

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

- DATE:** Thursday, February 27, 2014
- TIME:** 1:30 PM or Upon Adjournment
- 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:** Representative(s) Bolz, Horman
- GUESTS:** Kendra Neely, Recyclers; Kip Higby, Boise Police; Jan Bennetts, Ada County Prosecuting Attorneys Office; Holly Koole, IPAA; Mike Kane, Idaho Sheriffs Association; Molly Vaughn, Parole Commission; Patti Tobias, Courts; Hon. Linda Copple Trout; Sr. Judge Barry Wood; Bob Wetherell, State Bar; Sara Thomas, ICJC; Elizabeth Criner, Simplot; Vicky McIntyre, IACT; Galen Carlson Fields, Ada County Prosecutors Office; Tammara Slater, ISA; Aleshea Boals, Canyon County Sheriff; Dennis Tanikuni, Idaho Farm Bureau; Rich Hahn, Idaho Power; Tracie Lloyd, Canyon County; Donna Petterson; IACT; Seth Grigg, IAC; Neil Colwell, Avista
- Chairman Wills** called the meeting to order at 1:31 PM.
- MOTION:** **Rep. Ringo** made a motion to approve the minutes of February 13, 2014. **Motion carried by voice vote.**
- MOTION:** **Rep. Ringo** made a motion to approve the minutes of February 17, 2014. **Motion carried by voice vote.**
- H 509:** **Patti Tobias**, Administrative Director of the Courts, presented to the committee **H 509** which will provide the necessary support for the implementation of a new technology solution for the Idaho courts. Ms. Tobias said ISTARs, the current technology program, has reached its end-of-life. Odyssey, the selected program to replace ISTARs, is a fully-integrated "enterprise" system developed by Tyler Technologies. It is the most mature, highly developed court case management system on the market today. She said it has the most functionality, at the lowest overall cost. With the new program, they plan to replace and modernize the case management system for all court cases in the trial and appellate courts, move to electronic filing and storage of all court documents, and expand video conferencing across the state. All will be supported by a statewide network infrastructure.
- Ms. Tobias** said this bill, along with multiple, one-time, bridge funding from the Joint Finance Appropriations Committee, will fund the five year business plan and beyond. **H 509** provides a set of graduated civil filing fees to provide the increase in ongoing funds for court technology including: a \$125 increase for civil cases filed in district court; a \$70 increase for appearances and civil cases filed in the magistrate division; and a \$20 increase for miscellaneous actions. With the new technology in place, at least one hour of an attorney's hourly rate in each civil case filed in district court will be saved with the efficiencies achieved and cost savings of E-filing, E-records, and video conferencing. She said, these time and cost savings will more than offset the one-time, up-front filing fee for Idahoans. Idaho Code provides a waiver of fees in the event of an inability to pay.

Ms. Tobias said, parties and attorneys will be able to electronically file new cases and court documents 24 hours per day, 7 days a week, in any court in this state. In the future, anyone with internet access will be able to quickly find court documents and track court cases. Each day, the financial management system will assist courts in collecting over \$200,000 in fines, fees, and restitution, totaling more than 55 million dollars annually, distributed to over 200 state and county entities, pursuant to statutory direction. A Judicial Workbench will allow judges to readily access secure case information and conduct legal research from the bench. The entire jury process will be automated, from the initial summons to the selection of a jury, in one statewide jury system. Odyssey will also permit the close monitoring and case management of almost 4,000 problem-solving court offenders and 17,000 misdemeanor probationers annually.

Ms. Tobias said, their vision is to continue to serve as the hub for data exchange between state and county agencies. This investment saves taxpayers money, provides greater access to court records and services, and measures and improves performance.

Justice Linda Copple Trout, chair of the design and implementation team for the software program, said Odyssey is an off-the-shelf product. This means it is fully designed and ready to be implemented but work is still required to make sure the court's practices and procedures comport with Odyssey. She said if Odyssey does not have a process for doing what is needed, Tyler can have the software developed. There is a fixed amount built within budget for this software development. Over the last few months, they have identified and written out every practice and process available in Idaho for every type of court case, from beginning a civil lawsuit with the filing of a complaint, to entry of a judgment and appeal, procedures involving issuing arrest and search warrants, collecting and distributing fines and fees, handling guardianships and conservatorships, issuing Domestic Violence Protection orders, and all of the processes for handling infractions, misdemeanors and felonies.

Senior Judge Barry Wood, on behalf of the Idaho Supreme Court, detailed the specific changes in the law for the committee.

MOTION:

Rep. Burgoyne made a motion to send **H 509** to the floor with a **DO PASS** recommendation.

Bob Wetherell, of the State Bar, testified **in support of H 509**. He said that this new technology will save money for all of the people involved.

Sara Thomas, State Public Defender and Chair of the Criminal Justice Commission, testified **in support of H 509**. She said the case management system is not just for courts; it is also for prosecutors and public defenders who can purchase software plug ins for the program. Because information can be accessed throughout the counties, individual counties will have needed information, such as when someone is wanted on a warrant in another county. In this new system, there will be no need to have paper documents. She said this system will help monitor the public defense system by allowing more current information to be readily accessible, instead of waiting for the annual reports.

Elizabeth Criner, representing the JR Simplot Company, testified **in support of H 509**. She said they are in support of efforts to ensure efficient and effective government in our state.

VOTE ON MOTION:

Motion carried by voice vote. Rep. Wills will sponsor the bill on the floor.

HR 5:

Chairman Wills explained that **HR 5** has been rewritten.

**UNANIMOUS
CONSENT
REQUEST:**

Chairman Wills made a unanimous consent request to **HOLD HR 5** in committee. There being no objection, the request was granted.

S 1239:

Seth Grigg, of the Idaho Association of Counties, presented to the committee **S 1239**. This legislation amends Idaho Code to allow a public administrator the ability to deduct the debts of a decedent as well as projected costs to administer the decedent's estate from the inventory taken from the estate. It will also increase the minimum estate amount required for publishing and notifying creditors from \$1,000 to \$5,000.

Chairman Wills turned the gavel over to **Vice Chairman Luker**.

MOTION:

Rep. Trujillo made a motion to send **S 1239** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

H 455:

Michael Kane, of the Idaho Sheriffs Association, presented to the committee **H 455** which will increase fees for the victim and witness notification system, known as VINE, from \$10 to \$15. He said according to the Constitution, victims have the right to prior notification of trial court, appellate and parole proceedings, and to information about the sentence, incarceration and release of a defendant. This electronic system instantaneously notifies victims of these actions. This program is used by 47 states and the federal government. If the fees are not raised, part of the program will be lost. He said the courts do have a way to waive this fee for individuals.

Tammara Slater, of the Idaho Sheriffs Association, testified **in support of H 455**. She explained there are two components of the system: victim and court notifications. Apart from victims, many different entities from the courts, from defendants to prosecutors, use this program. The court notifications component will be tied into the new court technology program, Odyssey.

MOTION:

Rep. Bateman made a motion to send **H 455** to the floor with a **DO PASS** recommendation.

In response to questions, **Mr. Kane** said they were behind in fees because of fees not being paid and fees not being set high enough. They used 2009 numbers, a year that had a spike in convictions so the number of individuals paying into the system went down in the years after that. He also said fees were the only way available to pay for this service.

Rep. Burgoyne spoke **in support** of the legislation. He said this is a justifiable fee. It is an unfortunate fee but there is a constitutional obligation to do this. **Rep. McDonald** spoke **in support** of the legislation. He said there is a need to protect the people and victims who are afraid they will be a victimized again.

**VOTE ON
MOTION:**

Motion carried by voice vote. **Reps. Nielsen, Sims, and Dayley** requested they be recorded as voting **NAY**. **Rep. Bateman** will sponsor the bill on the floor.

Vice Chairman Luker turned the gavel back to **Chairman Wills**.

H 518:

Rep. Malek presented to the committee **H 518** which amends the Scrap Metal Act. The amendments would reduce the circumstances by which a felony charge may be imposed, provides details on circumstances by which a scrap metal dealer must make photographic images of its customers, and corrects several other technical details.

Neil Colwell, lobbyist for Avista Corporation, testified **in support** of **H 518**. The purpose of this legislation is to reduce metal theft. It is also their intention to make the bill passed last year more workable for the scrap metal dealers. They wanted to reduce the impact on smaller scrap metal dealers so the burdens imposed on them would not be too onerous.

Rep. Sims expressed concern about the definition of commercial metal property. She said the definition is too broad to include just scrap metal dealers. It will include the kinds of metal dealt with in jewelry stores, antique shops and other businesses. **Mr. Colwell** responded that this legislation is intended for those businesses reprocessing the metal.

MOTION: **Rep. Nielsen** made a motion to send **H 518** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Sims** requested she be recorded as voting **NAY**. **Rep. Malek** will sponsor the bill on the floor.

H 465: **Rep. Perry** reported there are still concerns which have not been resolved with **H 465**.

UNANIMOUS CONSENT REQUEST: **Rep. Perry** made a unanimous consent request to **HOLD H 465** in committee. There being no objection, the request was granted.

H 464: **Rep. Perry** presented to the committee **H 464** which requires a peace officer to consult with the Idaho Department of Health and Welfare's Child Protection Division before declaring a child in imminent danger and taking them into state care. Currently, Idaho statute states a child may be taken into shelter care by a peace officer without a court order to do so. The statute states this can occur "where the child is endangered in his surroundings and prompt removal is necessary to prevent serious physical or mental injury to the child or where the child is abandoned." She said the statute is vague as to what constitutes serious physical or mental injury; only the definition of mental injury is found within the Child Protective Act. The definition of physical injury is absent in the statute.

Rep. Perry said the bill directs a law enforcement officer to consult with the Department of Health and Welfare prior to declaring imminent danger. The purpose of the consult is to give the officers a clearer picture of whether it is in the child's best interest to declare imminent danger immediately or whether it may be more appropriate to have the department conduct an investigation first. The intent is to take children into care only when it is absolutely necessary and to help the officers to make a better, more informed decision. This is to reduce unnecessary trauma to the child.

In response to a question, **Rep. Perry** said the Department of Health and Welfare has a centralized intake system that works 24/7/365. This system is set up so law enforcement is prioritized and usually will be sent to a supervisor.

MOTION: **Rep. McDonald** made a motion to send **H 464** to the floor with a **DO PASS** recommendation.

Michael Kane, of the Idaho Sheriffs Association, testified **in support** of **H 464**.

Kip Higby, Special Victims Unit of the Boise Police, testified **in opposition** to **H 464**. He said detectives or officers remove children based on facts from the scene not availability of foster homes or economic issues. The removal of a child is a last resort and decisions are made with the upmost of care. The Department of Health and Welfare already has the opportunity to look at these cases within 48 hours. This proposed legislation will only cloud the decision of the officers.

Galen Carlson Fields, Ada County Deputy Prosecuting Attorney, testified in **opposition to H 464**. He said there is real tension between the Department of Health and Welfare and law enforcement. They each have their own set of goals. This dialogue should not be in the middle of an emergency situation. The Child Protection Act does define the criteria for which law enforcement is looking. He said the bottom line is, the current system works. Law enforcement is trusted to make decisions and they have been doing a good job.

Rep. Perry said both sides deal with issues differently. These consultations prove to be very effective. There are a number of grey areas where law enforcement does not need to remove the child.

SUBSTITUTE MOTION:

Rep. Nielsen made a substitute motion to **HOLD H 464** in committee.

Rep. Ringo said further abuse of a child would be worse than being removed for a few days.

VOTE ON SUBSTITUTE MOTION:

Roll call vote was requested. **Substitute motion failed by a vote of 5 AYE, 8 NAY, and 4 Absent/Excused. Voting in favor of the motion: Reps. Nielsen, Sims, Malek, Ringo, and Wills. Voting in opposition to the motion: Reps. Luker, McMillan, Perry, Dayley, Packer, Trujillo, McDonald, and Meline. Reps. Bolz, Bateman, Horman, and Burgoyne were absent/excused.**

VOTE ON ORIGINAL MOTION:

Chairman Wills called for a vote on the original motion to send **H 464** to the floor with a **DO PASS** recommendation. **Original motion carried by voice vote. Rep. Perry** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 4:28 PM.

Representative Wills
Chair

Francoise Cleveland
Secretary