

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, March 09, 2015

TIME: 1:30 or Upon Adjournment

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: Robert Aldridge, TEPI; Josh Tewart, IDOC; Holly Koole, IPAA; John Mackey, NAIFA.
Chairman Wills called the meeting to order at 2:11 PM.

MOTION: **Rep. Dayley** made a motion to approve the minutes of the February 23, 2015, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Dayley** made a motion to approve the minutes of the February 25, 2015, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Dayley** made a motion to approve the minutes of the March 3, 2015, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Dayley** made a motion to approve the minutes of the March 5, 2015, meeting. **Motion carried by voice vote.**

S 1014: **John Mackey**, National Association of Insurance and Financial Advisors (NAIFA) presented **S 1014**. This bill addresses personal property exemption from creditors relating to bankruptcy, attachments and levy's against the cash value of an individual life insurance policy. The current language in statute is conflicting and the conflict is confirmed by case law from the Oxford and Steiner Courts. Prior to legislative approval in 2013, similar conflicting language and case law existed in the exemption of deferred annuity cash value. This change provided for the cash value of a deferred annuity to be exempt from creditors except for deposits made within six months of the bankruptcy filing date or date of attachment or levy. **S 1014** uses the same amending language used in 2013 to exempt life insurance cash value from creditors with the exception of value created from premiums paid within six months of the bankruptcy petition or date of attachment or levy.

In response to a question from the committee, **Mr. Mackey** explained life insurance is specifically exempt from creditors because it is considered to be a meaningful family security agreement between a life insurance company and the insured.

MOTION: **Rep. Dayley** made a motion to send **S 1014** to the floor with a **DO PASS** recommendation.

In response to questions from the committee, **Mr. Mackey** stated there is a cap, which is determined by the amount paid into the policy up to six months before the bankruptcy petition or date of attachment or levy. Money paid into the policy prior to the six months, if deemed fraudulent, is no longer exempt. **Mr. Mackey** explained the two financial instruments, a life insurance contract and an annuity contract, are akin to one another. They are developed by the same organization and the cash value of both products should be treated in the same manner.

**VOTE ON
MOTION:** **Motion carried by voice vote. Rep. Gannon** requested to be recorded as voting **NAY. Rep. Malek** will sponsor the bill on the floor.

S 1035: **Sharon Harrigfeld**, Idaho Department of Juvenile Corrections (IDJC), presented **S 1035**. This bill addresses blended sentences, making few changes in the basic system and placing all elements of the blended sentence in one new section of Idaho Code. This new approach will offer clarification to the courts and will correct inconsistencies in the current law. It would allow the court to retain jurisdiction, issue an adult sentence and suspend its execution, and commit the juvenile to the dual custody of the State Board of Correction and IDJC. In addition it allows adult probation officers to participate in the juvenile's case from the date of sentencing. During a juvenile's period of dual custody, IDJC will be physically and financially responsible for the juvenile until they either complete the program, custody is terminated or the individual turns 21. If IDJC believes the juvenile is appropriate for placement in a community-based program, it must seek approval from the court before the juvenile can be moved into one of these settings. Adult probation will supervise these juveniles if they are placed in a community-based independent living program during the final part of their programs with IDJC. Based on recent statistics, only 25% of juveniles sent to IDJC on a blended sentence are currently incarcerated.

In response to a question from the committee, **Ms. Harrigfeld** explained the advantage to updating this section is that dual jurisdiction allows the juvenile the opportunity to know their probation officer and become aware of the rules which will yield better results when they transfer into adult probation.

MOTION: **Rep. Trujillo** made a motion to send **S 1035** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

S 1004: **Josh Tewalt**, Idaho Department of Correction, presented **S 1004**. This bill eliminates a reference to a fund that no longer exists and modifies the code to be consistent with language in the Correctional Industries statutes.

MOTION: **Rep. McCrostie** made a motion to send **S 1004** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

S 1054: **Robert Aldridge**, Trust and Estate Professionals of Idaho (TEPI) presented **S 1054**. This bill will help a major problem existing in decision-making documents, most commonly financial and medical powers of attorney. Once an individual has lost capacity, rejection of a substitute decision-making document often results in guardianship, which burdens judicial resources and undermines the individual's self-determination interests. This bill is intended to promote the portability and usefulness of substitute decision-making documents. The critical distinction for a Uniform Act on medical powers is that the document must contain a delegation of authority to a specific decision maker. The Act has a three-part approach to portability, modeled after the Uniform Power of Attorney Act. The Act recognizes the validity of substitute decision-making documents created under the law of another jurisdiction. The Act preserves the meaning and effect of a substitute decision-making document as defined by the law under which it was created. The Act protects good faith acceptance or rejection of a substitute decision-making document without regard to whether the document was created under the law of another jurisdiction or the law of the enacting jurisdiction. The Act is designed to complement existing statutes that do not adequately address portability and recognition of substitute decision-making documents. Because Idaho has already adopted the Uniform Statutory Power of Attorney Act, most of the provisions of this bill will apply to medical powers of attorney.

MOTION: **Rep. Nye** made a motion to send **S 1054** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:00 PM.

Representative Wills
Chair

Katie Butcher
Secretary