

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

- DATE:** Monday, February 03, 2014
- TIME:** 1:30 PM
- PLACE:** Room EW42
- MEMBERS:** Chairman Wills, Vice Chairman Luker, Representatives Nielsen, Bolz, Bateman, McMillan, Perry, Sims, Dayley, Horman, Malek, Packer, Trujillo, McDonald, Burgoyne, Meline, Ringo
- ABSENT/
EXCUSED:** Representative(s) Horman, Nielsen
- GUESTS:** Michael Dennard, Supreme Court; Holly Koole, IPAA; Russell Westerberg, AMOI; Charlie Spencer, ISP; Russ Wheatley, ISP; Teresa Baker, ISP; Kristen Atwood, ICRMP, ISA; Monty Prow, ICJC; Sharon Harrigfeld, ICJC; John Eaton, Realtors; Angela Richards, Allstate; John Watts, Collectors Assn.; Woody Richards, American Family
- Chairman Wills** called the meeting to order at 1:30 PM.
- RS 22614:** **Rep. Morse** presented to the committee **RS 22614**, which adds government liability exceptions for activities upon state endowment lands for the use of any road, trail, easement, or for woodcutting activities. Rep. Morse, in research for a constituent, found there are no existing exceptions to government liability when individuals travel across state endowment lands. He said without this provision, the state is requiring land users to acquire expensive insurance liability policies.
- In response to questions, **Rep. Morse** indicated this exception would not limit liability of individuals from fire damage. It was also his intention to focus on third party activities and immunize any claims from those against the state. It is not his intention to immunize the state from liability from its own actions. He said the current problem is the state is liable for claims or tort actions from harm that comes from improper design, lack of maintenance, or other such issues.
- MOTION:** **Rep. Burgoyne** made a motion to return **RS 22614** to the sponsor. **Motion carried by voice vote.**
- RS 22466:** **Hon. Michael Dennard**, Senior Judge and Senior Manager of Court Services for Children and Families at the Administrative Office of the Courts, presented **RS 22466** to the committee. This proposed legislation would amend Idaho Code, Section 32-717D, to give the court the discretion to award attorney's fees and costs to the prevailing party on a motion to set aside or modify the decision of a parenting coordinator. This statute authorizes the appointment of a parenting coordinator in child custody and visitation disputes. The coordinator would assist the parties in resolving those issues, or make certain decisions or recommendations when the parents are unable to agree. Judge Dennard said this amendment would serve to promote stability for the family, minimize the impact on the parent's resources, and provide some deterrent against the filing of needless motions.
- MOTION:** **Rep. Bolz** made a motion to introduce **RS 22466**. **Motion carried by voice vote.**

RS 22467C2: **Hon. Michael Dennard**, Senior Judge appearing on behalf of the Idaho Supreme Court, presented to the committee **RS 22467C2**, which eliminates the current statutory language for reporting requirements for guardians and conservators. It replaces this language with an obligation to comply with the reporting and inventory requirements as defined by court rules. Sections 1, 2, 5, and 7 describe the specific amendments to accomplish this transfer for guardians of minors and incapacitated adults, conservators for minors and incapacitated adults, and guardians and conservators for persons with developmental disabilities. He said this proposed legislation also clarifies that when a court employee is used to prepare a visitor's report in a guardianship proceeding, any cost recovered from the parties for that report should be deposited into the Guardianship and Conservatorship Project Fund.

MOTION: **Rep. Burgoyne** made a motion to introduce **RS 22467C2**. **Motion carried by voice vote.**

RS 22400C1: **Lt. Russ Wheatley**, of the Idaho State Police over the Alcohol Beverage Control Unit, presented **RS 22400C1** to the committee. Currently the subsection of Idaho Code speaks to several triggers to start a five-year waiting period for an individual who has been convicted of a felony. The challenge for the licensing staff is to figure out when that five year waiting period starts. Lt. Wheatley explained that a Legislative Services Code Editor struck the number 6 in the proposed legislation so the last sentence of the Code would be used to apply to the entire section above. The change that has occurred since the last presentation of the RS is to add parole to the language.

In response to a question, **Lt. Wheatley** indicated this law would not be made retroactive. He also clarified any probation and parole term would have to be completed before the five year waiting period for the liquor license would start.

MOTION: **Rep. Packer** made a motion to introduce **RS 22400C1**. **Motion carried by voice vote.**

RS 22478C1: **John Watts**, on behalf of the Idaho Collectors Association, presented **RS 22478C1**, which amends and adds to existing law regarding service procedures for wage garnishment. According to law, only county sheriffs can serve wage garnishments. Today, clerical staff, through the US Postal Service, administers the majority of these garnishments. Through this policy change, serving attorneys would be allowed to use something other than a Sheriff for wage garnishment. He said this does not disturb current policy nor law regarding attachment nor bank garnishment. It also allows for transparency in the exemptions for the judgment debtor thereby allowing less income considered for garnishment. It establishes a set of procedures and penalties for a serving attorney who fails to turn money over. Mr. Watts noted a flat fee of \$40 plus an additional \$5 for additional garnishments would be charged.

In response to a question, **Mr. Watts** said this gives the creditor a choice but the judgment debtor's recourse would remain the same. The only change for the debtor is with whom they work.

MOTION: **Rep. Trujillo** made a motion to introduce **RS 22478C1**. **Motion carried by voice vote.**

RS 22651: **Rep. Trujillo** presented to the committee **RS 22651** which allows for the prosecution of a person who causes danger to persons or property when the operator knowingly operates a vehicle with a known medical condition that is not being properly treated.

MOTION: **Rep. Bateman** made a motion to introduce **RS 22651**.

Several members of the committee expressed concern that the language "not properly treated" was too broad and wondered how the prosecutor would know about an untreated medical condition.

**VOTE ON
MOTION:**

Motion carried by voice vote.

Sara Thomas, Chair of the Idaho Criminal Justice Commission, updated the committee regarding the commission's activities in 2013. She said the Idaho Criminal Justice Commission is committed to a collaborative effort to address important criminal justice issues and challenges by developing and proposing balanced solutions. These solutions are goaled to be cost effective and based on best practices to achieve a safer Idaho. This collaboration encompasses all branches and levels of the government as well as private citizens.

Ms. Thomas said the Results First Project is one way the Idaho Criminal Justice Commission provides policy makers and criminal justice decision makers with accurate information to improve public safety and the efficient use of public resources. The Results First project is a computer model that allows the programming provided to convicted persons be evaluated for both cost effectiveness and success. These results will be one tool in determining what types of programming will be offered in Idaho.

Ms. Thomas reported that the Commission has worked on legislation addressing public defense issues, juveniles' right-to-counsel, and human trafficking. They have also worked with the Sexual Offender Management Board in writing their standards. Because Idaho's current criminal justice efforts and initiatives require clear strategic planning and continued coordination, a three-year strategic plan was reviewed, modified, and adopted. In that, they identified priorities on which Idaho as a whole should be focusing. The Grant Review Council has been able to prioritize money coming from the federal government on those issues the Criminal Justice Commission has acknowledged as important.

Ms. Thomas explained the Misdemeanor Probation Treatment Services Subcommittee which funds treatment services for those on misdemeanor probation. She said the grant money for this program is due to expire in 2014. The commission agreed that members of the subcommittee should seek a no-cost extension of the Access to Recovery grant funds for the supervision of misdemeanor probationers. They tasked this subcommittee to strategically identify the next steps to methodically identify a plan to sustain substance abuse treatment as a long-term solution. This subcommittee will continue to work on developing data, outcomes, and strategies for moving forward beyond the no-cost extension.

Ross Mason, Regional Director of the Department of Health and Welfare and Chair of the Children of Incarcerated Parents (COIP) subcommittee of the Idaho Criminal Justice Commission, spoke about the committee's mission of improving the lives of children whose parent or parents are incarcerated for an extended period of time. Specifically, he summarized the 2012-2013 COIP Pilot Project. The pilot was designed to help socialize these children by giving them the tools they need to help in school while the absent parent is in prison. Mr. Mason said they focused on three areas: attendance, academics, and behavior. They observed that at-home behavior improved substantially; all students in the pilot were working at grade level; and, school attendance improved slightly. Parents and children universally felt the program was valuable and worthwhile.

Monty Prow, member of the Idaho Criminal Justice Commission's Criminal Justice Research Alliance Subcommittee, spoke on the Idaho Data Sharing Service Project. The Idaho project, to be implemented in the Fall of 2014, aims to create a secure, common sharing platform for the partners who interact with justice-involved juveniles. The Idaho Criminal Justice Commission has ad-hoc agreements with other agencies but current data technology make it costly and inefficient to share information. Using grant money, they are working on a process for the independent computer information systems to communicate with each other. This is not a data warehouse; the information flows back and forth.

Sara Thomas concluded the presentation of the Idaho Criminal Justice Commission with their priorities for the next year: to guide Idaho's response to the Prison Rape Elimination Act, to reclassify misdemeanors, to review sex offender registration categories, and review fines and fees.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:54 PM.

Representative Wills
Chair

Francoise Cleveland
Secretary