

MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, February 25, 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:** Rep. McDonald

**GUESTS:** Jesse Taylor, PBAI; Barry Wood, ISC; Gabel McCarthy; Heather Price, IBC; Senator Todd Lakey; Barbara Jordan, ITLA; Dan Blacksom, Idaho Association of Counties; Ian Thomson, IPDC.

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

**MOTION:** **Rep. Perry** made a motion to approve the minutes of the February 17, 2015, meeting with the following correction: On page 1, first paragraph, the Major's last name should be "Richardson" and not "Richard". **Motion carried by voice vote.**

**MOTION:** **Rep. Perry** made a motion to approve the minutes of the February 19, 2015, meeting. **Motion carried by voice vote.**

**H 158:** Senior District Judge, Idaho Supreme Court, **Barry Wood** presented **H 158**. This bill is needed to address a very narrow loophole discovered in the Idaho Bail Act and applies ONLY to those who have a bench warrant for failure to appear in court. On occasion the individual is bonding out with a different company before they appear in court. This bill will provide a trial judge with discretionary tools, allowing them to set bail, set a cash only requirement or delay setting bail until the individual is before the court in order to add additional conditions.

**MOTION:** **Rep. Kerby** made a motion to send **H 158** to the floor with a **DO PASS** recommendation.

**Jesse Taylor**, Professional Bail Agents of Idaho (PBAI), expressed their **support** of **H 158** because it would streamline the judicial process and increase public safety.

**Gabel McCarthy**, expressed his **opposition** to the bill. This bill is not needed because there is a mechanism in place in Idaho Code 19.29.17. This statute would allow, upon motion within 180 days of a failure to appear, the court to direct the order of forfeiture be set aside in whole or in part as provided by rules adopted by the Supreme Court if it appears justice so requires. Justice would require the court to exonerate the forfeiture of the first surety if they had delivered the defendant to the proper authorities regardless of whether that individual then chooses to bond out with a new company rather than appear in court. However, judges are not using this mechanism. If the bill does pass in its current form, language should be added to direct judges on when it would be appropriate to issue a no bond.

**Heather Price**, Idaho Bail Coalition, expressed their **support** of **H 158** because it would provide an avenue for judges to stop fugitive defendants bailing out of jail before appearing in court. It also allows bail agents the opportunity to pursue exoneration of their bail after they have surrendered the defendant to the jail, knowing that they will be required to appear in court so they can be cleared of any liability. Finally, it would provide relief for family, friends and employers who have indemnified the bond on behalf of the defendant.

**VOTE ON MOTION:**

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

**SCR 103:**

**Sen. Lakey** presented **SCR 103**. The purpose of this legislation is to continue the work of the Public Defence Reform Committee. The purpose of the committee is to develop reforms for the public defense system. The committee has established a Public Defence Reform Commission, to gather information about case loads, case types, types of attorneys and work loads. The committee will use this information to create their reform recommendations for the legislature. The goal is to have a public defence system that is an Idaho system, rather than a 9th Circuit Court system. Standards and funding have yet to be determined.

**MOTION:**

**Rep. Nye** made a motion to send **SCR 103** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Luker** will sponsor the bill on the floor.

**H 162:**

**Rep. McMillan** presented **H 162**. It is time to raise juror compensation for those jurors whose period of service extends beyond five days.

**Rep. Gannon**, spoke in **support** of **H 162**. Jury duty is a requirement and many jurors are only compensated \$10 a day plus mileage. This bill only applies to lengthy jury trials and is financed by a \$2 filing fee on people and entities filing civil lawsuits. The money that is raised by this filing fee will be placed in a fund which will reimburse counties \$40 per day. The counties will continue to pay the minimum payment of \$10 per day and mileage. Last year the legislature raised district judge pay by \$20,000, raised magistrate judge pay, authorized a General Fund appropriation, and authorized fee increases on all filings. This totaled around 20 million dollars for implementation of the new court information system. It is time for the public to have a raise for their service on a lengthy jury trial. The fund should have more than enough money to cover the increase.

In response to questions from the committee, **Rep. Gannon**, explained that due to constitutional law, criminal defendants cannot be required to have a filing fee. Those who file the lawsuit, if they win, receive their filing fee back, so applying the fee to criminal cases simply wouldn't work. **Rep. Gannon** confirmed that County Commissioners do have the right to raise juror compensation, and while support is not unanimous, there is support for sharing the burden with the counties continuing to pay \$10 a day and the remaining \$40 coming from the fund. Presently Nez Perce County is the only county paying \$50 for lengthy jury pay. If this bill becomes law, the \$50 for lengthy jury pay will be mandatory with the cost shared. All of the counties would be treated equally, and so each county would be reimbursed \$40, regardless of how much they were previously paying their jurors for a lengthy trial.

**Barbara Jordan**, Idaho Trial Lawyers Association (ITLA), expressed their **support** for **H 162** and raising jury compensation for lengthy jury pay across the state. However, they believe the cost should not rest on just one side of the complaint.

In response to a question from the committee, **Ms. Jordan** expressed that she would like to see the criminal case filing fee increased. Obviously the fee is easier to collect for a civil case but they would prefer to see the filing fee raised in both criminal and civil cases.

**MOTION:** **Rep. Trujillo** made a motion to send **H 162** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Luker, Nate and Scott** requested to be recorded as voting **NAY. Rep. Gannon** will sponsor the bill on the floor.

**H 159:** **Rep. Luker** presented **H 159**. This bill addresses minors in possession of, distribution of, or using false identification to obtain tobacco. This legislation sets a \$17.50 infraction fine for underage possession, use and consumption, a first offense infraction of \$200 for sale or distribution, false identification to obtain, and for subsequent offenses for sale, distribution, or false identification to obtain, a misdemeanor is maintained with a fine up to \$300, but reduces potential jail time from 6 months to 30 days.

**MOTION:** **Rep. Malek** made a motion to send **H 159** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Luker** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:32 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary