police report or to make a false arrest would cost the officers their career and subject them to criminal charges and civil suits. He said many other states allow detention officers to be empowered with some arrest powers and, in many states, they are treated as road deputies. He said currently if someone brings contraband into the facility, detention officers are making a pseudo citizen's arrest. He said this legislation is designed for crimes that occur in the presence of the officer in the confines of the jail.
- MOTION:** **Rep. Trujillo** made a motion to send **S 1035** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McMillan** will sponsor the bill on the floor.

H 213: **Rep. Kauffman** presented **H 213**. He said this legislation adds a ten year enhancement penalty for felony violations against persons 65 years of age or older. He said this legislation will heighten public awareness of elderly abuse, will be a deterrent for crimes against the elderly, and will send a message to the communities that elder abuse will not be tolerated. He said the exact measure of fiscal impact cannot be calculated due to a number of factors.

In response to questions, he said the judge will have latitude in the sentencing. He said line 15 of the bill covers fraud. He said 65 is commonly accepted as the definition of elderly adults and said there is a gap between vulnerable adults and elderly adults.

Holly Koole, Idaho Prosecuting Attorney Association, testified in support of **H 213**. She said it is difficult to prosecute under the vulnerable adult statute and that the enhancement provided in this legislation is another tool for the prosecutor to use at their discretion. She said the mandatory minimum doesn't need to be on the fixed time, it could be tacked on to the indeterminate time. She said the definition of a felony requires a prison time sentence but the judge would not need to impose prison time—that time could be suspended and the judge could impose 10 years of probation or parole. She said Sub Section 2 says this enhancement can only be charged once. She said this bill still gives the judge and the prosecuting attorney discretion and the enhancement could be used if the crime is egregious.

Guy Joslin, Twin Falls County Sheriff's Department testified in support of **H 213**. He gave details of two cases of egregious crimes against the elderly and the subsequent light sentencing of the offenders.

MOTION: **Rep. Burgoyne** made a motion to **HOLDH 213** in the committee.

SUBSTITUTE MOTION: **Rep. Perry** made a substitute motion to send **H 213** to General Orders.

ROLL CALL VOTE: **Rep. Sims** requested a **roll call vote**. **Substitute Motion failed by a vote of 2 AYE and 15 NAY. Voting in favor of the substitute motion: Reps. Perry and Patterson. Voting in opposition to the substitute motion: Reps. Luker, Nielsen, Bolz, Bateman, McMillan, Sims, Dayley, Horman, Malek, Packer, Trujillo, Burgoyne, Meline, Ringo and Wills.**

VOTE ON ORIGINAL MOTION: **Original motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:47 p.m.

Representative Wills
Chair

Danelle Heath
Secretary