

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, March 23, 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: Michael Kane, Idaho Sheriffs Association; Guy Bliesner, Educators Eyes; Dawn Peck, ISP; Kathy Baird, SOMB; Karin Magnelli, SOMB; Robin Nettinga, IEA; Jess Harrison, ISBA; Rob Winslow, IASA; Sandy Jones, Parole Commission.

Chairman Wills called the meeting to order at 2:34 PM.

MOTION: **Rep. Dayley** made a motion to approve the minutes of the March 17, 2015, meeting. **Motion carried by voice vote.**

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

S 1033aa: **Sen. Burgoyne** presented **S 1033aa** which authorizes Idaho State Police (ISP), through its Bureau of Criminal Identification, to participate in a new FBI criminal background check program know as Rap Back. Rap Back automatically and continuously updates criminal record history with respect to criminal background checks, thereby eliminating a significant limitation in the current background check program. The current issue is that the individual's fingerprints are deleted from ISP and FBI records after the criminal background check is performed. If the individual were to engage in subsequent criminal activity, the information is only made known to the entity through an additional background check. At present, the only option is to have frequent fingerprinting and criminal background checks completed. Rap Back stores submitted fingerprints and will notify a participating entity of any criminal activity of an employee or participant, including misdemeanors and felonies. A supervising entity may choose to opt into the Rap Back program and have their employee's fingerprints maintained. Statutory requirements are as follows: both the individual and the supervising entity must receive notification of criminal activity; the individual's fingerprints must be expunged when they are no longer in a position requiring a background check or when the supervising entity withdraws from the Rap Back program; notification of the right of expungement at the time of the initial background check and again when the individual is no longer subject to a criminal background check; and prohibiting any charge to the individual for expunging their fingerprints. This bill will improve the safety of vulnerable children and adults and it will save time and money.

In response to questions from the committee, **Sen. Burgoyne** explained that allowing individuals to opt out could provide administrative issues for the supervising entities.

In response to questions from the committee, **Dawn Peck**, Idaho State Police, Bureau of Criminal Identification, explained as a matter of fairness Rap Back requires the supervising entity to fully enroll their employees or to not enroll at all. Selective enrollment could be viewed as the employer targeting specific employees. Ms. Peck explained the notification of criminal activity is given to the supervising entity at the time of the individual's arrest for a misdemeanor or felony. Subsequent notifications are not sent to the entity throughout the adjudication process. In the past there has been a state based Rap Back program that notified entities of state arrests. However, the federal Rap Back program has only recently become available for state enrollment and is beneficial because it provides information on national arrests.

MOTION: **Rep. Kerby** made a motion to send **S 1033aa** to the floor with a **DO PASS** recommendation. Roll call vote was requested. **Motion carried by a vote of 9 AYE, 8 NAY. Voting in favor of the motion: Reps. Malek, Trujillo, McDonald, Kerby, Gannon, McCrostie, Nye, Wintrow, and Chairman Wills. Voting in opposition to the motion: Reps. Dayley, Luker, McMillan, Perry, Sims, Cheatham, Nate, and Scott. Rep. Malek** will sponsor the bill on the floor.

SCR 124: **Sen. Burgoyne** presented **SCR 124**. The purpose is to create an interim committee to study administration procedures as they pertain to contested administrative cases. The purpose is to determine what is working and what is not, as well as the cost of current programs and the cost of any revisions that need to be made in order to promote and preserve impartiality and due process for the public.

MOTION: **Rep. Luker** made a motion to send **SCR 124** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Luker** will sponsor the bill on the floor.

S 1041aa: **Kathy Baird**, Department of Correction presented **S 1041aa**. This bill would add a polygraph member to the composition of the Idaho Sexual Offender Management Board. This member must be able to conduct post-conviction sexual offender polygraph examinations, which is a specialized form of polygraph examinations. The Senate amendment restates the appointment terms for the position.

MOTION: **Rep. Trujillo** made a motion to send **S 1041aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Trujillo** will sponsor the bill on the floor.

S 1136: **Sandy Jones**, Commission of Pardons and Parole presented **S 1136**. This bill represents an adjustment to the original language in **S 1357**. Currently, the bill requires the Parole Commission to impose sanctions up to 90 days for a first major technical violation of parole, and up to 180 days for a second violation of parole. The bill also allows the Commission to reduce the number of days up to 30 days for appropriate behavior. As written, the Commission will have to impose these sanctions. This would significantly lengthen the time before the sanction can be imposed, resulting in more time in custody beyond the intended 90 or 180 days, as the Commission is in session only at certain times each month. By delegating the responsibility to impose and shorten the sanctioned days to a hearing officer, such sanctions can be imposed in a timely manner, leading to faster turnaround of intermediate sanctions for parole violators. This supports the spirit and intent within the Justice Reinvestment Initiative for "swift and certain" responses to violations. Commission policy and **S 1357** will provide the parameters for this change.

MOTION: **Rep. McCrostie** made a motion to send **S 1136** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Wintrow** will sponsor the bill on the floor.

S 1092: **Sen. Heider** presented **S 1092**. This bill clarifies the State has primacy over laws pertaining to knives. Providing that no city, county or other political subdivision can enact an ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift devise, licensing, registration or use of a knife or knife making components in the state.

Chairman Wills invoked Rule 38 stating a possible conflict of interest but that he would be voting on the legislation.

Rep. Nye invoked Rule 38 stating a possible conflict of interest but that he would be voting on the legislation.

Robin Nettinga, Idaho Education Association; **Guy Bliesner**, Educators Eyes; **Jess Harrison**, Idaho School Board Association; **Rob Winslow**, Idaho Association of School Administrators; testified **in opposition to S 1092**. This bill would remove local control from each individual school district. Leaving the districts unable to choose the best practices for their school and making it increasingly difficult for administrators to protect the students.

Michael Kane, Idaho Sheriffs Association, testified **in opposition to S 1092**. This bill would remove officers ability to prevent inmates from carrying or manufacturing knives in county jails.

MOTION: **Rep. Malek** made a motion to **HOLD S 1092**, subject to the call of the chair.

SUBSTITUTE MOTION: **Rep. McCrostie** made a motion to **HOLD S 1092** in committee. Roll call vote was requested. **Motion carried by a vote of 9 AYE, 8 NAY. Voting in favor** of the motion: **Reps. McMillan, Perry, Cheatham, Kerby, Scott, Gannon, McCrostie, Nye, and Wintrow. Voting in opposition** to the motion: **Reps. Dayley, Luker, Sims, Malek, Trujillo, McDonald, Nate and Chairman Wills.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:37 PM.

Representative Wills
Chair

Katie Butcher
Secretary