

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

- DATE:** Monday, March 11, 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:** Rep. Malek
- GUESTS:** Robert L. Aldridge, TEPI; and Judge John "Jack" Varin.
Chairman Wills called the meeting to order at 3:00 p.m.
- MOTION:** **Rep. Ringo** made a motion to approve the minutes of February 27, 2013. **Motion carried by voice vote.**
- MOTION:** **Rep. Ringo** made a motion to approve the minutes of March 5, 2013. **Motion carried by voice vote.**
- H 256:** **Senior Judge John Varin**, Idaho Supreme Court, presented **H 256**. He said the State of Idaho has made a promise to its children; to keep them safe. He said the goal of the Child Protective Act is to keep children safe, protect parents' rights, and assure due process is provided to both children and parents.
- Judge Varin** said this bill amends I.C. 16-1602; moving "aggravating circumstances" from the adjudicatory statute and providing clearer definitions that refer to criminal statutes. "Aggravating circumstances" is a term used to describe those cases in which a child has been removed from a parent's home in the most egregious cases, such as sex offenses or murder.
- Judge Varin** said this bill amends I.C. 16-1619; confirming if aggravated circumstances are found, a Permanency Hearing must occur within 30 days of that determination. He said most of the amendments generally merge juvenile rule and statute so the overview of the process is all in one location.
- Judge Varin** said this bill amends I.C. 16-1622; affirming that a review hearing must be held no later than 6 months from the court order taking jurisdiction and every 6 months thereafter, defines the purpose of hearing, describes the annual Permanency Planning Hearing, termination and adoption, and guardianship or another planned permanent living arrangement.
- Judge Varin** said this bill amends I.C. 16-1624; providing the petition to terminate must be filed within 30 days from the order approving goal of termination, and states that the court may authorize the Idaho Department of Health and Welfare (IDHW) to suspend efforts to reunify.
- This bill also amends I.C. 16-2002. The amendment clarifies that neglect means a parent has failed to comply with the case plan or court's order, the child has been in the legal/temporary custody of IDHW for 15 of the last 22 months and reunification has not occurred by the last day of the 15th month. **Judge Varin** said that very few child protection cases in Idaho have aggravated circumstances.

In response to questions, **Judge Varin** said there is no time standard in regards to the parental rights of a parent to another child being terminated. He said this provision has been in the statute for some time and this portion is not being amended by this bill. He said the consensus of the judges is children should not be taken from their home unless the circumstances are quite egregious. He said prior parental termination puts them into the aggravated circumstances category. He said the standard of aggravated circumstances does not default to a decision of termination. He said in order for the federal government to give funding to support juveniles, they require that the states ensure that all reunification efforts with the parents have been made before putting juveniles into the system. He said there is no new terminology regarding a protective order, these amendments were largely an effort to bring all the information into one place. He said the amendments do not enlarge the scope of the Child Protective Act.

In response to further questions, **Judge Varin** said the provision in I.C. 16-1602(3)(5)(c) would include all other jurisdictions, and the court can consider voluntary and involuntary removals, but such circumstances do not render a default decision. He said the Court can determine aggravated circumstances based on a charge without a conviction. He said this bill balances the interests of the parent with the best interests of the child. He said because IDHW is not required to engage in reunification efforts, that does not mean that they cannot choose to do so if the situation warrants it. He said that the goal of the bill is to speed up the permanency plan in the best interests of the child.

In response to questions, **Michael Henderson**, Idaho Supreme Court, said the sentence on Page 9, Line 1 is setting forth alternatives. It does not say the permanency plan is going to terminate, simply that termination is an option.

MOTION:

Rep. Trujillo made a motion to send **H 256** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nielsen** requested to be recorded as voting **NAY.** **Reps. Trujillo** and **Burgoyne** will sponsor the bill on the floor.

S 1033aa

Robert L. Aldridge presented **S 1033aa**. He said this bill provides that an appointment of a temporary or permanent conservator terminates the Power of Attorney. It also allows the court to limit or continue the Power of Attorney instead of terminating it at the court's discretion. He said this bill also clarifies that the amendment only applies to appointments made after July 1, 2013. He said if there is a temporary appointment it is usually because there is a problem with the existing Power of Attorney, who is usually a family member. He said this bill covers situations where that conflict is already in place. He said the termination of the Power of Attorney is the exception to the rule. Conservatorship is considered a last step and the courts try to avoid it if possible. He said this bill has been reviewed extensively by multiple agencies and all agree that the problems of the protected persons losing their assets and ending up on state assistance must be addressed. This bill protects tax payers and vulnerable persons.

In response to questions, **Mr. Aldridge** said the current law states that the funds of the protected person are used to pay for the process of appointment. He said if the funds are not there, the petitioner may pay the costs or hire a pro bono attorney. He said this is the general rule throughout the entire United States.

MOTION:

Rep. Nielsen made a motion to send **S 1033aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Trujillo** and **Nielsen** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:34 p.m.

Representative Wills
Chair

Danelle Heath
Secretary