

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, February 23, 2015

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None.

GUESTS: Leah Plah; Steve Richardson, ISP; Holly Koole Rebholtz, IPAA; Michael Kane, ISA; Teresa Baker, ISP; Sandy Jones, Parole Commission; Don Drum, PERSI; Joanna Foy, PERSI; Dan Blocksom, Idaho Association of Counties.

Chairman Wills called the meeting to order at 1:30 PM.

Chairman Wills introduced the new committee page, **Erin Feeley** from Timberline High School.

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

H 163: **Rep. Wills** presented **H 163**. This bill would extend the implementation deadline for Department of Correction training dates previously set in **S 1357** (2014), from March 1, 2015 to October 1, 2015.

MOTION: **Rep. Nye** made a motion to send **H 163** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wills** will sponsor the bill on the floor.

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

MOTION: **Rep. Perry** made a motion to approve the minutes of the February 13th, 2015, meeting. **Motion carried by voice vote.**

Senior District Judge, Idaho Supreme Court, **Barry Wood**, provided the committee with information regarding sentencing and the parameters the court must take into account. Judge Wood cited Idaho Code 19.25.21 and explained the statute is two part. The first part is considered the default position and the statute directs the court on how it should deal with a person who has been convicted of a crime. The second part outlines what the court should take into consideration when deciding whether to grant a period of probation. In the misdemeanor section, criminal rule 10 outlines seven factors a magistrate judge should consider when deciding to grant an individual a withheld judgment. Factors found in both statutes are the kind of factors a judge would consider when fashioning a sentence. There are four objectives of a criminal sentence in the State of Idaho: protection of society, goals and deterrents, retribution or punishment, and rehabilitation. The courts may place different weight on each objective as they deem appropriate. **H 160** addresses the willful placement and willful is defined in Idaho Code 18.101. subsection 1.

H 104: **Rep. Luker** presented **H 104**. This bill would reclassify violations regarding litter and debris on highways, public and private property from a misdemeanor to an infraction. The legislation would change the structure of two statutes addressing litter and debris on highways and on private and public property so the two statutes are the same in application and are aligned, because they appear in two separate titles of the code. Penalties would be set as follows: a first time offense infraction would be \$150, a second offense within 2 years would be \$300 infraction penalty, and a third offense within 3 years would be a misdemeanor with a fine not exceeding \$1,000 and jail of up to 30 days.

MOTION: **Rep. McDonald** made a motion to send **H 104** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

H 160: **Rep. Luker** presented **H 160**. This bill would reclassify litter and debris offenses from misdemeanors to infractions. Review of the statutes disclosed that there was no statutory deterrence for willfully placing debris on highways and streets in a way that impedes traffic or creates a driving hazard. This trailer bill to **H 104** would add a new subsection and create a misdemeanor to address that concern. The fine would be up to \$2,500 with imprisonment not to exceed 6 months.

MOTION: **Rep. McDonald** made a motion to send **H 160** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

H 136: **Michael Kane**, Idaho Sheriffs Association presented **H 136**. Probation officers have the authority to use three days of discretionary jail time. This bill applies only to felony convictions and not to misdemeanor convictions. The process by which an offender is admitted to the jail is very lengthy and involved. This bill would ensure the cost of housing probationers and parolees committed to a county jail for discretionary jail time, is not placed on the county property taxpayer but rather on the state.

In response to a question from the committee, **Mr. Kane** explained the amount in the fiscal note was provided by the Department of Correction and is the annual cost.

MOTION: **Rep. Kerby** made a motion to send **H 136** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

H 137: **Michael Kane**, Idaho Sheriffs Association presented **H 137**. Due to an on going issue with the rule of 80, this bill would ensure that peace officers who are promoted to perform supervisory duties do not lose peace officer status for purposes of retirement calculations performed by the Public Employee Retirement System of Idaho (PERSI). A correction to the language in the bill is needed to distinguish between peace officer and police officer status.

MOTION: **Rep. Trujillo** made a motion to send **H 137** to General Orders. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

H 157: **Major Steve Richardson**, Idaho State Police presented **H 157**. This bill would grant express authority to the Director of ISP and make it clear that ISP does have the statutory authority to enter into contractual agreements for the Idaho State Police to provide services to private entities if it is deemed necessary to enforce the law or ensure public safety when those services are beyond the usual and customary services provided by the Idaho State Police.

MOTION: **Rep. McDonald** made a motion to send **H 157** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Wintrow, Sims, McMillan, Perry, Nate and Scott** requested to be recorded as voting **NAY**. **Rep. McDonald** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:30 PM.

Representative Wills
Chair

Katie Butcher
Secretary