

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, February 18, 2015

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Vice Chairman Hagedorn, Senators Davis, Tippetts, Bayer, Souza, and Johnson (Lodge, 11)

**ABSENT/EXCUSED:** Senators Burgoyne and Johnson (6), with a vacancy in District 17.

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Vice Chairman Hagedorn** called the Senate Judiciary and Rules Committee (Committee) to order at 1:32 P.M.

**GUBERNATORIAL APPOINTMENT HEARING:** The gubernatorial reappointment of Lisa Growette Bostaph to the Commission on Pardons and Parole. **Ms. Bostaph** gave the Committee information about herself.

**Vice Chairman Hagedorn** scheduled the vote on Ms. Bostaph's gubernatorial reappointment for February 20, 2015.

**RS 23516** **Senator Rice** explained **RS 23516** allows victims of human trafficking, who pick up arrests or offenses due to being enslaved, to have the charges vacated and the records expunged. Enslaved victims can pick up a criminal record making them ineligible for student aid after they are freed.

**MOTION:** **Senator Davis** moved to print **RS 23516**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**S 1014** **Senator Davis** stated this bill strikes the \$5000 standard and treats the loan value of life insurance contracts the same as deferred annuities. The bill eliminates the conflicting language for cash value life insurance and replaces it with language similar to that for deferred annuities. United States bankruptcy code allows states to opt out and set their own list of assets which may be exempted from being given to creditors. Idaho opted out and has set its own list of exemptions. **Senator Davis** recounted the history of this process.

**Senator Souza** questioned the \$5000 cap and asked if there is a total now. **Senator Davis** answered there is no number.

**MOTION:** **Senator Tippetts** moved to send **S 1014** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**S 1025** **Mike Brassey**, Idaho Uniform Law Commissioner, explained the bill is long, so he had given the Committee an outline of the proposed bill (see attachment 1). This bill takes the statutes that currently exist and restructures part of the code that is in common placing them in one place. There are also technical revisions making it simpler to use. Included is a single comprehensive state business code. This is not a bill that has been approved by the Idaho State Bar (ISB). In order to sponsor Legislation the ISB has to go before all lawyers. This bill has been introduced over the past few years and has received no comments.

**David Jensen**, Lawyer with Parson, Behle and Latimer, affirmed that he is representing himself. Mr. Jensen explained the bill and how an attorney committee analyzed the uniform law and made slight changes to fit Idaho. An addition was made for people starting a business in Idaho who are from out of state, including a provision for registration.

**Senator Davis** asked where the repeal is for Title 53, Chapter 4, on the assumed business name. **Mr. Brassey** answered LSO went through the repeals and he thinks it is correct. **Senator Davis** said to add a trailer bill if it is not there.

**MOTION:**

**Senator Bayer** moved to send **S 1025** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**S 1040**

**Sara Thomas**, State Appellate Public Defender, explained the timelines in a death penalty case and what they are trying to change in **S 1040** (see attachment 2). The bill clarifies the language regarding filing requirements of certain appeals when death penalty has been imposed. It avoids the question of conflict of interest. She has worked with the Attorney General's office in crafting the bill and provided copies to the Idaho Supreme Court and Idaho Prosecuting Office. There have been no objections.

**Vice Chairman Hagedorn** questioned the successive post-conviction delay. **Ms. Thomas** answered it is 42 days.

**Senator Davis** asked what a remitter is. **Ms. Thomas** explained it is the time between the opinion of the Idaho Supreme Court (Court) and the final decision from the Court. **Senator Davis** asked for clarification on a unified deal. **Ms. Thomas** answered it is a consolidation of what occurs in Court while hearing the post-conviction appeal and what happened outside of Court.

**Senator Davis** stated it could look like a way to protect the State Appellate Defender's Office and send them faster to the death penalty. **Ms. Thomas** replied the time limit already exists, the trigger for the filing is the appellate brief. The 42 day time limit is what the Court states is reasonable. It does not change the time limit, just when the count begins.

**Senator Tippetts** questioned if the bill is beneficial to the defendant. **Ms. Thomas** replied yes. There is more time to gather information.

**MOTION:**

**Senator Tippetts** moved to send **S 1040** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**S 1051**

**Robert Aldridge**, TEPI, explained **S 1051** amends Uniform Probate Code § 15-3-304 to update and clarify language concerning conflicting wills or codicils filed for probate.

**MOTION:**

**Senator Bayer** moved to send **S 1051** to the floor with a **do pass** recommendation. **Senator Tippetts** seconded the motion. The motion carried by **voice vote**.

**S 1052**

**Robert Aldridge**, TEPI, explained bill **S 1052** changes the spelling of "standing" to "standard". It does not change anything else.

**MOTION:**

**Senator Souza** moved to send **S 1052** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Vice Chairman Hagedorn** adjourned the meeting at 3:43 p.m.

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Senator Hagedorn  
Vice Chairman

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Carol Cornwall  
Secretary

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Barbara Lewis  
Assistant Secretary