

MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Tuesday, February 11, 2014

**TIME:** 1:30 P.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Wills, Vice Chairman Luker, Representative(s) Nielsen, Bolz, Bateman, McMillan, Perry, Sims, Dayley, Horman, Malek, Packer, Trujillo, McDonald, Burgoyne, Meline, Ringo

**ABSENT/  
EXCUSED:** None

**GUESTS:** Kendra Neely, Scrap Dealers; Mik Cataldo, Scrap Dealers; Clark Rollins, ISP; Charlie Spencer, ISP; Kevin Hudgens, ISP; Teresa Baker, ISP; Russ Wheatley, ISP; Michael Henderson, Supreme Court; Woody Richards, Insurance Companies; Angie Richards, Insurance Companies; Dennis Tanikuni, Idaho Farm Bureau; Rich Hahn, Idaho Power; Sean Ellis, Capital Press; Will Hart, Idaho Consumer Owned Utilities; Raeleen Welton, RMP/ILBA

**Chairman Wills** called the meeting to order at 1:32 PM.

**MOTION:** **Rep. Bolz** made a motion to approve the minutes of the January 23, 2014, meeting. **Motion carried by voice vote.**

**MOTION:** **Rep. Ringo** made a motion to approve the minutes of the January 27, 2014, meeting. **Motion carried by voice vote.**

**MOTION:** **Rep. Bolz** made a motion to approve the minutes of the January 29, 2014, meeting. **Motion carried by voice vote.**

**S 1214:** **Michael Henderson**, Legal Counsel for the Idaho Supreme Court, presented to the committee **S 1214**, which deletes the statement that the court "can give no charge to the jury." He said this statute dates back to 1864 and is now out of date and in conflict with other provisions of Idaho Code. The charge to the jury is the court's instruction to the jury on the laws relevant to the trial. He said without this guidance, juries could not properly deliberate and reach a verdict in a criminal case.

**MOTION:** **Rep. Nielson** made a motion to send **S 1214** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nielson** will sponsor the bill on the floor.

**S 1215:** **Michael Henderson**, Legal Counsel for the Idaho Supreme Court, presented to the committee **S 1215** which corrects an erroneous statutory reference in Idaho Code Section 16-1622(2)(a) in describing the information that is required for a permanency plan. This is the plan that guides the long term placement of a child who has been found to be abused, neglected, or abandoned, and who has been placed in the custody of the Department of Health and Welfare.

**MOTION:** **Rep. Burgoyne** made a motion to send **S 1215** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Ringo** will sponsor the bill on the floor.

**H 422:** **Maj. Kevin Hudgens**, Idaho State Police Operations Major, presented **H 422** relating to the number of persons required from the Idaho State Police to witness the destruction of drugs. Current law requires representatives from the Board of Pharmacy, Forensics Services, and the Idaho State Police to witness the destruction of drugs. Now that the Forensic Services is governed by the Idaho State Police, it is an unnecessary duplication of efforts to continue to have them as a witness. In addition to the statutory required witnesses, the Idaho State Police has additional personnel who also ensure the integrity and security of the drug destruction process.

**MOTION:** **Rep. Dayley** made a motion to send **H 422** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Dayley** will sponsor the bill on the floor.

**H 448:** **Lt. Russ Wheatley**, of the Idaho State Police's Alcohol Beverage Control, presented **H 448** which clarifies that a person, in order to be eligible to hold a liquor license, must wait for five years to lapse after they finish their entire felony sentence, including probation and parole. Idaho Code 23-910(1) is clear that a person is not qualified to hold a liquor license until five years after they have satisfied conditions of a felony conviction such as a term of confinement or being granted a withheld judgment. What is not clear is when the five year period begins for individuals sentenced to probation or parole. **H 448** clarifies that the five year waiting period begins upon completion of a sentence of probation or parole.

Some members of the committee expressed concerns about how this change would affect those who are currently serving their sentence. They believe this to be an additional penalty to the offender's sentence. In addition, it was questioned whether this additional five years was giving credence to a successful probation.

**Lt. Wheatley** responded that the view of probation is an extension of the term of confinement, a test to see how they are going to do in society. He reminded the committee that parole is not addressed in the current legislation and needs to be added.

Other members of the committee argued **in support** of the legislation. They argued that liquor licenses should not be granted to those who are convicted of egregious crimes until their probation is complete and the trial period is over to see if they have cleaned up their behavior. Someone who holds a liquor license should be someone the state holds in high trust.

**MOTION:** **Rep. Trujillo** made a motion to send **H 448** to the floor with a **DO PASS** recommendation.

Discussion followed regarding the type and severity of felonies and whether five years after the sentence was too long of a punishment for all cases.

**SUBSTITUTE MOTION:** **Rep. Perry** made a substitute motion to **HOLD H 448** in committee.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** Roll call vote was requested. **Substitute motion failed by a vote of 8 AYE and 9 NAY.** **Voting in favor** of the motion: **Reps. Luker, Nielsen, Bateman, McMillan, Perry, Sims, Meline, and Ringo.** **Voting in opposition** to the motion: **Reps. Bolz, Dayley, Horman, Malek, Packer, Trujillo, McDonald, Burgoyne, and Wills.**

**ROLL CALL VOTE ON ORIGINAL MOTION:** Roll call vote was requested on the original motion to send **H 448** to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 10 AYE and 7 NAY.** **Voting in favor** of the motion: **Reps. Bolz, Bateman, Dayley, Horman, Malek, Packer, Trujillo, McDonald, Burgoyne, and Wills.** **Voting in opposition** to the motion: **Reps. Luker, Nielsen, McMillan, Perry, Sims, Meline, and Ringo.** **Reps. Burgoyne and McDonald** will sponsor the bill on the floor.

**H 433:** **Rep. Malek** informed the committee that legislative services will be rewriting **H 433**. The legislation will be given a new RS number.

**UNANIMOUS CONSENT REQUEST:** **Rep. Malek** made a unanimous consent request to **HOLD H 433** in committee. There being no objection, the request was granted.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:24 PM.

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Representative Wills  
Chair

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Francoise Cleveland  
Secretary