

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

- DATE:** Thursday, March 21, 2013
- TIME:** 2:00 p.m. through 2:30 p.m., reconvene 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:** Chairman Wills
- GUESTS:** Sara Thomas, SAPD/ICJC; Paul Jagosh, Fraternal Order of Police; Jim Kouril, Idaho ICAC; John Watts, Voices for Children; Christine Tiddens, Catholic Charities; Jacob Raoil, Catholic Charities.
- Rep. Nielsen** called the meeting to order at 2:00 p.m.
- S 1079:** **Paul Jagosh**, Fraternal Order of Police, presented **S 1079**. He talked about the functions and importance of the Idaho Internet Crimes Against Children Task Force (IICACTF) which has been operating out of the Attorney General's office for the past five years on federal funding. The intent of this legislation is to allow funding for additional staff and resources needed to aid in the investigation and prosecution of those who solicit children using internet or mobile technology or use such devices to sexually exploit children. He gave examples of child porn, solicitation, exploitation and sexual abuse cases in Idaho. He said that these investigations are technical and complex and require a dedicated task force. He said this bill does not appropriate funds but the anticipated cost is \$2,014,900 in fiscal year 2014.
- In response to questions, **Mr. Jagosh** said this task force has already been operating under the umbrella of the Attorney General's office and this legislation legitimizes them. He said the \$200,000 they receive from the federal government will remain but will be held in a separate account. Discussion brought forward that the funding for the fiscal year 2014, would be from the General Fund and then the funds from the Consumer Protection Fund would replace the \$2,014,900 transferred from the General Fund so there is no impact to the General Fund for fiscal year 2014.
- MOTION:** **Rep. Horman** made a motion to send **S 1079** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Perry** will sponsor the bill on the floor.
- S 1151:** **Sen. Davis** presented **S 1151**. He said one of the objectives of this legislation is to provide a method for defendants convicted of a felony who have committed no new crimes for a period of time to petition the court for judicial relief from the felony charge. He talked about how people make mistakes at a young age that can handicap them for the remainder of their lives. He said that some judges feel that the current statutes already allow them the discretion to dismiss felony charges if the defendant meets certain qualifications, while others do not feel they have this authority. This legislation will give clear authority to the court to do this. This legislation states that if the application for relief is made less than five years from the date of conviction, the prosecuting attorney must stipulate to the relief. If the petition is made more than five years from the date of conviction, no stipulation is necessary. This legislation lays out 15 crimes for which relief from a felony charge cannot be granted and he said this legislation provides no relief for sex offenders.

In response to questions, he said the defendants are required to obtain a stipulation from the prosecuting attorney who is currently in office. He said this legislation does require that the petition for relief be made to the original sentencing judge, but if that judge has retired or died, the court will handle the petition appropriately.

There was discussion about relief for sex offenders and how such relief may be considered at a later date.

MOTION: **Rep. Bateman** made a motion to send **S 1151** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Malek** will sponsor the bill on the floor.

The meeting was recessed at 2:36 p.m.

Vice Chairman Luker called the meeting to order at 5:00 p.m.

S 1060: **Sara Thomas**, State Appellant Public Defender/Idaho Criminal Justice Commission, presented **S 1060**. She spoke about the human trafficking problem in Idaho. She said this legislation will make it a felony offense to exchange anything of value for sexual conduct with a minor and will require those convicted of doing so or attempting to do so to be registered as a sex offender. She said it clarifies that the exchange of anything of value (food, clothing, drugs or gang membership, etc.) for sexual conduct with a minor is considered prostitution and will carry a felony charge. She said proposed **Idaho Code Section 18-5612** would provide for forfeiture of property gained as a result of facilitating prostitution.

MOTION: **Rep. Nielson** made a motion to send **S 1060** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Meline** will sponsor the bill on the floor.

S 1123: **Sara Thomas**, State Appellant Public Defender/Idaho Criminal Justice Commission, presented **S 1123**. She said this legislation lays out the process by which the forfeiture referenced in **S 1060** would occur. She said this legislation lays out the protections for innocent third parties with interests in the forfeited property and directs how the forfeited property or proceeds are distributed. She said this process will be the same as the process used in criminal drug forfeitures.

In response to questions, she said the provisions in proposed **Idaho Code Section 18-5612** are identical to the controlled substances forfeiture but the money obtained would go to a different place. She said this legislation provides a very narrow forfeiture and only applies to people profiting from inducing another person to engage in prostitution. She said this forfeiture process would only go after property of pimps, not the property of johns or prostitutes. She said only the property interests of the person who committed the crime would be forfeited and a seizure might not ever occur. She said this legislation allows the court to pursue property of equal or lessor value if the defendant devalues, hides or transfers the forfeited property. She said the forfeited property would have to be identified by the prosecuting attorney to be the property of the defendant and they would have to meet the burden of proof. She said this legislation does not give spouses any greater protection than it does to other third parties. She said the intent of the legislation is to limit the third party rights so there is not a civil case going on at the same time as the criminal case. She said it may be appropriate to add innocent spouse protection at a later date. She spoke about the State's burden to locate third parties who may have interest in the forfeited property by title searches, Uniform Commercial Code (U.C.C.) searches, etc. She said that the State cannot be expected to find property owners who have not met their burden of registering their ownership. She said the forfeiture usually only happens in large cases such as a drug trafficking ring, etc. She said the current drug forfeiture statutes have been in place for about ten years and this process is being modeled after those.

MOTION: **Rep. Perry** made a motion to send **S 1123** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Packer** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 5:36 p.m.

Representative Luker
Vice Chair

Danelle Heath
Secretary