

MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

- DATE:** Friday, March 07, 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) Nielsen, Bateman, McMillan, Perry, Packer, Meline
- GUESTS:** Rob Luce, Idaho Department of Health and Welfare; Bill Flink, POST
- Chairman Wills** called the meeting to order at 1:31 PM.
- S 1293:** **Robert Luce**, Administrator of the Division of Family and Community Services with the Department of Health and Welfare, presented to the committee **S 1293** which pertains to technical corrections in the termination of parental rights statutes, Title 16, Chapter 15, Idaho Code and the adoption statutes, Title 16, Chapter 20, Idaho Code. During the 2013 Legislative Session the Legislature passed **H 214**, concerning putative fathers which clarified the statutes and strengthened adoptions and permanency in Idaho. Specifically, it established, among other things, a date and time certain for putative fathers to take action to protect their rights with respect to children born out-of-wedlock. Following the passage of **H 214**, it was discovered they had overlooked establishing a date and time certain when it comes to certain private adoptions like those involving step parents. This legislation is intended to address that technical oversight. He said he was not aware of any opposition to this technical correction.
- MOTION:** **Rep. Horman** made a motion to send **S 1293** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Sims** will sponsor the bill on the floor.
- S 1251:** **Rory Olsen**, POST Deputy Division Administrator, presented to the committee **S 1251** which amends Section 19-5101(d) of Idaho Code to add "or volunteer reserve officer" to the definition of Peace Officer. Currently, volunteer reserve officers are not addressed in the definition of a peace officer; however, volunteer reserve officers have existed in Idaho law enforcement since 1989. Volunteer reserve officers serve as a vital asset to law enforcement agencies throughout Idaho and especially to smaller agencies that have limited resources. Idaho POST has been certifying volunteer reserve officers for patrol functions since 1989 and there are currently over 290 certified volunteer reserve officers serving in this capacity. POST has certified volunteer reserve officers used for patrol functions under the current definition of Peace Officer found in Idaho Code Section 19-5101(d) with further definition within Administrative Rules.
- Mr. Olsen** said while recently reviewing the provisions for volunteer reserve officers and considering potential future uses for reserve officers, the POST Council and the Council's legal advisor felt it would be prudent to include volunteer reserve officer in the definition of a peace officer. The main concern is to make sure volunteer reserve officers are included in the definition of Peace Officer, to prevent any possible legal challenges that might arise regarding whether a volunteer reserve officer had the legal authority to perform as a Peace Officer.

In response to questions from the committee, **Mr. Olsen** said there are three identified levels of volunteer reserve officers. Reserve Level Three officers are those who serve in jeep patrols, posse patrols, and search and rescue teams. These reserve officers are hired and retained by the agency. POST has no involvement in Level Three hires. Reserve Level Two officers are individuals that are a ride-along partner with an officer. They are at all times to be in the presence of a fully certified law enforcement officer. These reserve officers can only act as a back up for that fully certified officer. The only involvement POST has in its Rules with a Reserve Level Two is what kind of minimal training is needed to fulfill that function. Reserve Level One Officers can ride in a vehicle on their own but the agency must have a fully certified officer to act as a supervisor for that individual. They are allowed to perform and make arrests on their own.

Members of the committee expressed concern about the broad scope of the definition. They said the language of the bill does not limit the definition of volunteer reserve office solely to Level One officers. Even if their Rules differentiate the levels, the Code would not and Statutes always supersede Rules.

**MOTION:** **Rep. Luker** made a motion to **HOLD S 1251** in committee.

**Chairman Wills** said he would officially request an opinion of the Attorney General on the authority of the POST volunteer reserve officers.

**VOTE ON MOTION:** **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:21 PM.

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Representative Wills  
Chair

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Francoise Cleveland  
Secretary