

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, January 13, 2015**

SUBJECT	DESCRIPTION	PRESENTER
	Organizational Meeting	
	Introduction to Judicial System	Senior District Judge Barry Wood
	Felony Sentencing Committee and Justice Reinvestment Initiative Update	Administrative District Judge Lansing Haynes
	Judicial Excellence and Education	District Judge John Stegner
	Canyon County Drug Court and Mental Health Court Update	District Judge Bradley Ford
	Ada County Veterans Court Update	Administrative District Judge Timothy Hansen
	Twin Falls County Odyssey Pilot Project Update	Administrative District Judge Richard Bevan
	Statewide and District Case Flow Management Plans	Administrative District Judge Stephen Dunn
	Update on Joanne Wood Project and Idaho Falls Crisis Center	Administrative District Judge Darren Simpson

COMMITTEE MEMBERS

Chairman Wills  
 Vice Chairman Dayley  
 Rep Luker  
 Rep McMillan  
 Rep Perry  
 Rep Sims

Rep Malek  
 Rep Trujillo  
 Rep McDonald  
 Rep Cheatham  
 Rep Kerby  
 Rep Nate

Rep Scott  
 Rep Gannon  
 Rep McCrostie  
 Rep Nye  
 Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
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MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Tuesday, January 13, 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:** The sign in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign in sheet will be filed with the minutes in the Legislative Services Library.

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

**Chairman Wills** welcomed the committee and those in attendance. He introduced the new committee secretary, **Katie Butcher** and House Page **Nicholas Wills**, a Rocky Mountain High School senior.

**Senior District Judge Barry Wood** addressed the committee and gave an overview of the structure of the Idaho Court System including: the Appellate Courts, Trial Courts, Judicial Districts and he concluded with a summary of today's presenters.

**Administrative District Judge Lansing Haynes** addressed the committee regarding the Felony Sentencing Committee and the Justice Reinvestment Initiative (JRI) which has seen great collaboration over the last year. Their work has been focused on standardizing the terms of probation throughout all of the courts, as well as developing a matrix of responses, identifying discretionary jail time, implementing a limited supervision unit and the implementation of early discharge from probation. Judge Haynes stressed that successful implementation depends on adequate training of probation officers. He also noted that there is concern over the March 1, 2015 implementation date and they hope for support to extend the implementation date to October 1, 2015.

**Administrative District Judge John Stegner** addressed the committee regarding a pilot program that was started as a part of Judicial Excellence and Education. The purpose of the pilot program is to anonymously evaluate judge's work for the purpose of improving their judicial performance. The program received a grant from the State Justice Institute, that funding was used to implement a better metric in order to gauge and improve judicial performance. Through the development it was discovered that the judges under evaluation would greatly benefit from being mentored and taught by a senior judge. At this time, the survey has not been completed, and their application for a second grant has been declined by the State Justice Institute. They are seeking further funding to finalize the survey and develop procedures for implementation.

**Administrative District Judge Bradley Ford** gave a status update on Idaho's drug courts and mental health courts. In the past year the program has had 578 graduates. He stated that Idaho's problem solving courts remain dynamic and evolving, while striving to efficiently use tax payer resources to achieve that end. The courts are subject to on going reviews to measure adherence to guidelines and compliance and the allocation of treatment dollars is closely monitored and tracked.

**Administrative District Judge Timothy Hansen** addressed the committee regarding the status of Veteran's Courts across the state and specifically in Ada County. He said it was important to note that the Veteran's Court is a collaborative court in partnership with the Veteran's Administration, Veteran's Services and the Veteran's Center. One issue the Veteran's Courts have encountered is that the nearest VA Hospital may be out of state and often requires time and additional resources to transport patients who need medical attention. The Veteran's Courts have had great success with graduates mentoring new patients and Ada Counties' standards and guidelines for Veteran's Courts are being considered for implementation statewide.

**Administrative District Judge Richard Bevan** reported on the funding for the statewide digital court management system, Odyssey. Twin Falls County is currently implementing the program and expects the implementation to be completed by May 11, 2015. The implementation will be regionalized with expected completion in all areas by 2017.

**Administrative District Judge Stephen Dunn** addressed Statewide and District Case Management Plans. The first district case management plan to be implemented was for felony criminal cases. Next they will address plans for civil cases, misdemeanor criminal cases, child protection, family law and juvenile cases that are individualized and consistent. Their focus is implementing time standards, uniformity and consistency while effectively protecting the rights of those in the system.

**Administrative District Judge Darren Simpson** updated the committee regarding the JoAn Wood Project and Idaho Falls Crisis Center. The JoAn Wood Project takes on higher risk individuals who often have co-occurring disorders. The Idaho Falls Crisis Center was implemented through Title 9 funding in 2014, and based on its intent, Judge Simpson said it has been successful. There has been a surprising number of individuals who self reported to the center and this facility has a high approval rating with law enforcement due to the fact that the individuals can receive immediate treatment.

In response to a question, **Judge Ford** stated he is optimistic about the success of JRI in maintaining public safety and handling the reintegration of offenders based on the success they have seen thus far. He noted he would like to see the same level of resources administered to problem solving courts, also administered to JRI.

In response to a question, **Judge Bevan** explained that the State Tax Commission is involved with Odyssey so that intercepted tax refunds can be used to fund the program.

In response to a question, **Judge Dunn** noted that measuring improvement based on the management plans is not yet possible. Although data has been gathered since 1985 they are still working to determine what slows a case by comparing similar cases in different areas. They need more information and are evaluating the rules of each court.

**Rep. McDonald** noted that the recidivism rates between prisons and treatment courts are very similar.

In response to an earlier question, regarding measuring improvement due to the management plans, **Judge Wood** noted that they are focused on identifying the interim case events for each district and case type to determine what causes the delay, it could be a rule, resources or the process.

In response to a question, **Judge Stegner** noted that measurable outcomes for systemic problems in judicial performance cannot be attained by measuring where they currently are. They need to further assess the program.

In response to a question, **Judge Bevan** reported that for members of the public who do not have digital access to use Odyssey, provisions have been made for them at their local courthouses.

For the record, no one else indicated their desire to testify.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:13 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, January 15, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	IDAPA Rules	Vice Chairman Dayley
	Announcements of Subcommittees	

COMMITTEE MEMBERS

Chairman Wills

Vice Chairman Dayley

Rep Luker

Rep McMillan

Rep Perry

Rep Sims

Rep Malek

Rep Trujillo

Rep McDonald

Rep Cheatham

Rep Kerby

Rep Nate

Rep Scott

Rep Gannon

Rep McCrostie

Rep Nye

Rep Wintrow

COMMITTEE SECRETARY

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MINUTES

**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Thursday, January 15, 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:** Malek, Kerby, Nate, Scott

**GUESTS:** Travis Thompson.

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

**Chairman Wills** appointed **Reps. Perry and Gannon** to proof read the minutes.

**Vice Chairman Dayley**, in charge of the Rules Review, assigned two subcommittees to review the rules and report back to the full committee.

The first subcommittee will be chaired by **Rep. McDonald**. **Reps. Malek, Nate, Scott** and **Wintrow** will be members of the subcommittee. The subcommittee will look at Proclamation Rules: **Docket No. 06-0102-1401** Rules of Correctional Industries; **Docket No. 06-0102-1501** Rules of Correctional Industries; **Docket No. 06-0201-1501** Rules Governing the Supervision of Offenders on Probation or Parole by the Department of Correction, Division of Probation and Parole; **Docket No. 06-0202-1501** Rules Governing Establishment and Operation of a Limited Supervision Unit by the Department of Correction, Division of Probation and Parole; and, **Docket No. 06-0203-1501** Rules Governing Release Readiness.

**Rep. Dayley** will be the chairman of the second subcommittee. **Reps. Perry, Trujillo, Cheatham** and **Gannon** will be members of the subcommittee. The subcommittee will look at Pending Rules: **Docket No. 05-0101-1401** Rules for Contract Providers; **Docket No. 05-0105-1401** Rules for Reintegration Providers; **Docket No. 05-0201-1401** Rules for Residential Treatment Providers; **Docket No. 05-0202-1401** Rules for Staff Secure Providers; **Docket No. 05-0203-1401** Rules for Reintegration Providers; **Docket No. 05-0204-1401** Rules for Supported Living Providers; **Docket No. 11-0301-1401** Rules Governing Alcohol Testing; **Docket No. 11-1101-1401** Rules of the Idaho Peace Officer Standards and Training Council; **Docket No. 11-1101-1402** Rules of the Idaho Peace Officer Standards and Training Council; **Docket No. 11-1101-1403** Rules of the Idaho Peace Officer Standards and Training Council; **Docket No. 11-1104-1401** Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers; **Docket No. 50-0101-1401** Rules of the Commission of Pardons and Parole; and, **Docket No. 57-0101-1401** Rules of the Sexual Offender Management Board.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:34 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, January 21, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS23242</a>	Shorthand reporters	Roger Hales

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, January 21, 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:** Perry, Gannon, McCrostie, Nye, Wintrow

**GUESTS:** Susan Gambee, CSR Board; Kerry Hong, ISL; Steve Bywater, IDOC; Holly Koole, IPAA; Sandy Jones, Parole Commission; Henry Atencio, IDOC; Terry Kirkham, IDOC; Ashley Dowell, IDOC; Karin Magnelli, IDOC; L. Washington, IDOC; Shane Evans, IDOC; Roger Hales, IROL and CSHR; Tancy Corey, Shorthand Reporters; Alan Anderson, Idaho Correctional Industries; Les Morales, ACLU Idaho.

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

**RS 23242:** **Roger Hales**, Certified Shorthand Reporters Board, presented **RS 23242** which would allow the State Certified Shorthand Reporter Board to clarify permits; to correct the title of the state association; to clarify the number of permits allowed; to remove the fee for temporary permits that have been suspended or revoked; to remove the deadline for examinations; and to clarify that temporary permit holders may seek judicial review.

In response to a question from the committee, **Mr. Hales** explained that the title correction applies only to correcting the association's name to Idaho Court Reporter's Association and does not change the title of the board or exclude shorthand reporters.

In response to a question from the committee, **Mr. Hales** stated that the legislation does not add a limitation, it only clarifies on the original intent which was that individuals only receive one permit and can renew it once.

In response to a question from the committee, **Mr. Hales** confirmed that the legislation does remove the notification period of 120 days which has hindered the board from being able to test new applicants immediately. Clear notification is given regarding testing dates and the board believes this notification is no longer necessary.

**MOTION:** **Rep. Malek** made a motion to introduce **RS 23242**.

In response to a question from the committee, **Mr. Hales** clarified that the legislation does eliminate the reinstatement fee but that other fees would remain in place as they are needed to fund the board. The remaining fees are sufficient to fund the self funded board.

**VOTE ON  
MOTION:**

**Motion carried by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 1:43 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**MCDONALD SUBCOMMITTEE**  
Subcommittee on Proclamation Rules  
Upon Adjournment of House Judiciary, Rules and Administration  
Room EW42  
Wednesday, January 21, 2015

<b>DOCKET NO.</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>06-0102-1401</u></a>	Rules of Correctional Industries	Andrea Sprengel, Services Manager, Correctional Industries
<a href="#"><u>06-0102-1501</u></a>	Rules of Correctional Industries	
<a href="#"><u>06-0201-1501</u></a>	Rules Governing the Supervision of Offenders on Probation or Parole by the Department of Correction, Division of Probation and Parole	Scott Bywater, Consultant for Idaho Dept. of Correction
<a href="#"><u>06-0202-1501</u></a>	Rules Governing Establishment and Operation of a Limited Supervision Unit by the Department of Correction, Division of Probation and Parole	
<a href="#"><u>06-0203-1501</u></a>	Rules Governing Release Readiness	Shane Evans, Chief, Treatment and Reentry Division

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McDonald  
Rep. Malek  
Rep. Nate  
Rep. Scott  
Rep. Wintrow

COMMITTEE SECRETARY

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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**MCDONALD SUBCOMMITTEE**  
Subcommittee on Proclamation Rules

**DATE:** Wednesday, January 21, 2015

**TIME:** Upon Adjournment of House Judiciary, Rules and Administration

**PLACE:** Room EW42

**MEMBERS:** Chairman McDonald, Representatives Malek, Nate, Scott, Wintrow

**ABSENT/  
EXCUSED:** Rep. Wintrow

**GUESTS:** Susan Gambee, CSR Board; Kerry Hong, ISL; Steve Bywater, IDOC; Holly Koole, IPAA; Sandy Jones, Parole Commission; Henry Atencio, IDOC; Terry Kirkham, IDOC; Ashley Dowell, IDOC; Karin Magnelli, IDOC; L. Washington, IDOC; Shane Evans, IDOC; Roger Hales, IROL and CSHR; Tancy Corey, Shorthand Reporters; Alan Anderson, Idaho Correctional Industries; Les Morales, ACLU Idaho, Andrea Sprengel, Correctional Industries; Dennis Stevenson, Rules Coordinator.

**Chairman McDonald** called the meeting to order at 1:46 PM.

**DOCKET NOS. 06-0102-1401, 06-0102-1501:** **Andrea Sprengel**, Services Manager for Idaho Correctional Industries, presented both **Docket No. 06-0102-1401**, the very first rule for the Board of Correction, which creates terms and conditions for the agricultural inmate work program operated by Correctional Industries; as well as, **Docket No. 06-0102-1501**, which revises the method used to compensate inmate workers and requires that inmate workers be compensated pursuant to a graduated scale and limits the use of program funds by the Idaho Department of Correction.

**Ms. Sprengel** stated that **Docket No. 06-0102-1401**, addresses the prevention of non-inmate worker displacement and the safety and security of inmates on work sites. Before entering into a contract with a private employer Correctional Industries and the Department of Correction will evaluate the work sites. To address non-inmate displacement, each contract will include a statement that the employer was not able to employ a sufficient number of non-inmate employees and Correctional Industries will acquire on an annual basis, the prevailing wage for similar work, from the Department of Labor. They will use this wage for the billing rate and will include any additional costs the employer avoids by employing inmate workers.

In regard to **Docket No. 06-0102-1501**, **Ms. Sprengel**, stated that any funds received from private agricultural employers for the employment of inmates, are deposited into the Correctional Industries Betterment Account. These funds can then be dispersed between Correctional Industries, the Department of Correction and the Idaho Victim's Compensation Fund. Funds dispersed to Correctional Industries are used to cover costs including salaries and program operating costs. Funds dispersed to the Department of Correction are used to offset incarceration costs, supplement education opportunities and provide re-entry resources. The Inmate's wages are deposited into their trust account, from which the Department of Corrections deducts any court ordered financial obligations, such as child support and restitution.

In response to a question on **Docket No. 06-0102-1401**, **Ms. Sprengel** explained that the primary purpose for acquiring a prevailing wage from the Department of Labor is to ensure they are not providing inmate labor at a discount, so as to incentivize private employers to use inmates instead of non-inmate workers.

In response to a question on **Docket No. 06-0102-1501**, **Ms. Sprengel** explained that there is no fiscal impact because Correctional Industries is self funded; and any remaining funds would go into the Correctional Industries Betterment Account to assist in fulfilling their mission to reduce recidivism.

In response to a question, **Ms. Sprengel** clarified that any contribution to the Idaho Victim's Compensation Fund does not come from inmate's wages, it comes from additional funding Correctional Industries receives.

**MOTION:** **Rep. Malek** made a motion to recommend the full committee approve **Docket No. 06-0102-1401**. **Motion carried by voice vote.**

**MOTION:** **Rep. Malek** made a motion to recommend the full committee approve **Docket No. 06-0102-1501**. **Motion carried by voice vote.**

In response to an earlier question, **Karin Magnelli**, Deputy Attorney General for the Board of Correction, clarified that the amount taken for court ordered financial obligations from an inmate's trust account is fifty percent of whatever funds the inmate receives, regardless of whether those funds were transferred by Correctional Industries or another source.

**DOCKET NO. 06-0201-1501:** **Scott Bywater**, Consultant for the Idaho Department of Correction, presented **Docket No. 06-0201-1501**, which creates new rules for the supervision of offenders on probation or parole by the Department of Correction's Probation and Parole Division for the purpose of identifying requirements and standards for supervising offenders and establishing a standard response matrix for offenders. He stated that the intention is for the Department to be able to focus its attention on the high and moderate risk offenders in order to better utilize their resources.

**MOTION:** **Rep. Malek** made a motion to recommend the full committee approve **Docket No. 06-0201-1501**. **Motion carried by voice vote.**

**DOCKET NO. 06-0202-1501:** **Scott Bywater**, Consultant for the Idaho Department of Correction, presented **Docket No. 06-0202-1501**, which establishes a limited supervision unit within the Idaho Department of Correction's Probation and Parole Division and identifies requirements and procedures for the unit and offenders. The Limited Supervision Unit (LSU) will be supervised by a POST certified Probation and Parole Officer, and will require the parolee report online quarterly and undergo review of their record and progress toward completion of legal and financial obligations every six months. The parolee will undergo two evaluations, the first is for qualifying factors and the second is for disqualifying factors.

In response to a question, **Mr. Bywater** clarified that if a parolee meets early discharge criteria but has not been released, per JRI statutes they qualify for the Limited Supervision Unit regardless of any disqualifying factors. The Limited Supervision Unit is an intermediate option between discharge and full supervision.

**MOTION:** **Rep. Malek** made a motion to recommend the full committee approve **Docket No. 06-0202-1501**. **Motion carried by voice vote.**

**DOCKET NO. 06-0203-1501:** **Shane Evans**, Chief of the Division of Education Treatment and Re-entry for the Department of Correction, presented **Docket No. 06-0203-1501**, which creates new rules regulating issues of an inmate's readiness for reentry into the community. The rules also identify requirements and standards for preparing inmates for release from custody. The Division of Education Treatment and Reentry will develop the process by which they can most effectively move offenders through the system, provide the programs and treatment the offenders need and release them, with public safety in mind, as promptly as possible into communities with supervision.

**MOTION:** **Rep. Malek** made a motion to recommend the full committee approve **Docket No. 06-0203-1501**. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:43 PM.

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Representative McDonald  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**DAYLEY SUBCOMMITTEE**  
 Subcommittee on Pending Rules  
 1:30 P.M.  
 Room EW42  
 Friday, January 23, 2015

<b>DOCKET NO.</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">05-0101-1401</a>	Rules for Contract Providers	Sharon Harrigfeld, Idaho Department of Juvenile Corrections
<a href="#">05-0105-1401</a>	Rules for Reintegration Providers	
<a href="#">05-0201-1401</a>	Rules for Residential Treatment Providers	
<a href="#">05-0202-1401</a>	Rules for Staff Secure Providers	
<a href="#">05-0203-1401</a>	Rules for Reintegration Providers	
<a href="#">05-0204-1401</a>	Rules for Supported Living Providers	
<a href="#">11-0301-1401</a>	Rules Governing Alcohol Testing	Jeremy Johnston, Idaho State Police Forensic Services
<a href="#">11-1101-1401</a>	Rules of the Idaho Peace Officer Standards and Training Council	Vic McCraw, Idaho Peace Officer Standards and Training
<a href="#">11-1101-1402</a>	Rules of the Idaho Peace Officer Standards and Training Council	
<a href="#">11-1101-1403</a>	Rules of the Idaho Peace Officer Standards and Training Council	
<a href="#">11-1104-1401</a>	Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers	
<a href="#">50-0101-1401</a>	Rules of the Commission of Pardons and Parole	Matt Wetherell, Idaho Commission of Pardons and Parole
<a href="#">57-0101-1401</a>	Rules of the Sexual Offender Management Board	Kathy Baird, Sex Offender Management Board

COMMITTEE MEMBERS

Chairman Dayley  
 Rep.Perry  
 Rep.Trujillo  
 Rep.Cheatham  
 Rep.Gannon

COMMITTEE SECRETARY

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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**DAYLEY SUBCOMMITTEE**  
Subcommittee on Pending Rules

**DATE:** Friday, January 23, 2015

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Dayley, Representatives Perry, Trujillo, Cheatham, Gannon

**ABSENT/  
EXCUSED:** None

**GUESTS:** Cyndi Hall, ISP; Matthew Garnette, ISP; Jeremy Johnston, ISP; Matt Wetherell, Parole Commission; Jared Olson, IPAA; Clark Rollins, ISP; Kathy Baird, Sex Offender Management Board; Sandy Jones, Parole Commission; Mary Schocher, Parole Commission; Holly Koole, IPAA; Teresa Baker, ISP; Sharon Harrigfeld, IDJC; Monty Prow, IDJC; Joe Blume, IDJC; Rory Olsen, POST; Victor McCraw, POST; Jeff Lavey, Chiefs of Police; Sandee Meyer, IPAA; Mike Kane, ISP; Dennis Stevenson; Karin Magnelli, IDOC;

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

**DOCKET NO. 05-0101-1401:** **Sharon Harrigfeld**, Director of the Idaho Department of Juvenile Corrections (IDJC), presented **Docket No. 05-0101-1401**, Rules for Contract Providers. Ms. Harrigfeld noted that the Juvenile Justice System is operated jointly between the counties and the Idaho Department of Juvenile Corrections. The counties manage the majority of the system which currently has 5,500 juveniles on probation, 283 of which are in custody. 209 of those in custody, are in state beds and 74 are in contract beds. Due to duplications in the rules she would like to repeal the current rule for the purpose of a rewrite.

**MOTION:** **Rep. Trujillo** made a motion to recommend the full committee approve **Docket No. 05-0101-1401. Motion carried by voice vote.**

**DOCKET NO. 05-0105-1401:** **Sharon Harrigfeld**, Director of the Idaho Department of Juvenile corrections, presented **Docket No. 05-0105-1401**, Rules for Reintegration Providers. Due to duplications in the rules she would like to repeal the current rule for the purpose of a rewrite.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 05-0105-1401. Motion carried by voice vote.**

**DOCKET NO. 05-0201-1401:** **Sharon Harrigfeld**, Director of the Idaho Department of Juvenile Corrections (IDJC), presented **Docket No. 05-0201-1401**, Rules for Residential Treatment Providers. Ms. Harrigfeld noted that all rules pertaining to suicide precautions and preventions were combined and rules regarding the use of polygraphs in the program were clarified. A contract provider's deadline for acceptance or denial of a referral was extended to four business days to allow for review of the observation and assessment of each juvenile before admitting them into their program. Volunteers will no longer be required to get a background check if they are always accompanied by a staff member. To increase compliance, rules regarding the Prison Rape Elimination Act were updated. Providers will be required to provide a handbook to each juvenile and their parent or guardian that outlines the expectations of the program. Finally, the incident reporting period was shortened to three business days.

In response to a question from the committee, **Ms. Harrigfeld** explained that although she would not be opposed to more stringent requirements, the new requirement for background checks every five years is more stringent than previous requirements and aligns the Department of Juvenile Correction's rules with similar department's requirements.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 05-0201-1401. Motion carried by voice vote.**

**DOCKET NO. 05-0202-1401:** **Sharon Harrigfeld**, Director of the Idaho Department of Juvenile Corrections (IDJC), presented **Docket No. 05-0202-1401**, Rules for Staff Secure Providers. Ms. Harrigfeld stated that these rules only apply to providers who house juveniles at their facilities and the majority of the rules were carried over from the repealed rules. Ms. Harrigfeld outlined specific changes which would allow medical professionals to conduct unclothed body and cavity contraband searches and make the relapse prevention plan current with IDJC practices. The changes would also streamline case management due dates, remove the provider's use of Department educational software and add a requirement that the providers provide a 30 day supply of medication or a 30 day prescription signed by the physician upon the transfer or release of a juvenile. Finally, the changes add language to allow staff secure providers to maintain juvenile funds at the program providing the conditions are met.

In response to questions from the committee, **Ms. Harrigfeld** addressed the unclothed body and cavity search and stated that a staff member of the same sex as the juvenile would be present during the search and that she believed two individuals would be present at the time of the search.

In response to a question, **Ms. Harrigfeld** explained that contract providers are responsible for the training and education of their staff. Each contract provider is regularly monitored and undergoes a rule review to assure their training plans have been completed.

In response to a question, **Monty Prow**, Idaho Department of Juvenile Corrections, explained that contract providers are given a per diem in order to purchase necessary items for the juveniles in their care and cannot request the juvenile or their family pay for items needed during their time in the program.

In response to a question, **Ms. Harrigfeld** explained that if a juvenile is placed in one of the three state facilities they are not covered by medicaid. However, if the juvenile is placed with a contract provider they are covered by medicaid.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 05-0202-1401. Motion carried by voice vote.**

**DOCKET NO. 05-0203-1401:** **Sharon Harrigfeld**, Director of the Idaho Department of Juvenile Corrections (IDJC), presented **Docket No. 05-0203-1401**, Rules for Reintegration Providers. Ms. Harrigfeld stated that these rules apply to providers who are teaching independent living skills. Specific changes in this section are the same as changes for staff secure providers.

In response to questions from the committee, **Ms. Harrigfeld** explained that Nurses from IDJC review the process used by the medical professionals conducting the unclothed body and cavity searches. These rules were fully vetted and are intended for the safety of all parties involved with the search, especially the juvenile.

In response to a question, **Monty Prow**, Idaho Department of Juvenile Corrections, explained that juvenile records are archived when the juvenile is twenty two and destroyed when they are twenty seven. Quarterly and annual reporting is done to confirm the records are destroyed.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 05-0203-1401. Motion carried by voice vote.**

**DOCKET NO. 05-0204-1401:** **Sharon Harrigfeld**, Director of the Idaho Department of Juvenile Corrections (IDJC), presented **Docket No. 05-0204-1401**, Rules for Supported Living Providers. Ms. Harrigfeld explained that IDJC's cases are becoming more complex and there is a growing need for developmentally disabled juveniles to have life long, around the clock care and support following their release from IDJC. Presently there are five juveniles in this kind of support. Specific changes in this section are the same as changes for staff secure providers.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 05-0204-1401. Motion carried by voice vote.**

**DOCKET NO. 11-0301-1401:** **Jeremy Johnston**, Idaho State Police (ISP) Forensic Services, presented **Docket No. 11-0301-1401**, Rules Governing Alcohol Testing. The standard operating procedures of the Idaho State Police and their discretionary authority was first given to ISP through Idaho Code and was later used to create their administrative rules. The purpose of this rule is to incorporate the requirements of the breath alcohol program into the administrative rules. The ISP have historically managed the Idaho breath testing program. The standard operating procedure for breath testing, outlines the procedure used to acquire and maintain an evidentiary breath sample for use in court. The breath testing standard operating procedure has proven consistently defensible in Idaho courts.

In response to questions from the committee, **Mr. Johnston** explained that these rules only apply to labs within Idaho. Presently there are three labs that conduct alcohol analysis for ISP and no other labs have requested to do so. If a private lab or a lab outside of the state wished to conduct alcohol analysis for ISP they would be required to apply with ISP and approval would be granted or denied by ISP Forensic Services.

**ORIGINAL MOTION:** **Rep. Trujillo** made a motion to recommend the full committee approve **Docket No. 11-0301-1401.**

**SUBSTITUTE MOTION:** **Rep. Perry** made a substitute motion to recommend the full committee reject **Docket No. 11-0301-1401.**

**Michael Kane**, the hearing officer for this rule, explained that even though there was no negotiated rule making there was a hearing and written comments and testimony were submitted by defense attorneys who attended. He made recommendations for changes to the rule based on the testimony from the hearing. Those changes have been implemented into the current rule before the committee.

In response to a question, **Mr. Johnston** explained that there is a difference in the standard of proof required for a minor in possession or minor in consumption charge compared to a driving under the influence charge.

**Jared Olson**, Traffic Safety Resource Prosecutor with the Idaho Prosecuting Attorneys Association, stated that he was a part of the review process and clarified that a defendant has the opportunity to give an independent sample to any lab they choose. That lab is not required to adhere to the standard operating procedures detailed in this rule. Courts across the state have reviewed the standard operating procedures used by ISP and have found that they do produce a scientifically valid and reliable result. If the rules are adopted they do provide for a presumption of validity, which is rebuttable.

**AMENDED SUBSTITUTE MOTION:** **Rep. Gannon** made an amended substitute motion to send **Docket No. 11-0301-1401** to the full committee without recommendation for further discussion. **Motion carried by voice vote. Rep. Trujillo** requested to be recorded as voting **NAY.**

**DOCKET NO. 11-1101-1401:** Division Administrator **Victor McCraw**, Idaho Peace Officer Standards and Training Council (POST), presented **Docket No. 11-1101-1401**, Rules of the Idaho Peace Officer Standards and Training Council. This rule standardizes all the disciplines certified by POST, defines waivers of authority and clarifies the character requirements regarding moral turpitude and drug use.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 11-1101-1401. Motion carried by voice vote.**

**DOCKET NO. 11-1101-1402:** Division Administrator **Victor McCraw**, Idaho Peace Officer Standards and Training Council (POST), presented **Docket No. 11-1101-1402**, Rules of Idaho Peace Officer Standards and Training Council. This rule pertains to instructor certification and renewal. The rule requires that any instructor have a current certification if they are conducting firearm training and adds a minimum continuing training requirement for instructors in critical areas, such as firearms, defensive tactics and emergency vehicle operations.

In response to a question, **Teresa Baker**, Idaho State Police, confirmed that ISP does not use MRAP vehicles for their emergency vehicle operations.

**MOTION:** **Rep. Trujillo** made a motion to recommend the full committee approve **Docket No. 11-1101-1402. Motion carried by voice vote.**

**DOCKET NO. 11-1101-1403:** Division Administrator **Victor McCraw**, Idaho Peace Officer Standards and Training Council (POST), presented **Docket No. 11-1101-1403**, Rules of the Idaho Peace Officer Standards and Training Council. This rule qualifies home schooling and foreign education to meet the educational requirements for POST applicants and clarifies what documentation is required for applicants with this educational background. This rule leaves medical standards up to the hiring agency, allowing for less regulation of local agencies and requires that the applicants have the physical ability to pass the POST training.

In response to questions from the committee, **Mr. McCraw** explained that POST is not the entity that should require the specific physical requirements. This allows the local agencies to determine if the physical limitation will allow that officer to complete the academy. POST does not want to restrict or delay local agencies and because the POST requirements are more restrictive than the local agencies, the council has seen a higher number of waiver requests from local agencies and this often delays applicants. Mr. McCraw stressed that there is a distinct difference between the entry and exit standards and the exit standards are not being relaxed. POST will not pass anyone who cannot pass the POST educational and physical standards, regardless of the local agency standards.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 11-1101-1403. Motion carried by voice vote. Rep. Gannon** requested to be recorded as voting **NAY**.

**DOCKET NO. 11-1104-1401:** Division Administrator **Victor McCraw**, Idaho Peace Officer Standards and Training Council (POST), presented **Docket No. 11-1104-1401**, Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers. This rule updates the education and medical requirements for the purpose of having the same application requirements throughout POST.

**MOTION:** **Rep. Trujillo** made a motion to recommend the full committee approve **Docket No. 11-1104-1401. Motion carried by voice vote. Rep. Gannon** requested to be recorded as voting **NAY**.

**DOCKET NO. 50-0101-1401:** Deputy Director **Matt Wetherell**, Idaho Commission of Pardons and Parole, presented **Docket No. 50-0101-1401**, Rules of the Commission of Pardons and Parole. The rules for the commission have not seen a significant update since 1998 but due to the implementation of the Justice Reinvestment Initiative, the Commission had to make some significant updates to the language in their rules so that it would reflect the language found in the Justice Reinvestment Initiative. Specific changes include updates regarding the general and special conditions of parole, added language to account for all victims regardless of the final status of the case, updated rules pertaining to technical violators and updates regarding the firearm restoration process.

**MOTION:** **Rep. Perry** made a motion to recommend the full committee approve **Docket No. 50-0101-1401. Motion carried by voice vote.**

**DOCKET NO. 57-0101-1401:** Management Assistant **Kathy Baird**, Sexual Offender Management Board, presented **Docket No. 57-0101-1401**, Rules of the Sexual Offender Management Board. This rule is based upon the Boards newly adopted standards and guidelines for practitioners, evaluations and treatment of juvenile sex offenders. As well as a new psychosexual evaluation format specifically for juveniles. These changes must be incorporated into the current rules so that the Sexual Offender Management Board can enforce them. Providers must be certified to work with either adult and/or juvenile offenders. Providers presently certified to work with adult offenders would have to reapply in order to also work with juvenile offenders.

**MOTION:** **Rep. Gannon** made a motion to recommend the full committee approve **Docket No. 57-0101-1401. Motion carried by voice vote.**

There being no further business to come before the committee, the meeting was adjourned at 4:34 PM.

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Representative Dayley  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, January 29, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS23374</u></a>	Juvenile Sentencing	Michael Henderson, Legal Counsel, Idaho Supreme Court
<a href="#"><u>RS23375</u></a>	Crime Victims	Barry Wood, Senior District Judge
<a href="#"><u>RS23376</u></a>	Bail	Barry Wood, Senior District Judge
<a href="#"><u>RS23413</u></a>	Credit for Time	Michael Henderson, Legal Counsel, Idaho Supreme Court

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
Room: EW56  
Phone: 332-1127  
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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Thursday, January 29, 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:** Reps. Perry, Malek

**GUESTS:** Holly Koole, IPAA; Michael Henderson, Idaho Supreme Court; Barry Wood, Idaho Supreme Court; Greg Morris, ACLU; Ian H. Thomson, PDC; John Duvall, PBAI.

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

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

**MOTION:** **Rep. McDonald** made a motion to approve the minutes of the January 15, 2015, meeting. **Motion carried by voice vote.**

**MOTION:** **Rep. Scott** made a motion to approve the minutes of the January 21, 2015, McDonald Subcommittee meeting. **Motion carried by voice vote.**

**MOTION:** **Rep. Nye** made a motion to approve the minutes of the January 21, 2015 meeting. **Motion carried by voice vote.**

**RS 23374:** **Michael Henderson**, Idaho Supreme Court presented **RS 23374**, Juvenile Sentencing. This proposed legislation would clarify that the courts may sentence a juvenile into the custody of the Department of Juvenile Corrections and provide that the juvenile will be on probation following their release from custody. This proposed legislation gives guidance for determining the length of the sentence, and requires a hearing within 30 days of their release in order to determine the terms and conditions of their probation.

In response to questions from the committee, **Mr. Henderson** explained that the Juvenile Justice Advisory Committee suggested this legislation based on their experiences, which have proven that this clarification is needed. He noted that giving judges the ability to determine the length of the probation following release, is especially crucial. Mr. Henderson also explained that there is no fiscal note because the practice of placing a juvenile on probation is widely followed now; however, this legislation is needed to provide the guidelines for continuing to do so.

**MOTION:** **Rep. Dayley** made a motion to introduce **RS 23374**. **Motion carried by voice vote.**

**RS 23375:** Senior District Judge, **Barry Wood**, Idaho Supreme Court presented **RS 23375**, Crime Victims. This proposed legislation would change two statutes in order to correct issues that arise when victims attempt to collect restitution. Currently there is a five year limitation for a victim to claim restitution unless the victim renews their claim. This proposed legislation would extend the time the victim has to claim restitution from five years to twenty years.

**MOTION:** **Rep. Trujillo** made a motion to introduce **RS 23375**.

In response to a question, **Mr. Wood** clarified that after the 20 years have passed, the victim would still have the opportunity to renew the claim.

**VOTE ON MOTION:**

**Motion carried by voice vote.**

**RS 23376:**

Senior District Judge, **Barry Wood**, Idaho Supreme Court, presented **RS 23376**, Bail. This proposed legislation was designed to correct an issue with the Idaho Bail Act. The issue arises when a defendant has done the following: posted bond, failed to appear in court, been rearrested on a bench warrant, posted bond again with a different company and have skipped court, again, all together. This causes an issue for the courts as well as the bail bond companies because the company cannot be exonerated until the defendant has appeared in court. This proposed legislation would give the courts the opportunity to set a bond, to set conditions with the bond, or to not set a bond until the defendant has appeared before the court for conditions to be set.

**MOTION:**

**Rep. Luker** made a motion to introduce **RS 23376. Motion carried by voice vote.**

**RS 23413:**

**Michael Henderson**, Idaho Supreme Court, presented **RS 23413**, Credit for Time Served. This proposed legislation is necessary because there is no statute that allows for time served prior to sentencing, to be applied to the total time in their sentence. This proposed legislation would credit their time served to their total sentence.

In response to questions from the committee, **Mr. Henderson** explained that the estimated savings of half a million dollars is due to the reduction of time the offender would spend in jail. Mr. Henderson also explained that credit would be given no matter the circumstances, as long as the time served was for the same crime they are currently being sentenced for.

**MOTION:**

**Rep. Trujillo** made a motion to introduce **RS 23413. Motion carried by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 2:06 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, February 03, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS23198</a>	Police, public hwys, safety	Maj. Steve Richardson, ISP
<a href="#">RS23212</a>	Police, private entity contracts	Maj. Steve Richardson, ISP
	Idaho Department of Juvenile Corrections Update	Sharon Harrigfeld, Director

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Tuesday, February 03, 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:** Dave Jones, ITD; Sharon Harrigfeld, IDJC; Teresa Baker, ISP; Marsi Woody, ISP; Maj. Steve Richardson, ISP; Nathan Brown, Times-News; Shoni Pegram, Office of the Governor; Michael Kane, ISA;

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

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

**Chairman Wills** announced the annual Justice Reinvestment Initiative Commission report is available for the members to review. The report will be included with the minutes. (see attachment 1)

**RS 23198:** **Major Steve Richardson**, Idaho State Police (ISP), presented **RS 23198**, which would provide the ISP with the clear authority to close or restrict the use of any highway or road in the case of an emergency or for public safety purposes. This proposed legislation would enhance public safety, give the ISP director clear authority, grant legal immunity to ISP officers in the case of an injury due to the road closure, and it would minimize potential delays in closing the road by clarifying the authority of the ISP director.

**MOTION:** **Rep. McDonald** made a motion to introduce **RS 23198**. **Motion carried by voice vote.**

**RS 23212:** **Major Steve Richardson**, Idaho State Police (ISP), presented **RS 23212**, which would provide the ISP with the clear authority to contract with and receive reimbursement from a private party when the ISP provides services to protect the public at a special event or at the request of another governmental agency. Presently ISP is not allowed to contract with a private company or entity to provide certain services. This proposed legislation would grant express authority to the director of ISP to grant a contract to a private entity who is willing to pay for ISP's services. Without a contract ISP is prevented from recouping the cost associated with providing their services.

In response to a question from the committee, **Mr. Richardson**, provided a request from the Idaho Transportation Department to have ISP escort a mega load, as an example of another governmental agency who could request ISP's services.

In response to a question from the committee, **Mr. Richardson** clarified that this proposed legislation would not grant the authority to enforce the law to private entities.

In response to questions from the committee, **Mr. Richardson** explained the funding to fulfill these requests currently comes from the department, the officer often incurs over time and the time spent does go toward the officer's retirement.

In response to a question from the committee, **Mr. Richardson** explained that charging for the services of ISP has been a long standing practice.

**MOTION:** **Rep. Trujillo** made a motion to **HOLD RS 23212** for time certain, February 11, 2015.

**SUBSTITUTE MOTION:** **Rep. Luker** made a motion to return **RS 23212** to the sponsor. **Motion carried by voice vote.**

Director, **Sharon Harrigfeld**, Idaho Department of Juvenile Corrections presented a department update. The IDJC strives to provide humane, disciplined confinement to juvenile offenders, strengthen opportunities for the juvenile offender's development of competency and life skills, hold juvenile offenders accountable for their delinquent behavior, invoke the participation of the juvenile offender's parent or legal guardian, develop efficient and effective juvenile correctional programs, provide a diversity of innovative and effective programs, assist counties in developing meaningful programs for juvenile offenders and provide programs to increase public awareness of the mission of the juvenile corrections system. Ms. Harrigfeld was pleased to report progress in each of these crucial areas as well as the successful implementation of a statewide juvenile offender system that provides real time data for their staff.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:38 PM

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Representative Wills  
Chair

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Katie Butcher  
Secretary

**Special Committee on Justice Reinvestment Oversight**  
**Annual Report to the Idaho State Legislature**  
**February 1, 2015**

**I. Summary of Committee Formation and Membership**

In March 2014, Senate Bill 1393 established the Special Committee (the Committee) on Justice Reinvestment Oversight with the aim of maintaining continuous oversight of the Idaho criminal justice reinvestment initiative (JRI) (Senate Bill 1357) and related criminal justice issues. S.B. 1357 passed unanimously through both legislative chambers in March 2013. The bill seeks to address Idaho's high incarceration rate and reduce recidivism with policies that: 1) strengthen supervision practices and programming to reduce recidivism; 2) tailor responses to supervision violations, provide recidivism outcomes at sentencing, and structure parole to make more productive use of prison space; and 3) assess, track, and ensure impact of recidivism reduction strategies. The Committee is tasked with overseeing the implementation of JRI in order to ensure objectives are met. As stipulated in S.B. 1393, the Committee shall consist of the following members:

- Five (5) members of the senate, one (1) of whom shall be the chairperson of the senate judiciary and rules committee, two (2) from the majority party appointed by the president pro tempore of the senate and two (2) from the minority party appointed by the minority leader
- Five (5) members of the house of representatives, one (1) of whom shall be the chairperson of the house judiciary, rules and administration committee, two (2) from the majority party appointed by the speaker of the house and two (2) from the minority party appointed by the minority leader.

Committee Membership as of December 2014

Sen. Patti Anne Lodge, Co-chair	Rep. Rich Wills, Co-chair
Sen. Shawn Keough	Rep. James Holtzclaw
Sen. Jim Rice	Rep. Luke Malek
Sen. Dan Schmidt	Rep. John McCrostie
Sen. Cherie Buckner-Webb	Rep. Mark Nye

The Committee is co-chaired by Senator Patti Ann Lodge, the senate judiciary and rules committee chairperson, and Representative Rich Wills, the chairperson of the house judiciary,

rules and administration committee. The Committee is slated to convene for five years (2014-2019), and has been tasked with monitoring successful implementation of S.B. 1357 by requiring development of performance and outcome measures and regular reporting requirements from all branches, agencies, and stakeholders involved.

## **II. JRI Implementation Structure**

The Committee recognizes that in Spring 2013, a Steering Committee and five Issue Specific Teams were formed comprised of representatives from the executive and judicial branches, as well as important stakeholders across the criminal justice system.

The Steering Committee is comprised of the Director of the Idaho Department of Correction (Kevin Kempf), the Executive Director of the Idaho Commission on Pardons and Parole (Sandy Jones), a representative of the Idaho Supreme Court (Patti Tobias, Consultant to the Idaho Supreme Court) and a representative of the office of Governor C.L. “Butch Otter” (Mark Warbis, Communications Director and Senior Special Assistant - Energy and Economic Development or Cally Younger, Associate Counsel to the Governor and Public Records Ombudsman).

The five Issue Specific Teams were formed to focus on the different policy areas from JRI and include: The Supervision Team, Restitution Team, Program Evaluation and Community Treatment Team, Data Collection Team, and Officer Training Team.

The Steering Committee receives reports and recommendations from the Issue Specific Teams. The Steering Committee coordinates their work with the Committee. The co-chairs of the Committee have been regularly updated and have participated in Steering Committee meetings since the enactment of JRI.

## **III. Early Accomplishments of the Committee**

The Committee convened for the first time on December 17, 2014 to review implementation progress since bill enactment and to identify strategies for successful implementation of JRI moving forward. The agenda for this meeting included an in-depth review of the system analysis conducted in the year preceding bill enactment, as well as a discussion of early successes and barriers to S.B. 1357 implementation. The Committee received reports from the Council of State Government Justice Center and the Steering Committee.

The Committee members obtained information about the implementation of the S.B. 1357 policy framework in Idaho. Implementing the multifaceted policies of this framework will slow the growing incarceration rate in Idaho and reduce recidivism.

### **III. Sustaining Coordination and Establishing Accountability**

In order to ensure that Idaho realizes the anticipated impacts of JRI over the next five years, the Committee has formed strong partnerships with leaders from the executive and judicial branches of government. The Committee recognizes that on-going inter-branch and interagency collaboration is crucial to achieving the overall goals of public safety and fiscal savings for the state of Idaho, and has made it a priority to sustain this collaboration for the duration of their appointment.

In accordance with statute, the Committee has also sought and retained criminal justice experts to guide on-going analysis and policy implementation. Experts will aid the Committee in establishing evidence-based performance metrics and in monitoring the outcomes of policy implementation to hold responsible branches, agencies, and stakeholders accountable.

The Committee will meet at least biannually for the duration of their appointment to further the objectives outlined in S.B. 1393. The Committee will additionally uphold their duty to review and consider all statutorily mandated reports, analyses, fiscal notes, and administrative rules as outlined in S.B. 1357. These steps taken by the Committee will help guide the successful implementation of JRI in Idaho.

#### **Supplemental Materials**

- I. December 17, 2014 Special Committee on Justice Reinvestment Oversight Meeting Minutes
- II. Justice Reinvestment in Idaho: Overview Presentation; as presented at the December 17, 2014 Special Committee Meeting

**MINUTES**  
**(Subject to approval by the Committee)**  
**Criminal Justice Reinvestment Oversight Committee**  
**Wednesday, December 17, 2014**  
**1:30 pm**  
**EW42, State Capitol**  
**Boise, Idaho**

In attendance were: Co-chairs Representative Richard Wills and Senator Patti Anne Lodge; Senators Shawn Keough, Dan Schmidt and Cherie Buckner-Webb; Representatives James Holtzclaw, Luke Malek, John McCrostie and Bruce Nye. Senator Jim Rice was absent and excused.

Others in attendance included: Director Kevin Kempf, Teresa Jones and Shane L. Evans, Idaho Department of Correction (IDOC); Sandy Jones, Executive Director, Idaho Commission of Pardons and Parole; Holly Koole, Idaho Defense Attorneys Association (IDAA); Retired 5th District Court Judge Barry Wood; Ms. Patti Tobias, steering committee member; Kathy Griesmyer, American Civil Liberties Union (ACLU); Dan Blocksom, Idaho Prosecuting Attorneys Association (IPAA); Elizabeth Lyon and Erin Harbinson, Council of State Governments (CSG); Henry Atencio, Division Chief, Probation & Parole; and Representative Sue Chew, District 17. Legislative Services Office (LSO) staff present were Ryan Bush, Jared Hoskins and Charmi Arregui.

**Co-chair Wills** called the meeting to order at 1:30 p.m. and welcomed all the members and attendees. **Co-chair Wills** introduced the two new members to this committee, Representatives John McCrostie and Bruce Nye, pointing out to them that this committee had been charged with a huge task, adding that there was much information for them to assimilate. He thanked CSG for all their hard work, funding, their expertise and the many valuable assets with regard to data collection. The state has decided to start the process with the probation and parole officers, getting people eligible to be out on the street and working backwards. Phase 2 of this project will begin in 2015 with adults, and next year's project will include the juvenile justice system. He said that the co-chairs have good ideas about how they want to see things come to fruition, believing that prevention is really the key to keeping people out of the system and that monetary savings will result. **Co-chair Lodge** thanked the staff and everyone who had participated in the steering committee on this huge project, adding that much progress has been made.

**Ms. Elizabeth Lyon**, Program Director, CSG Justice Center, was the first presenter and her PowerPoint presentation can be found on our LSO website at: [http://legislature.idaho.gov/sessioninfo/2014/interim/criminaljustice121714\\_csg.pdf](http://legislature.idaho.gov/sessioninfo/2014/interim/criminaljustice121714_csg.pdf)

**Ms. Lyon** thanked everyone involved in this endeavor and the steering committee for implementation of Senate Bill 1357 (justice reinvestment legislation) as well as Senate Bill 1393 (which statutorily defined the creation of this committee). Legislation required that several things be deferred to the administrative rulemaking process, and all those rules have now been submitted. These rules are all available in LSO; they are up for consideration in the 2015 session. She emphasized that rulemaking was done in coordination with both the Idaho Supreme Court and the Commission of Pardons and Parole who worked very hard on preparing these rules. Those rules include limited supervision rules, supervision rules included in handouts entitled "Response Matrix" and "Response Chart," and finally a set of rules that calls for the readiness of inmates. She also referenced several handouts from the Commission of Pardons and Parole. All handouts are available in LSO. **Ms. Lyon** pointed out that CSG will continue to use data and a performance matrix to track progress of implementation of Senate Bill 1357. There was a draft implementation guide which the steering committee will be using to talk about how policy implementations are going throughout the coming years.

**Ms. Lyon** stated that the Council of State Governments Justice Center is a national nonprofit, nonpartisan membership association of state government officials. They engage members of all three

branches of state government. The Justice Center provides practical, nonpartisan advice informed by the best available evidence. This includes data coming directly from Idaho and also from the criminal justice field, and other areas wherever they can collect the best information. She has the ability to oversee work being done in all states that have passed a justice reinvestment package and are implementing. Idaho is the ninth state. She hopes to bring the experience of all states to better inform Idaho's process. Ms. Lyon acknowledged the funding partners that make this process a possibility, those two being the Bureau of Justice Assistance (BJA), U.S. Department of Justice, and the PEW Charitable Trusts. Most of the work done in the implementation phase is funded almost entirely by BJA, and she thanked those funding partners. She stated that between 2010 and 2012, Idaho had the second largest growth in prison population nationally. Compared with a low crime rate nationally, something didn't quite fit. In 2012, Idaho's prison population rose to the eighth highest in the country. If individuals continued to be incarcerated at the same rate, additional costs to taxpayers in Idaho could reach as high as \$290 million by 2019. That figure includes both construction and operating costs. The state's supervision and diversion programs were not reducing recidivism. The majority of the prison population comprises: (1) people whose community supervision was revoked; (2) people sentenced to retained jurisdiction (Rider); and (3) people convicted of a nonviolent crime who are eligible for parole but have not yet been released. Ms. Lyon mentioned that at the morning steering committee meeting, Ms. Patti Tobias stated that those who were there on drug and property offenses were perhaps serving as much as 207% of their sentences, individuals who could be eligible for parole, but were sitting in Idaho facilities. Another combination to add to Idaho's "trifecta": what was driving population was a lack of oversight and the lack of ability to track outcomes, measure quality, and assure reliability of recidivism-reduction strategies. There was also uncertainty if investments were yielding intended outcomes. Director Kempf, she said, at the morning steering committee again made a great commitment to ensure the ability to track data and outcomes and the reliability of that data and perhaps, most importantly, being able to report all that to this committee and the Legislature to see the successes being made.

Ms. Lyon stated that passage of Senate Bill 1357 was an ambitious and comprehensive package to look at addressing all drivers of Idaho's system. The first strategy being worked on is to strengthen supervision practices and programs to reduce recidivism which includes: (1) response matrix of sanctions and incentives; (2) community-based treatment and programming; (3) validation of the risk assessment tool (LSI-R); (4) officer training initiatives; and (5) victim restitution collection (inmates). She emphasized what a huge impact incentives make on the population being supervised. Research shows that there is a four-to-one greater benefit with incentives, as compared to sanctions. Idaho, to her knowledge, is the first state that requires the use, statutorily, of both incentives and sanctions in supervision practices, which she said is huge. Ms. Lyon pointed out that the rules handed out to the members have yet to be adopted formally, but said that the CSG Justice Center is already sharing these rules with other states, so Idaho is leading nationally. She said there is a partnership between the courts, the Commission and IDOC to identify services being provided and what programming needs to be available to make this system work. It is important that the risk assessment tool (LSI-R) in Idaho be validated every five years, and the legislation calls for that. This should happen again in the beginning of 2015. The LSI-R tells the risk of an individual to reoffend, which then helps to put that person into different programming, incarceration or be supervised in the community, all according to different scores used with this LSI-R tool. Officer training initiatives are vital and hinge on effective and quality supervision, and she commended Idaho for superior training in order to help change offender behavior. That process has already begun and will be fully in place in years to come. Idaho will have some of the best officers nationally after the training program funded by the Legislature and is being carried out by the commission and IDOC. Victim restitution collection for inmates is very important for victims to feel whole and part of the recovery process. By March 1, 2015, all inmates will have a deposit account, money will be collected, and the process will move forward.

Ms. Lyon said that Idaho's second strategy for adjusting the population focuses on tailoring sanctions for supervision violations, providing recidivism outcomes at sentencing, and structuring

parole to make more productive use of prison space. One of the key components of this policy framework is the idea of parole violator sanctions (90-day/180-day) which is something talked about often as part of a continuum of responses for changing offender behavior while out on supervision. It allows an opportunity for a failing supervised offender, as pointed out in the response matrix handout. Sometimes a short-term jail stay gets the message across to change offender behavior before a full revocation takes place. As of July 1st, she said that recidivism data is being provided for a pre-sentence investigation (PSI) report; having that available for a judge to look at before sentencing will be valuable. Another huge piece in Idaho is having parole guidelines and risk-driven decision-making which allows for the release of individuals on parole using an actuarial-guided implementation, looking at risk and community safety. She pointed out the two sets of rules responding to Senate Bill 1357 and Ms. Lyon stated that Ms. Jones is working with the commission to develop parole guidelines that will be in place by March 1, 2015 that will also help with population control. She emphasized the importance of the partnership between parole preparation (the commission) and parole readiness (IDOC). Rules must be in place for incarcerated individuals to have the ability to receive the programming in a timely enough manner to be eligible for parole and be paroled.

Ms. Lyon stated that Idaho's third strategy is assessing, tracking and ensuring impact of recidivism-reduction strategies; she pointed out that this oversight committee had been established to make sure that outcomes are being tracked as described in Senate Bill 1357. Reviewing risk assessments for quality/fidelity is a component of this policy framework and making sure that the risk scores are being used appropriately. Another big piece is enhancing data sharing and collection, which has already begun. Conducting program evaluations is also very important, as well as having that risk (of reoffending) score data for a judge before sentencing. IDOC is already having a correctional program checklist (CPC) done on IDOC programs, a tool validated to rate effectiveness of programs and make recommendations. IDOC is training staff to conduct CPCs indefinitely to make sure that behind-the-wall programming, as well as community programming, are constantly being evaluated.

Ms. Lyon next addressed the fiscal impacts of Senate Bill 1357 policies which included: reducing recidivism 15%; reducing prison population 1% to 4%; and avoiding up to \$288 million in construction costs. Idaho is getting a national reputation for its tremendous reinvestment, an up-front investment, although Idaho has yet to actually realize these savings, but the Legislature has decided that it makes sense to make these investments now that will pay off in dividends later. There are a number of things done with the reinvestment including treatment, supervision and training which will help to ensure that savings are realized. Ms. Lyon pointed out that when the Justice Center comes in to provide recommendations, a range of possibilities is provided. When going through the policy development process, a range of projected savings is provided. The baseline 5-year projected population from 2015-2019 will hopefully drop from 9,408 to 8,014, which is the goal. Impacts are projected to be realized as follows: 74% of savings come from parole guidelines and partnership with IDOC that inmates are ready to be paroled by completing programming; 15% will be realized from recidivism reduction; 11% is projected savings in parole violator sanctions and incentives/response matrix and substance abuse treatment and community.

Ms. Lyon explained that different people from the CSG Justice Center will work with Idaho on the implementation (Phase II) since Phase I was successfully completed as of March 2014. Phase II will last a lot longer than Phase I. Goals in Phase II include the following priorities: (1) to implement justice reinvestment policy changes (SB 1357); (2) to ensure reinvestment appropriations are used effectively; and (3) to measure the public safety and fiscal impact of policy changes. CSG is available to make sure implementation is guided by research and lessons learned from other states. She said there is an opportunity to receive implementation funding support provided by the Department of Justice Bureau of Justice Assistance; Idaho can apply for up to \$500,000 in funding support or an implementation grant to help meet some one-time needs to implement policies. Ms. Lyon shared

an organizational chart for the Phase II oversight committee. Under them is a steering committee and issue-specific teams which include staff members and managers from IDOC, the commission, the courts, prosecutors, defense attorneys and others who have come together to help make sure that policies are implemented effectively, some meeting weekly. Phase II will last from 18 months to 3 years and CSG will provide assistance wherever needed, including policy changes, implementation assistance and establishing JRI strategies to measure impacts.

**Ms. Lyon** pointed out policies effective July 1, 2014, as well as policies effective March 1, 2015. Beyond 2015, there will be a program evaluation report coming to this committee on November 15, 2015, and a report is required to come from IDOC on January 1, 2016 (report out by 2/1 of each year). The deadline for all current officers to be trained in evidence-based practices is July 1, 2016.

**Senator Schmidt** asked about rules going through germane committees in the House and Senate; he wondered if there has been any push-back about these rules. **Co-chair Lodge** said that there had been some push-back on the policies to be effective on March 1, 2015, so she suggested that this committee discuss that. **Co-chair Wills** informed the members that the earlier morning steering committee thought that the March 1 date for training of the officers was not going to be realistic for the courts to assess what they need to do. They wanted to discuss whether the March 1 date should be changed to October 1, 2015. He added that **Co-chair Lodge** had asked the AG's office for more information on the March 1, 2015 date to see if the intent is the same as seen by the steering committee and the co-chairs of this oversight committee. He suggested that at the next meeting of this committee, a decision then be made as to whether that March 1, 2015 date needs to be changed and what would be needed to do so. Information will also be needed from IDOC as to how long training will take. That is the only push-back foreseen by the co-chairs at this point in time. **Co-chair Lodge** explained that the concern was the words "shall be in full force and effect" because as new hires come on board, they are not "in full force and effect" and thus the reason for asking for clarification on that language. **Co-chair Wills** added that they did not see this as a big detriment. **Representative Malek** asked if an AG opinion would be definitive; if we could eliminate the confusion by changing the date, he asked why this committee would not do that, eliminating the need for anything subsequently that might come from the AG's office. **Co-chair Wills** answered that if this committee changed that March 1, 2015 date, it may change other things that they might not be aware of at this time. If IDOC is given time to find out how much time training would take, the time line might be able to be moved up to July 1, 2015, instead of October. The facts are not in as to what date is realistic. No damage will be done waiting until the next meeting to decide whether the date needs to be changed from March 1, 2015. He emphasized that waiting is for clarity only.

**Senator Schmidt** moved that the decision to postpone the March 1, 2015 implementation date for Phase II policies be held until the next meeting of this committee. The motion was seconded by **Senator Buckner-Webb**, and the motion passed unanimously by voice vote.

**Co-chair Wills** invited **Ms. Tobias** to report on the earlier morning's steering committee. **Ms. Tobias** said that she was presenting on behalf of the Idaho courts as the most tenured steering committee member. She explained that she was the former Administrative Director of the Courts and had been with the courts for more than 20 years, and she will continue in the role representing the Idaho judiciary, even from Colorado, adding that it was such a privilege to do so. All three branches of government, she said, had worked very hard to make justice reinvestment a reality in Idaho. All three branches worked together to create Senate Bill 1357, but the heavy lifting fell to the judicial branch to ensure effective implementation. All stakeholders have worked incredibly hard and numerous reports will be received during this 2015 Legislative Session. The rules, of course, represent significant work and SB 1357 required that the board, in consultation with the commission and the Supreme Court, worked together to draft these rules and present them to this committee. There are four sets of IDAPA rules that the Legislature will take up in January, 2015 and she said that those rules were worked, reworked and significantly revised as a result of ongoing discussions and deliberations on behalf of the court and the rules that the Supreme Court was asked to consult

with. The Supreme Court met just recently, she said, and they agreed that IDOC had worked very closely with them, as contemplated by the statute, and they submit them, along with the Board, for the consideration of this committee. **Ms. Sandy Jones** would also agree, she said, that there has been effective communication and deliberation between IDOC and the commission in moving forward. Those rules are one significant work product.

**Ms. Tobias** next addressed the implementation of all of the other provisions, being very focused on rules that needed to be filed in November, 2014. Now they are turning their attention to the many other provisions of Senate Bill 1357. By the time the 2015 Legislature convenes in January, there will be a solid implementation guide for the members with all of the due dates of all the reports and information contemplated by Senate Bill 1357. There are many other provisions besides those shown in the PowerPoint presentation by **Ms. Lyon** and there are also various reports to the Legislature being worked on. The gap analysis was discussed at the steering committee meeting, and Senate Bill 1357 required that IDOC and the Department of Health & Welfare (DHW) submit a joint report to the Legislature identifying the criminogenic risk and needs of the felony population to identify where the gaps are in the treatment and programming necessary to reduce recidivism. The steering committee discussed taking a different approach to meet the requirement of the January 15, 2015 deadline, and she announced that the deadline will be met and a good gap analysis report will be given to the Legislature and every year thereafter. This entailed a significant amount of work, but **Ms. Tobias** stated that they are absolutely all committed to this as part of the justice reinvestment savings in reduction of recidivism. She announced that this committee also has a report due to the Legislature on February 1, 2015, and she offered help with that report which is on their implementation schedule. The other significant piece being worked on in the next 30-60 days is what is called the justice reinvestment performance measurement matrix. This is all about strategy 3 of the SB 1357 policy framework which includes: (1) tracking what is happening with the felony population; (2) what happens when a judge sentences a defendant to a fixed term and an indeterminate time in the penitentiary; (3) how quickly IDOC is moving that person through programming; (4) when is the Idaho Commission of Pardons and Parole hearing that offender's parole status; (5) are offenders being released into the community; and (6) how well is that supervision working in the community. There is much information to track, but this is where the reinvestment savings will occur, she said, so they are making sure to track that information as contemplated by Senate Bill 1357. She wondered if there is other data that this committee thinks is necessary to track, as part of this process, inviting feedback in order to finalize that matrix in the next 30-60 days. The steering committee will also be making a presentation to JFAC about the dollars that were allocated to IDOC and the Idaho Commission of Pardons and Parole which is scheduled for February 2015. Hopefully those dollars can be reinvested each year into IDOC and parole systems. **Ms. Tobias** said those were the major updates of the steering committee, and at this time she invited **Director Kempf** and **Director Jones** to address the committee.

**Director Kevin Kempf**, IDOC, agreed with **Ms. Tobias** that one of the most important parts will be the questions and answers in this meeting. He did put his stamp of approval on the significance of this criminal justice reinvestment project, which he said was huge and probably the single biggest impact to our criminal justice system in the state of Idaho. As much as this is positive, exciting and creates a lot of opportunity, there is also change that must take place. Change takes time, and he advised the members that sometimes change with something this significant may, at times, look like push-back, and he advised that some of that should be expected and to not be shocked by that. However, the process also should not be slowed down by that, encouraging everyone to work through this and look for early victories that justice reinvestment will provide for Idaho. He said this was a very exciting time to be part of the criminal justice system and he said he was humbled to be a part of it.

**Director Sandy Jones**, Idaho Commission of Pardons and Parole, said she was very excited to be in this role, having come into Phase II of the implementation phase. She said she was learning a lot

and was educating herself in order to move to the next level. She said this was challenging and also very rewarding in that the relationship between the commission, IDOC, and the courts is absolutely vital to this process, adding that progress is being made with everyone working so closely together. The commission has had to make significant changes, but those are miniscule compared to the changes at IDOC, the most significant having to do with the large portion of savings that will come with the process of parole decision-making and parole readiness by inmates as they come up for parole eligibilities. She said that much assistance had been received with regard to the development of parole guidelines which will make the process easier, more evidence-based and more consistent. This is their main focus now, as well as providing data necessary to support changes being made.

**Ms. Tobias** commented that district judges have been thinking about 3 principles guiding them recently through this implementation phase: (1) They very much appreciate and respect the Legislature's support for the unified sentencing act and that judges have full discretion to make the right sentencing decision. Throughout this process the Legislature's respect for the judges has been sky-high and she expressed appreciation for that. CSG has also found that to be true, that judges are making the right sentences. All three branches of government respect the role of the judges in sentencing. (2) The 45 district judges across the state have confidence in IDOC and the Idaho Commission of Pardons and Parole. After the judge makes the difficult decision about how to craft the sentence for an offender, the judges want to have 100% confidence in IDOC and the commission; she said they are almost there, but they still need to keep their eyes on the ball to have that trust and confidence in each other, as respective branches of government. (3) The third guiding principle governing their work is that the judiciary wants to make sure that IDOC and the commission have the necessary resources to accomplish the reduction in recidivism, the better use of prison space, and the quality of data needed, the 3 strategies proposed by the justice reinvestment process. She said the judiciary will stand shoulder to shoulder with IDOC and with the commission when the data is available and they can make the case for any need for additional resources to be reinvested into those departments, adding that the judiciary will want to stand in support of that. That is a keen area of concern and interest, since reducing recidivism will require the treatment, the programming and manageable caseloads in the community similarly to support using the prison beds most efficiently. Those are the guiding principles within the courts, she said, and the judiciary is a very strong partner in this, recognizing that there is much work to be done. They are committed to the process and she is very proud of the district judges across the state, having jumped in and are working very hard to work cooperatively to bring the very best product going forward. She thanked everyone for the respect given to the judiciary and for the executive branch and all that they have done.

**Co-chair Wills** thanked **Ms. Tobias** for the information and he said that it is good for all members on this committee to know that this is a huge team effort involving all three branches of government and keeping them completely on task with everything. Everyone at the table, including prosecutors and the courts are vitally important for success. If just one drags feet and doesn't follow through, it can create great concern for everyone else.

**Henry Atencio**, Division Chief, Probation & Parole, said that they had worked very closely with the judges, prosecutors, commissioners and staff to develop the Idaho response matrix, a process which was not always easy; concessions were made by all in order to make the Idaho system, in general, better. Implementation is the next step and that will be hard work getting staff properly trained, but he said he expects to see great results in the near future.

**Senator Schmidt** asked about changes made by the steering committee with regard to IDOC and DHW looking into the gap analysis and how that has been adjusted, and he asked for more information, since he had not seen a DHW representative at this meeting. **Ms. Tobias** turned to Senate Bill 1357 and the provision that talks about the gap analysis, on page 10, section 8, 20-216 (2) starting on line 42 which reads: "The board and the department of health and welfare shall submit a joint report to the legislature by January 15 each year analyzing: (a) The criminogenic needs of the active population of probationers and parolees; (b) Current funding available to deliver

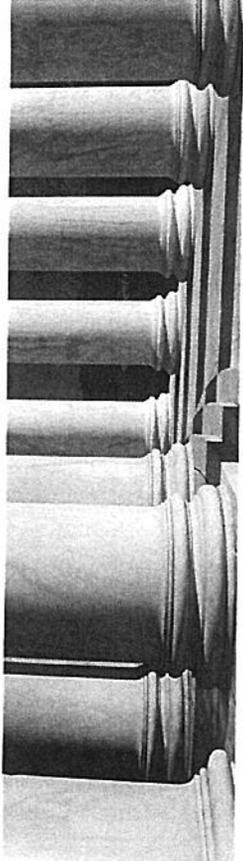
effective, evidence-based programming to address those needs; and (c) Any gap in funding to meet the treatment needs of all moderate and high-risk probationers and parolees." She said that while the steering committee talked about a few different approaches, exactly as Senate Bill 1357 was written and passed, she assured the committee that IDOC and DHW will meet the deadline for that report. The real benefit from the steering committee's morning discussion, she said, was that this will be a first report, expecting each year that the report will be more credible, robust and informed each year by what is learned through this process, even though there are gaps. They want to make sure that the first report is credible and established; then, each year the report will be backed up with additional information. **Ms. Tobias** added that they may come to the Legislature in 2016 with, perhaps, a funding decision unit supported by the data and the gaps identified to be considered for reinvesting into the system to reduce recidivism, as CSG has contemplated.

**Senator Schmidt** asked if that request would come in the form of a departmental appropriation request or would that be a supplemental funding request. **Ms. Tobias** replied that it would not be out of the courts' budget. It would be attributed to the department, adding that she had not heard any talk about a supplemental request of appropriation. She thought that the preliminary report would be filed on January 15, 2015, and supplemental information will be added to that by the summer of 2015 so that the IDOC and DHW can look to see if the information now does support budget enhancement in their budgets. Then, the executive branch departments, in coordination with the Governor, can decide how best to come forward to the Legislature in 2016, believing that to be how it will work.

**Senator Keough** said she noticed that DHW played a big role in the gap analysis, and she asked if DHW was represented on the steering committee. **Ms. Tobias** assured the committee members that many from DHW are participating on the very specific teams that are operating, adding that they simply had not gone into that much detail. DHW has been working very actively on the program evaluation and community treatment team, and she said that Shane Evans from DHW was present at this meeting and could confirm that DHW is involved, as well as prosecutors who are involved in the supervision, parole and caseload review.

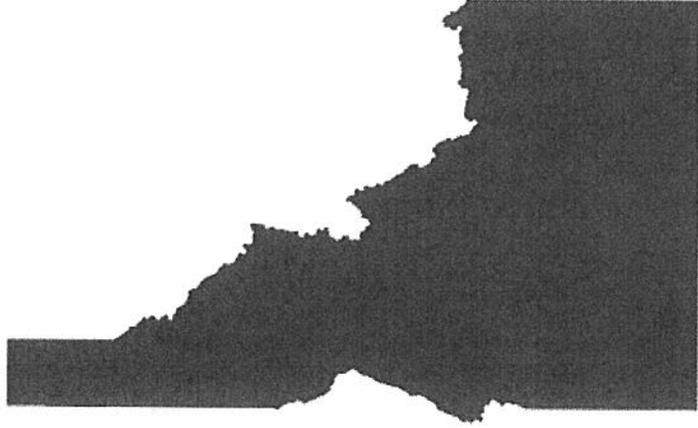
**Co-chair Wills** thanked everyone for their participation, time and efforts. He announced that this committee will meet again in February, 2015, and that there will also be a joint meeting with the Judiciary and Rules Committees in the House and Senate.

**Co-chair Wills** adjourned the meeting at 2:48 p.m.



# Justice Reinvestment in Idaho

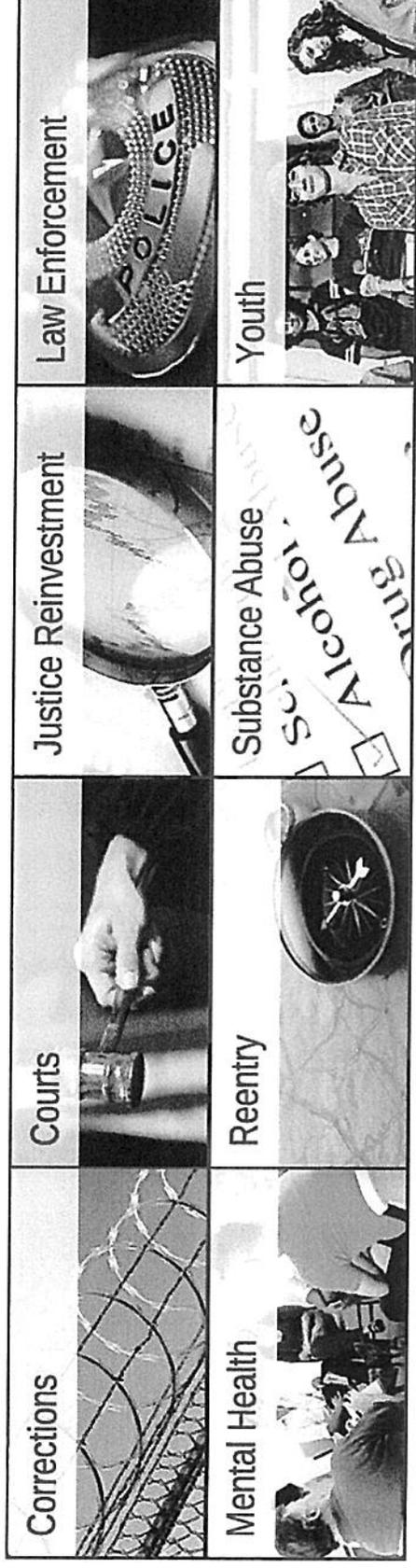
Oversight Committee Meeting  
December 17, 2014



**Elizabeth K. Lyon**, Program Director  
**Erin E. Harbinson**, Policy Analyst  
**Allison J. Berger**, Policy Analyst

# Council of State Governments Justice Center

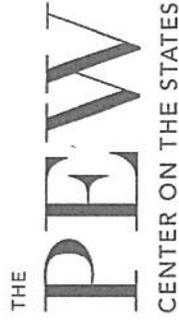
- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



# Funding and Partners

## Justice Reinvestment

*a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.*



Public Safety  
Performance  
Project

# ID Prison Population Drivers



## Programming and Treatment for Offenders

- The state's supervision and diversion programs are not reducing recidivism



## Use of Prison Space

- The majority of the prison population comprises :
  - People whose community supervision was revoked
  - People sentenced to retained jurisdiction (Rider)
  - People convicted of a nonviolent crime who are eligible for parole but have not yet been released

## Oversight



- Lack of ability to track outcomes, measure quality, and assure reliability of recidivism-reduction strategies
- Unsure if investments are yielding intended outcomes

# SB 1357 Policy Framework

STRATEGY

1



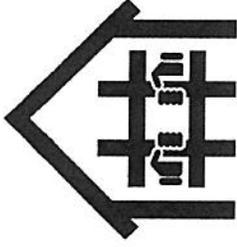
## Strengthen supervision practices and programs to reduce recidivism

- Response matrix of sanctions and incentives
- Community-based treatment and programming
- Validation of risk assessment tool (LSI-R)
- Officer training initiatives
- Victim restitution collection (inmates)

# SB 1357 Policy Framework

## STRATEGY

2



**Tailor sanctions for supervision violations, provide recidivism outcomes at sentencing, and structure parole to make more productive use of prison space**

- Parole violator sanctions (90-day / 180-day)
- Recidivism data for PSI
- Parole guidelines & risk-driven decision-making
- Parole preparation (Commission) & parole readiness (IDOC)

# SB 1357 Policy Framework

STRATEGY

3



## Assess, track and ensure impact of recidivism-reduction strategies

- Establish an oversight committee
- Review risk assessments for quality / fidelity
- Enhance data sharing and collection
- Conduct program evaluations

# Fiscal Impact of SB 1357 Policies

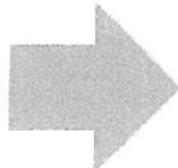
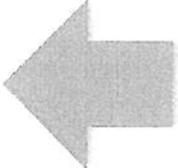
- Reduce recidivism 15%
  - Reduce prison population 1%
  - **Avoid \$288 million** in costs
- 
- **Reinvest \$33 million** in treatment, supervision, and training
- 

FIGURE 2: SUMMARY OF JUSTICE REINVESTMENT POLICY FRAMEWORK SAVINGS AND REINVESTMENTS

	<u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>	<u>FY2018</u>	<u>FY2019</u>	<u>Total</u>
<b>Cost Savings (in millions)</b>						
Operating Cost Savings	-\$0.8	-\$10.3	-\$15.8	-\$21.6	-\$26.4	-\$74.9
Construction Cost Savings					-\$213.2*	-\$213.2
<b>Total Savings</b>	<b>-\$0.8</b>	<b>-\$10.3</b>	<b>-\$15.8</b>	<b>-\$21.6</b>	<b>-\$239.6</b>	<b>-\$288.1</b>
<b>Reinvestments (in millions)</b>						
Treatment Supervision--1(B)	\$2.5	\$3.0	\$3.0	\$3.0	\$3.0	\$14.5
Strengthen Supervision--1(C) and 1(D)	\$2.0	\$2.0	\$2.0	\$2.0	\$2.0	\$10.0
Proactive Restitution Collection--1(E)	\$0.5	\$1.0	\$1.5	\$1.5	\$1.5	\$6.0
Quality Assurance and Data/IT Capacity--3(B), 3(C), 3(D)	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$2.5
<b>Total Reinvestment</b>	<b>\$5.5</b>	<b>\$6.5</b>	<b>\$7.0</b>	<b>\$7.0</b>	<b>\$7.0</b>	<b>\$33</b>
<b>Net Savings</b>	<b>\$4.7**</b>	<b>-\$3.8</b>	<b>-\$8.8</b>	<b>-\$14.6</b>	<b>-\$232.6</b>	<b>-\$255.1</b>

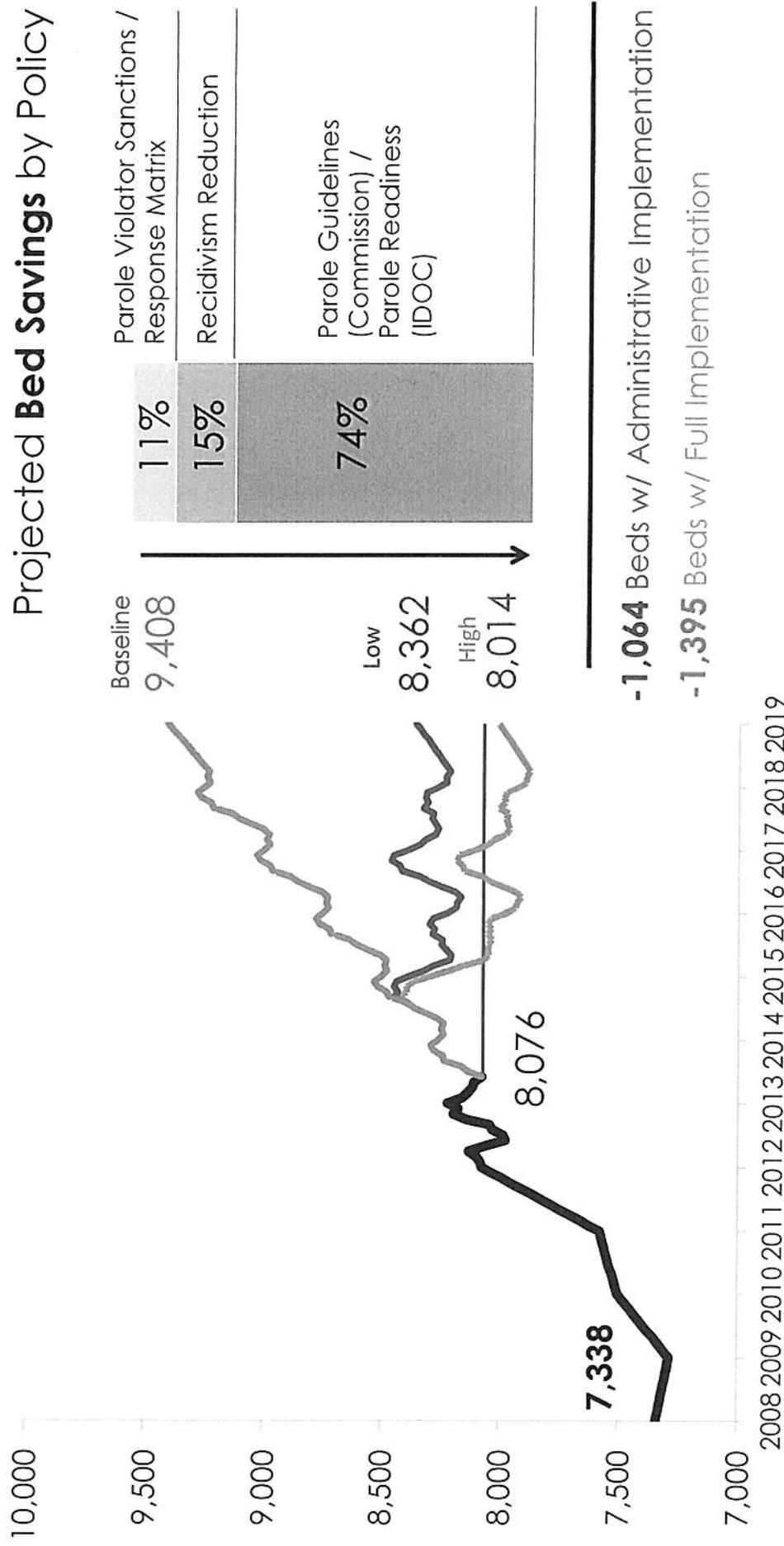
Averted Costs



Reinvestment

Source: Phase I Justice Reinvestment in Idaho: Analyses and Policy Framework. P. 6

# Achieving 5-Year Projected Pop. Outcomes (2015-2019)



Source: Phase I 5-Year Projected Population Outcomes (X=0, Y = 7,000)

# Phase II Overview

## Priorities:

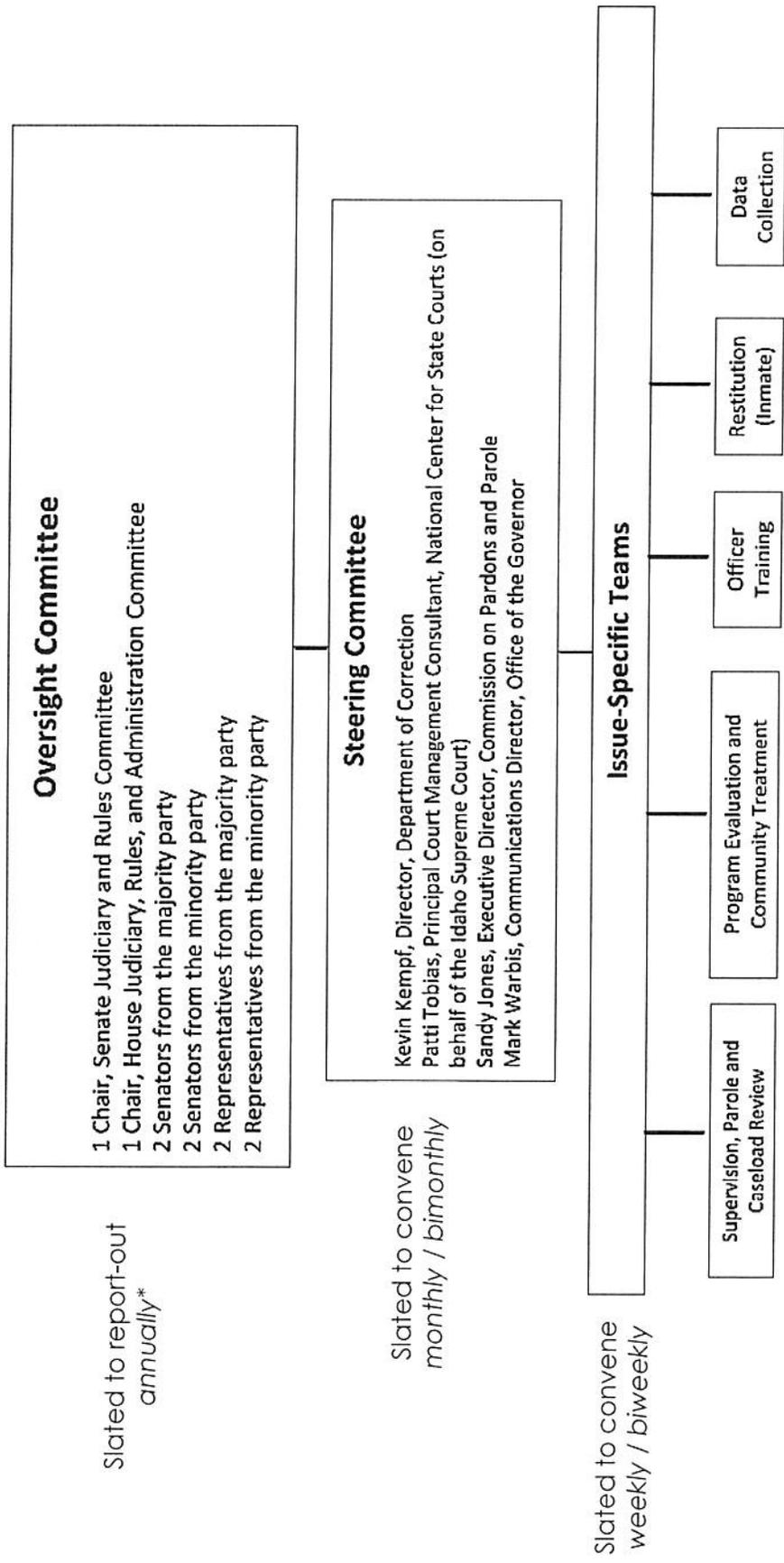
- Implement Justice Reinvestment policy changes (SB 1357)
- Ensure reinvestment appropriations are used effectively
- Measure the public safety and fiscal impact of policy changes

## Components of Phase II:

- Technical assistance provided by the CSG Justice Center
- Opportunity to receive implementation funding support provided by the Department of Justice Bureau of Justice Assistance

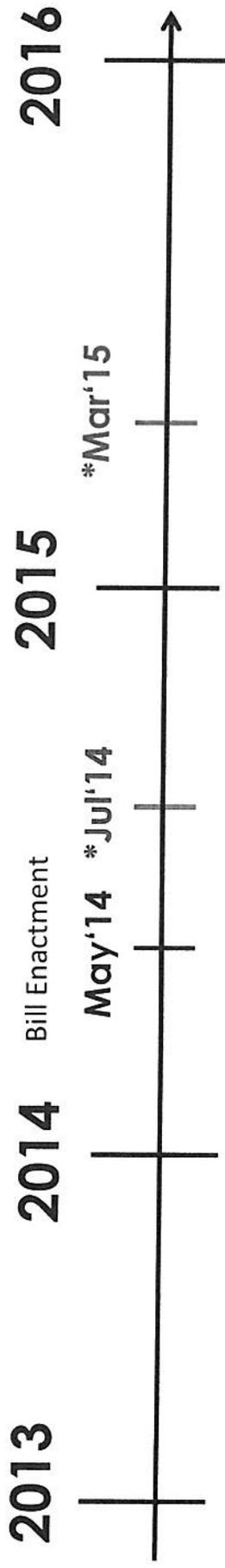
# Phase II Implementation Structure

## Idaho Justice Reinvestment Phase II Organizational Chart



\*per SB 1393

# Phase II Implementation Timeline



## Phase I

*Pass justice reinvestment legislation*

## Phase II

*Implement Policy Changes*

*Implementation Assistance and Establish JRI Strategies*

*Measure Impacts*

**\* Key S.B. 1357 Effective Dates**

# SB 1357 Effective Dates

## Policies Effective July 1, 2014

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- PSI recidivism rates (1)
- Court placement on probation or imposition of incarceration (2)
- Community-based behavioral health treatment (3)
- Suspended probation (5)
- Parole Commission duties and powers (7)
- Gap analysis / Program evaluation (8)
- Modification & termination of probation (10)
- Court consideration of risk & needs (11)
- Parole guidelines, parole readiness, and parole release policy\* (12)
- Risk assessment validation (13)
- Parole early discharge (18)

## Policies Effective March 1, 2015

---

- Commutation, suspension, & retained jurisdiction (probation) (4)
- Agreement of supervision (Probation) (4)
- Restitution collection (Inmates) (6)
- Level of supervision determination (9)
- Caseload review (9)
- Behavior response matrix\* (9)
- Limited supervision unit\* (9)
- Officer training (9)
- Moderate and high risk supervision (9)
- Arrest without warrant (14)
- Agreement of supervision (Parole) (15)
- Parole violator hearing process (16)
- Parole violator sanctions (17)

(#) - Section of statute

\* - Indicates rule-making

# Phase II: Where We Are Now

Policies Effective July 1, 2014	<b>Implementation Focus July 1, 2014 - Present</b>	Reporting Deadlines Jan / Feb 2015	Policies Effective March 1, 2015
<ul style="list-style-type: none"> <li>• Section 1</li> <li>• Section 2</li> <li>• Section 3</li> <li>• Section 5</li> <li>• Section 7</li> <li>• Section 8</li> <li>• Section 10</li> <li>• Section 11</li> <li>• Section 12</li> <li>• Section 13</li> <li>• Section 18</li> <li>• Section 19</li> </ul>	<ul style="list-style-type: none"> <li>• IDOC / Parole Rule-Making</li> <li>• Caseload review / early discharge</li> <li>• Data system preparations</li> <li>• Rollout of investment-funded efforts</li> <li>• Stakeholder engagement &amp; interagency collaboration</li> </ul>	<ul style="list-style-type: none"> <li>• Gap analysis</li> <li>• Legislative review of rules</li> <li>• 150% parole report</li> </ul>	<ul style="list-style-type: none"> <li>• Section 4</li> <li>• Section 6</li> <li>• Section 9</li> <li>• Section 14</li> <li>• Section 15</li> <li>• Section 16</li> <li>• Section 17</li> </ul>

## Phase II: Where We Are Now

### Nov. 2015 – Jul. 2016 Effective Dates

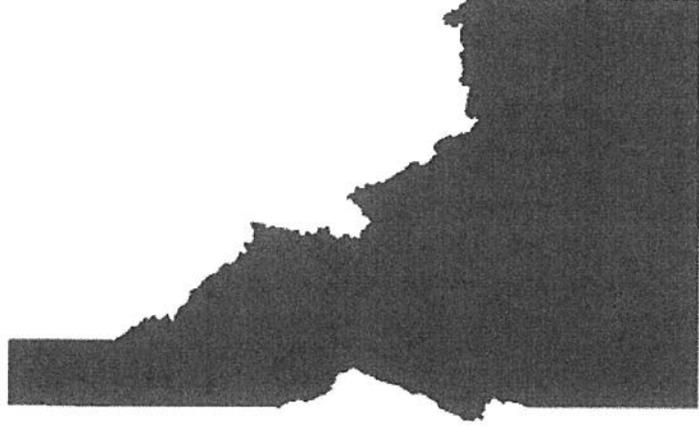
- November 15, 2015
  - Program evaluation report to Oversight Committee
- January 1, 2016
  - Department of Correction reporting requirements (Report out by 2/1/16 of each year)
- July 1, 2016
  - Deadline for all current officers to be trained in evidence-based practices

# Thank You

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**JUSTICE★CENTER**  
THE COUNCIL OF STATE GOVERNMENTS

This material was prepared for the State of Idaho. The presentation was developed by members of the Council of State Governments Justice Center staff. Because presentations are not subject to the same rigorous review process as other printed materials, the statements made reflect the views of the authors, and should not be considered the official position of the Justice Center, the members of the Council of State Governments, or the funding agency supporting the work.



AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, February 05, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Docket No. <a href="#">11-0301-1401</a>	Approval of IDAPA Pending and Proclamation Rules Rules Governing Alcohol Testing	Matthew Gamette, ISP Forensic Services

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher  
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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Thursday, February 05, 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. McMillan

**GUESTS:** Rory Olsen, POST; Victor McCraw, POST; Kathy Baird, SOMB; Alan Trimming; Clark Rollins, ISP; Mark Kubinski, IDOC; Holly Koole Rebholtz, IPAA; Matthew Gamette, ISP; Jeremy Johnston, ISP; Jeff Lavey, COPA; Teresa Baker, ISP; Andrea Sprengel, Correctional Industries; Shirley Audens, IDOC; Alan Henderson, Correctional Industries; Sandy Jones, Parole Commission; Mary Schoeler, Parole Commission; Sharon Harrigfeld, IDJC; Dennis Stevenson.

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

**MOTION:** **Rep. Gannon** made a motion to approve the minutes of the January 29, 2015, meeting. **Motion carried by voice vote.**

**MOTION:** **Rep. McDonald** made a motion to accept the report of the McDonald Subcommittee. **Motion carried by voice vote.**

**MOTION:** **Rep. Dayley** made a motion to approve **Docket Nos: 05-0101-1401** Rules for Contract Providers; **05-0105-1401** Rules for Reintegration Providers; **05-0201-1401** Rules for Residential Treatment Providers; **05-0202-1401** Rules for Staff Secure Providers; **05-0203-1401** Rules for Reintegration Providers; **05-0204-1401** Rules for Supported Living Providers; **11-1101-1401** Rules of the Idaho Peace Officer Standards and Training Council; **11-1101-1402** Rules of the Idaho Peace Officer Standards and Training Council; **11-1101-1403** Rules of the Idaho Peace Officer Standards and Training Council; **50-0101-1401** Rules of the Commission of Pardons and Parole; and **57-0101-1401** Rules of the Sexual Offender Management Board. **Motion carried by voice vote.**

**MOTION:** **Rep. Trujillo** made a motion to approve **Docket No. 11-1101-1403, with the exception of section 52 subsection 02.**

Director **Victor McCraw**, Police Officer Standard Training Council (POST), confirmed that he is working with leaders in the home school community to develop rules pertaining to their applications and that POST has no objection to removing section 52, subsection 02.

In response to questions from the committee, **Mr. McCraw** explained that removing section 02 would not give home school students an advantage over any other applicant. Mr. McCraw also noted that the rule contains a list of acceptable documentation in section 01. Mr. McCraw cited 11.11.01.062 Aptitude, which provides that each POST applicant takes a standardized test, regardless of their education, prior to their acceptance to POST.

**VOTE ON  
MOTION:** **Motion carried by voice vote.**

**DOCKET NO.  
11-0301-1401:**

**Matthew Gamette**, Idaho State Police, Forensic Services presented **Docket No. 11-0301-1401**. He explained the docket contains rules governing a alcohol laboratory as well as rules governing breath alcohol testing procedures. The original intent of the rule was for a expedient method to admit a blood alcohol test into evidence without the need of expert testimony from the State. Expert testimony had been deemed a unnecessary burden on the State and it was decided that testimony was unnecessary if there was a test result the legislature believed could produced a extremely reliable result. Per the original intent of the rule, ISP Forensic Services implemented a Standard Operating Procedure (SOP), which are common place for most laboratories. The breath testing SOP is used today and has been upheld in every judicial district in Idaho. In 2011 a clarification was made to IDAPA stating that ISP uses analytical methods and standard operating procedures to manage the breath alcohol program. The breath testing SOP is available to the public, is scientifically sound, well researched and is a living document. Mr. Gamette stated the original intent of the rule has not changed, and by adding the breath alcohol SOP to this rule it would expedite the judicial process, avoid unnecessary delays in the court calendar, save money, and allow the lab to be more efficient.

**Rep. Nye** invoked Rule 38 stating a possible conflict of interest.

In response to questions from the committee, **Mr. Gamette** stated the ISP laboratory system is accredited for blood alcohol, urine alcohol and vitreous humor. However, it is not in accredited for blood alcohol instrument calibration. ISP laboratories have the highest level of accreditation possible.

In response to questions from the committee, **Jeremy Johnston**, ISP Forensic Services, explained that there are three components: the instrument, the standard or solution, and the temperature of the simulator, all of which contribute to the uncertainty of the measurement for the performance verification, which is allowed to be within + or - 10%. The courts have not challenged the + or - 10%. Mr. Johnston explained that this rule applies a minimum criteria to provide the courts with the assurance that if the lab has ISP Forensic Services' stamp of approval, their work is good and can be taken at face value, which removes the requirement for the State to provide scientific testimony. If the lab does not meet the criteria the court may choose to not accept the results. Mr. Johnston explained that the validity of a single breath test is predicated on the full compliance of the subject. Duplicate sampling is to insure consistent sampling. However, a single breath test may be considered valid as long as the fault for not having two samples falls on the subject rather than on the operator.

**Alan Trimming**, Ada County Public Defender, stated that there is language throughout the rules that concerns him. Mr. Trimming expressed his concern regarding the allowance for the operator administering the breath alcohol test to quit testing at any time. Mr. Trimming stated that he believed the ISP lab was requesting the legislature adopt, validate and vindicate all the changes they had made and give them the force of law.

In response to questions from the committee, **Mr. Trimming** stated that the rule allows the ISP lab to provide criteria to labs outside of their purview and the authentication could prevent a defender from being allowed to cross examine. Mr. Trimming stated that these rules would not apply to labs outside of the jurisdiction, it is his belief that these rules are flawed.

Meridian Chief of Police, **Jeff Lavey**, expressed his support for including the standard operating procedures into the rules, on behalf of the Meridian Police Department and the Chiefs of Police Association. He believes that having the standard operating procedures incorporated into the rules would prevent frequent changes.

For the record, no one else indicated their desire to testify.

- MOTION:** **Rep. Trujillo** made a motion to approve **Docket No. 11-0301-1401**.
- SUBSTITUTE MOTION:** **Rep. Perry** made a substitute motion to approve **Docket No. 11-0301-1401**, with the exception of section 14.
- AMENDED SUBSTITUTE MOTION:** **Rep. Luker** made an amended substitute motion to reject **Docket No. 11-0301-1401**. Roll call vote was requested on the amended substitute motion. **Amended substitute motion failed, 6 AYE, 10 NAY, 1 Absent/Excused. Voting in favor** of the amended substitute motion: **Reps. Luker, Perry, Sims, Nate, Gannon and Wintrow. Voting in opposition** to the amended substitute motion: **Reps. Dayley, Malek, Trujillo, McDonald, Cheatham, Kerby, Scott, McCrostie, Nye and Chairman Wills. Rep. McMillan was absent/excused.**
- VOTE ON SUBSTITUTE MOTION:** Roll call vote was requested on the substitute motion to approve **Docket No. 11-0301-1401** with the exception of section 14. **Substitute motion failed, 8 AYE, 8 NAY, 1 Absent/Excused. Voting in favor** of the substitute motion: **Reps. Luker, Perry, Sims, Kerby, Nate, Gannon, Nye and Wintrow. Voting in opposition** to the substitute motion: **Reps. Dayley, Malek, Trujillo, McDonald, Cheatham, Scott, McCrostie and Chairman Wills. Rep. McMillan was absent/excused.**
- VOTE ON ORIGINAL MOTION:** Roll call vote was requested on the original motion to approve **Docket No. 11-0301-1401. Original motion carried, 9 AYE, 7 NAY, 1 Absent/Excused. Voting in favor** of the original motion: **Reps. Dayley, Malek, Trujillo, McDonald, Cheatham, Kerby, Scott, McCrostie and Chairman Wills. Voting in opposition** to the original motion: **Reps. Luker, Perry, Sims, Nate, Gannon, Nye and Wintrow. Rep. McMillan was absent/excused.**
- ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:19 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, February 09, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS23285</a>	Criminal Procedure	Rep. Luker
<a href="#">RS23286</a>	Curfews - penalties/juveniles	Rep. Luker
<a href="#">RS23298</a>	Fish and Game Violations	Rep. Luker
<a href="#">RS23352C1</a>	Debris - highways/property	Rep. Luker
<a href="#">RS23443</a>	Fireworks	Rep. Luker
<a href="#">H 82</a>	Police, public hwys, safety	Maj. Richardson, ISP
	Day in the Life of a Case	Holly Koole, IPAA

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Monday, February 09, 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. Kerby

**GUESTS:** Holly Koole Rehboltz, IPAA; Bryan Taylor, IPAA; Steve Richardson, ISP; Dave Jones, ITD; Sandee Meyer, IPAA; Ralph Powell, ISP; Bev Evans; Ian Thomson, IPDC; Amber Renee, City of Boise; Andrew Mitzel, Realtors; John Eaton, Realtors; Barry Wood, Idaho Supreme Court; Dave Carlson, AAA Idaho; Mike Kane, ISA; Dan Blocksom, IAC.

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

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

**RS 23285:** **Rep. Luker** presented **RS 23285** which would repeal two statutes and is related to a group of bills to reclassify low level misdemeanors to infractions to reduce public defense work load and cost. The first statute makes it an offense to refuse or neglect to assist the county law enforcement in making an arrest. The second statute addressed tampering with a vehicle, but is addressed by other laws. Neither statute has been used recently.

**MOTION:** **Rep. Sims** made a motion to introduce **RS 23285**. **Motion carried by voice vote.**

**RS 23286:** **Rep. Luker** presented **RS 23286** which would reclassify curfew violations from a low level misdemeanor to a infraction and sets a \$150 infraction fine for curfew violations.

**MOTION:** **Rep. Trujillo** made a motion to introduce **RS 23286**. **Motion carried by voice vote.**

**RS 23298:** **Rep. Luker** presented **RS 23298** which would reclassify fish and game violations affecting certain grouse permits, taking of upland birds with exceptions, public use restrictions, use of certain live bait, evidence of species and Henry's Lake fishing limits. The proposed legislation would maintain the fine for existing infractions at \$72 but would remove reference to the Idaho infraction rules. The proposed legislation would set a \$250 fine for the infraction.

**MOTION:** **Rep. Perry** made a motion to introduce **RS 23298**. **Motion carried by voice vote.**

**RS 23352C1:** **Rep. Luker** presented **RS 23352C1** which would reclassify violations regarding litter and debris on highways, public and private property. The proposed 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, although 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 as a misdemeanor would have a fine not exceeding \$1,000 and jail of up to 30 days.

In response to questions from the committee, **Rep. Luker** explained that a specific distinction between debris and litter has not been previously made. A specific designation could be added based on the type of debris, or based on willful or negligent placement of the item. This legislation does not include that specific designation.

**MOTION:** **Rep. Dayley** made a motion to introduce **RS 23352C1**. **Motion carried by voice vote.**

**RS 23443:** **Rep. Luker** presented **RS 23443** which would reclassify various fireworks violations. The proposed legislation would set a \$100 infraction fine for lesser firework offenses. In the case of offenses involving moving vehicles or use of fireworks in severe fire areas the proposed legislation would provide for an initial infraction of \$250, and for a subsequent conviction within two years, a misdemeanor with up to a \$1,000 fine.

**MOTION:** **Rep. Perry** made a motion to introduce **RS 23443**. **Motion carried by voice vote.**

**H 82:** **Major Steve Richardson**, ISP presented **H 82**, which would authorize the Idaho State Police to close or restrict use of a highway or road for public safety and to make technical corrections. Examples of necessary closures or restrictions could include felony situations involving felony stops, stand-offs and/or shots fired, hazardous materials incidents, and crashes involving significant or total road blockage, as well as certain fast developing weather events such as dust storms. Road closures or restrictions involved with these types of situations are typically fairly short-term in duration. This legislation would enhance public safety, provide legal immunity and streamline the process. The Idaho Department of Transportation is co-sponsoring this legislation.

**Rep. Nye** invoked Rule 38 stating a possible conflict of interest.

**MOTION:** **Rep. Trujillo** made a motion to send **H 82** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

**Holly Koole Rebholtz**, IPAA introduced a fact pattern for the Day in the Life of a Case presentation. The purpose of this presentation is to provide the committee with a better understanding of the role each agency plays throughout the course of a case. (See attachment 1.)

Detective **Brian Holland**, Boise Police Department, explained from a law enforcement officer's perspective the steps and considerations he would make during a traffic stop.

**Bryan Taylor**, Idaho Prosecuting Attorneys Association, outlined the role of the prosecutor's office, based on the details of the stop **Detective Holland** provided. (See attachment 2.)

**Ian Thomson**, Idaho Public Defense Commission, explained the role of the public defender.

Senior District Judge, **Barry Wood**, Idaho Supreme Court, explained the role of the court in the instance of a change of plea or sentencing.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:52 PM.

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Representative Wills  
Chair

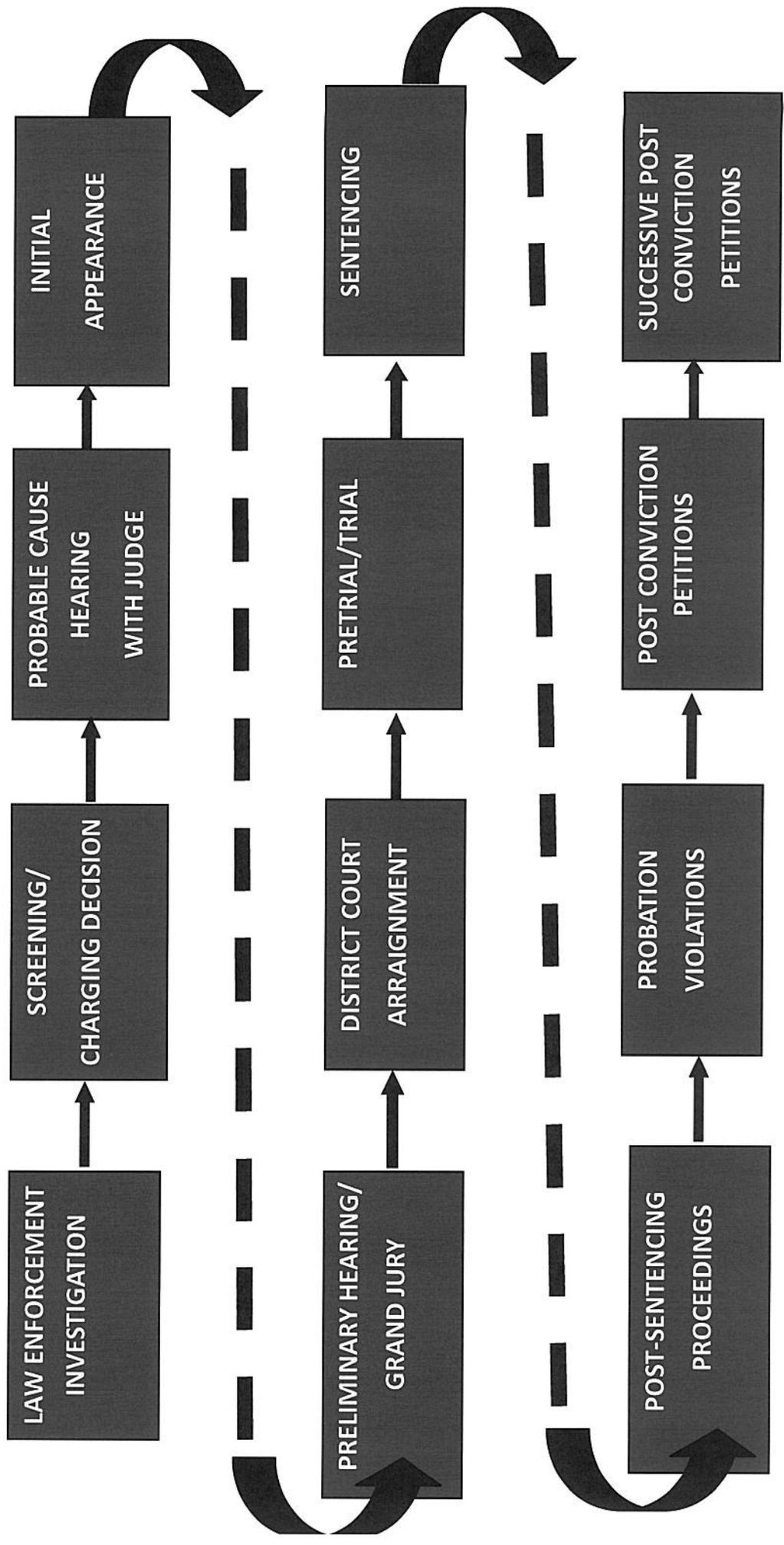
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Katie Butcher  
Secretary

# Fact Pattern

- On Feb 1 2014, Joe is driving his vehicle on State street and is stopped for failing to signal. Police approach the car and notice that Joe (driver, only passenger in the vehicle, vehicle is registered to him) has rapid speech, his chest is rising and falling rapidly, he is fidgeting. Believing that Joe is under the influence of a controlled substance, police call for a K9 and K9 alerts on the vehicle. The vehicle is searched and in the center console a white crystal substance is found and NIK tests positive for methamphetamine. Police, post Miranda, question Joe and he admits the meth in the car belongs to him and he has been using meth for 2 years. Joe is charged with one count of possession of controlled substance methamphetamine. Joe waives his preliminary hearing and pleads guilty to felony possession of controlled substance in district court. Joe has no prior felony criminal record but has multiple misdemeanors

# FELONY FLOW CHART



**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, February 11, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS23507</a>	Criminal Procedure, Penalty Revise	Rep. Luker
<a href="#">RS23528C1</a>	Tobacco infractions, minors	Rep. Luker
<a href="#">H 61</a>	Juvenile Corrections	Michael Henderson, Idaho Supreme Court
<a href="#">H 62</a>	Victim Restitution	Senior District Judge, Barry Wood, Idaho Supreme Court
<a href="#">H 64</a>	Imprisonment	Michael Henderson, Idaho Supreme Court

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Wednesday, February 11, 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:** Patti Tobias; Holly Koole Rebholtz, IPAA; Scott Brandy, IPAA; Leah Little; Vanessa Rodriguez; Bekah Serrato; George Gutierrez; Ian Thomson, IPDC; Dan Blocksom, Idaho Association of Counties.

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

**RS 23507:** **Rep. Luker** presented **RS 23507**. This proposed legislation would amend two statutes that contain variable fine amounts for infraction fines, to have fixed fine amounts.

**MOTION:** **Rep. Malek** made a motion to introduce **RS 23507**. **Motion carried by voice vote.**

**RS 23528C1:** **Rep. Luker** presented **RS 23528C1**, which would reclassify violations for minors in possession of tobacco. The proposed legislation would set a \$300 infraction fine for a first offense, and maintain a misdemeanor for subsequent offenses with an increased fine of \$300 to \$500, and reduce potential jail time from 6 months to 30 days.

In response to questions from the committee, **Rep. Luker** explained infractions require a set fine amount and the fine for underage possession of tobacco would be \$300, he was not opposed to changing the fine amount to \$17.50.

**MOTION:** **Rep. Malek** made a motion to return **RS 23528C1** to the sponsor. **Motion carried by voice vote.**

**H 61:** **Michael Henderson**, Idaho Supreme Court presented **H 61**, which would clarify the court may exercise both options, placing the juvenile in the custody of the Department and then providing that the juvenile may be on probation following the release from custody. Allowing the courts to do so, will help ensure that the juvenile makes a successful transition to the community and can be provided with supervision and services to continue to promote his rehabilitation. This legislation would also provide guidance regarding the length of the probation, which would be up to three years after the release from custody, but not past the offender's 21st birthday. It would also require a hearing within 30 days after the juvenile's release from custody to determine the terms and conditions of probation.

In response to questions from the committee, **Mr. Henderson** clarified, that as of the hearing date, the juvenile would simultaneously be in the custody of the Idaho Department of Juvenile Corrections and on probation.

**Rep. Malek** made a motion to send **H 61** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Perry** will sponsor the bill on the floor.

**H 62:** Senior District Judge, **Barry Wood**, Idaho Supreme Court, presented **H 62**. Mr. Wood stated victims have a constitutional right to be reimbursed for economic loss; however, it is often difficult for a crime victim to collect on the judgment. This bill would extend the lien period from five years to twenty years, allowing the victim additional time to collect on the judgment. The victim will continue to be allowed to renew the lien in five year increments following the initial twenty years.

**MOTION:** **Rep. Trujillo** made a motion to send **H 62** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nye** requested to be recorded as voting **NAY**. **Rep. Scott** will sponsor the bill on the floor.

**H 64:** **Michael Henderson**, Idaho Supreme Court, presented **H 64**. The intent of this legislation is to provide clarity and fairness with respect to giving credit for time spent in incarceration prior to sentencing or to a revocation of probation. Presently, there is no statute that would allow the defendant to receive credit for jail time served as a condition of probation if the defendant's probation is later revoked and he is ordered to serve the suspended sentence. As a matter of fairness, and consistency with the intent of the Legislature in providing maximum periods of incarceration, the defendant should receive credit for the time served as a condition of probation. In addition, this legislation is intended to clarify that a defendant will receive credit for the time spent after service of a bench warrant for a violation of probation, or after being arrested by his probation officer for a probation violation, if his probation is subsequently revoked and he is ordered to serve the suspended sentence.

In response to questions from the committee, **Mr. Henderson** explained the difference in each district's use of credit for time served differs based on the preference of the district judge.

**Scott Bandy**, Idaho Prosecuting Attorneys Association (IPAA), stated the Department of Correction has had difficulty calculating credit for time served and distinguishing between pre-judgement incarceration and jail incarceration as a term and condition of probation. A resolution was considered to distinguish between the two at the time of disposition by the district court judge. IPAA believes the process of not being given credit for jail incarceration as a term and condition of probation has been used as a deciding point or as the benefit of the bargain for the offender to receive probation. The jail days that are ordered as a term or condition of probation are less onerous and less burdensome on the offender, allowing them to easily schedule with their probation officer around any family or work obligations and participate in custody programming. The legislation would undermine the probation officer's ability to supervise their offenders and potentially disincentivize the offender's participation and compliance with probation. In addition, it will increase the difficulty Department of Correction already has when attempting to maintain discharge at 150%, because it would consume a larger portion of the fixed sentence, resulting in longer incarceration into the indeterminate time and delayed programming.

In response to questions from the committee, **Mr. Bandy** clarified IPAA opposes this legislation. If an offender receives credit for time served it would use a large portion of their fixed sentence, requiring the offender to stay longer due to the programming they have yet to receive in the institution which is needed in order for them to qualify for release. A fixed portion of the sentence is only a portion of the total sentence and it would not be possible for an offender to have more credit than their remaining sentence. IPAA endorses giving the offender the incentive to perform in the community and believe this can be accomplished by the use of discretionary jail days at the parole officer's discretion. Discretionary jail days would no longer be a useful tool if the offender is given credit for time served.

**Mr. Henderson** clarified the intention of this bill is not to discourage courts from imposing jail time as a condition of probation or discretionary jail time, both of which are tools that are currently used and can continue to be used. The intent of this bill is if the offender has served time, discretionary jail time or additional jail time as a condition of probation, they would receive credit for that time if later their probation is revoked.

**MOTION:** **Rep. Trujillo** made a motion to send **H 64** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McDonald** requested to be recorded as voting **NAY.** **Rep. Nye** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:44 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Friday, February 13, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS23430</a>	Jail Litigation Reform	Michael Kane, ISA
<a href="#">RS23410</a>	Discretionary Jail Fund	Michael Kane, ISA
<a href="#">RS23411</a>	Rule of 80	Michael Kane, ISA
<a href="#">RS23481</a>	county jails, repeals	Michael Kane, ISA
<a href="#">RS23482</a>	duels, law repealed	Michael Kane, ISA
<a href="#">RS23556</a>	No Contact Orders	Holly Koole Rebholtz, IPAA
	Department Update	Kevin Kempf, Director, Department of Corrections

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Friday, February 13, 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:** Reps. Wills, Wintrow

**GUESTS:** Holly Koole, IPAA; Don Drum, PERSI; Michael Kane, ISA; Adam Jarvis, DFM; Dan Blocksom, Idaho Association of Counties; Ian Thomson, IPDC.

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

**RS 23430:** **Michael Kane**, Idaho Sheriffs Association, presented **RS 23430**. The purpose of this proposed legislation is to simplify the process involving prison and jail lawsuits brought by prisoners based upon prison and jail conditions in the state courts. It is modeled on the federal Prison Litigation Reform Act. The intent is to reduce frivolous claims, allow the court to act as a gate keeper to eliminate the clearly frivolous filings and require the inmate to exhaust his remedies at the jail or prison before it comes before the court.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 23430**. **Motion carried by voice vote.**

**RS 23410:** **Michael Kane**, Idaho Sheriffs Association, presented **RS 23410**. The intent of this proposed legislation is to ensure the cost of housing probationers and parolees committed to a county jail for discretionary jail time, is borne by the state rather than county property taxpayers.

**MOTION:** **Rep. Perry** made a motion to introduce **RS 23410**. **Motion carried by voice vote.**

**RS 23411:** **Michael Kane**, Idaho Sheriffs Association, presented **RS 23411**. The intent of the proposed legislation is to 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).

**MOTION:** **Rep. Trujillo** made a motion to introduce **RS 23411**. **Motion carried by voice vote.**

**RS 23481:** **Michael Kane**, Idaho Sheriffs Association, presented **RS 23481**. The intent of the proposed legislation is to repeal an obsolete law requiring permission from a district judge before a sheriff moves a prisoner in cases of "pestilence or contagious disease." It also repeals an obsolete law regarding expenses or removing a person from the county jail.

**MOTION:** **Rep. Perry** made a motion to introduce **RS 23481**. **Motion carried by voice vote.**

**RS 23482:** **Michael Kane**, Idaho Sheriffs Association, presented **RS 23482**. The intent of the proposed legislation is to repeal an obsolete law regarding jurisdiction in cases of fighting duels.

**MOTION:** **Rep. Sims** made a motion to introduce **RS 23482**. **Motion carried by voice vote.**

**RS 23556:** **Holly Koole Rebholtz**, IPAA presented **RS 23556**. The intent of the proposed legislation is to clarify that the court may issue an order forbidding the defendant from engaging in prohibited conduct defined by the order.

**MOTION:** Rep. Malek made a motion to introduce **RS 23556. Motion carried by voice vote.**

Director **Kevin Kempf**, Idaho Department of Correction, updated the committee on changes made throughout the last year in the department. **Debbie Field** was recently confirmed as the board chairman, where she serves with **Howard "J.R." Van Tassel** and **Dr. David McClusky**. The department is currently assessing the agency's staff, exactly what it is they do and how they can best utilize each position; as well as their structure and processes. The Security Retention Plan is the department's first priority. They are losing their experienced staff and currently only 50% have more than two years of experience. In addition, they are losing new officers and currently 64% of their officers have less than two years of experience. The Department transferred to the Idaho State Correctional Center in July, and the yard has been completely transformed. This transformation is one of several meaningful opportunities the department strives to provide for inmates. Idaho Correctional Industries also provides meaningful opportunities and inmates are achieving new levels of education, whether it is vocational training or completing their GED. Treatment has gone up each year, but it works, helps and does reduce recidivism.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:40 PM.

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Representative Dayley  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, February 17, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS23617</a>	State Police Contracts	Maj. Richardson, Idaho State Police
<a href="#">RS23610</a>	Bail, failure to appear	Barry Wood, Idaho Supreme Court
<a href="#">RS23528C2</a>	Tobacco infractions, minors	Rep. Luker
<a href="#">RS23628</a>	Debris on highways, misdemeanor	Rep. Luker
<a href="#">RS23619</a>	Fish and game infractions, penalty	Rep. Luker
<a href="#">RS23608</a>	Juror compensation	Rep. Gannon
<a href="#">RS23626</a>	Justice system, effective dates	Rep. Wills
<a href="#">RS23473C1</a>	Sexual, violent offenders registry	Rep. Anderst
<a href="#">RS23620</a>	Concealed weapon license fee revise	Michael Kane, Idaho Sheriffs Association

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher  
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MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Tuesday, February 17, 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. Nate

**GUESTS:** Holly Koole, IPAA; Michael Kane, ISA; Teresa Baker, ISP; Steve Richardson, ISP; Marsi Woody, ISP; Barry Wood, ISC; Robert Anderst, HD12; Curtis Homer; Ian Thomson, IPDC; Dawn Peck, ISP; Dan Blocksom, Idaho Association of Counties.

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

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

**MOTION:** **Rep. Dayley** made a motion to approve the minutes of the February 9, 2015, meeting. **Motion carried by voice vote.**

**RS 23617:** **Major Steve Richardson**, Idaho State Police presented **RS 23617**. The Attorney General's Office has advised Idaho State Police that they do not have clear authority to contract with a private company or entities for certain services provided by ISP. The lack of ability to "contract" does not allow ISP to recoup costs associated with services provided to assist private companies to accomplish necessary tasks such as the safe transportation of mega loads, ensuring safety and security for the FDIC during bank closings, or ensuring safety and security for large-scale events such as festivals or events taking place on public roadways or otherwise significantly impacting public safety. ISP has sought and received approval for these services through the Board of Examiners to pay over time, and the Board of Examiners is aware these payments were the result of contracts or agreements between ISP and private entities. Over the course of fiscal years 2013 and 2014 there were three projects each year, resulting in over time reimbursements between \$33,604 and \$38,419. This proposed legislation 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. Trujillo** made a motion to introduce **RS 23617**. **Motion carried by voice vote.**

**RS 23610:** Senior District Judge, **Barry Wood**, Idaho Supreme Court presented **RS 23610**. The intent of this proposed legislation is to address closing a very narrow loophole that has been discovered in the Idaho Bail Act, adopted in 2009, and applies **ONLY** to those who have a bench warrant for failure to appear in Court.

**MOTION:** **Rep. Kerby** made a motion to introduce **RS 23610**. **Motion carried by voice vote.**

- RS 23528C2:** **Rep. Luker** presented **RS 23528C2**, which addresses minors in possession of, distribution of, or using false identification to obtain tobacco. This proposed 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 introduce **RS 23528C2**. **Motion carried by voice vote.**
- RS 23628:** **Rep. Luker** presented **RS 23628**. This proposed legislation reclassifies 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.
- MOTION:** **Rep. Gannon** made a motion to introduce **RS 23628**. **Motion carried by voice vote.**
- RS 23619:** **Rep. Luker** presented **RS 23619**. This proposed legislation would reclassify fish and game violations from a misdemeanor to an infraction. Similar to **RS 23298**, the proposed changes would affect certain grouse permits, taking of upland birds with exceptions, public use restrictions, evidence of species and Henry's Lake fishing limits; however, the use of certain live bait was removed. The bill also maintains the fine for existing infractions at \$72 but removes reference to the Idaho infraction rules. It also sets a \$250 fine for the infractions being migrated from misdemeanor to infraction status.
- MOTION:** **Rep. Gannon** made a motion to introduce **RS 23619**. **Motion carried by voice vote.**
- RS 23608:** **Rep. Gannon** presented **RS 23608**. This proposed legislation would provide that jurors are compensated \$50 for each day served in excess of 5 days. The counties will continue to pay the minimum payment of \$10 per day and the balance will be reimbursed to the counties from a fund financed by a \$2 increase in civil filing fees. The jury pay raise will be implemented over a two year period so that the \$2 filing fee fund has time to accumulate funds.
- Rep. McMillan** stated her support and co-sponsorship of the proposed legislation. She believes it is important that jurors be compensated when their jury duty is extended beyond the five days, especially because other officers of the court have received increases in compensation and salary.
- MOTION:** **Rep. McCrostie** made a motion to introduce **RS 23608**. **Motion carried by voice vote.**
- Chairman Wills** turned the gavel over to **Vice Chairman Dayley**.
- RS 23626:** **Rep. Wills** presented **RS 23626**, which extends 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. Kerby** made a motion to introduce **RS 23626**. **Motion carried by voice vote.**
- Vice Chairman Dayley** turned the gavel over to **Chairman Wills**.

**RS 23473C1:** **Rep. Anderst** presented **RS 23473C1**. The purpose of this proposed legislation is to amend the Sexual Offender Registration Notification and Community Right-To-Know Act and require certain violent offenders to register under this act. This proposed legislation amends Title 18, Chapter 83, Idaho Code renaming the act to the Sexual and Violent Offender Registration Notification and Community Right-To-Know Act, and requires certain violent offenders to register under the act. These amendments are brought forward to provide a greater level of safety to the community and victims, allowing access to offender locations for public safety awareness and effective law enforcement. Violent offenses included under these amendments are: battery with intent to commit a serious felony, felony domestic violence, attempted strangulation, first or second degree murder, assault with intent to murder, first and second degree kidnapping and human trafficking. At its core, this bill is about knowledge that can protect a victim who has been violently or sexually assaulted.

**MOTION:** **Rep. Trujillo** made a motion to introduce **RS 23473C1**. **Motion carried by voice vote.**

**RS 23620:** **Michael Kane**, Idaho Sheriffs Association, presented **RS 23620**. The purpose of this bill is to amend the fee for applying for a concealed weapons permit from \$20 to \$40. The fee has not been adjusted in over 20 years, and the actual cost of processing the fee at the county level is well over \$20.

**MOTION:** **Rep. McCrostie** made a motion to introduce **RS 23620**. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:18 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, February 19, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 101</a>	Criminal Procedure	Rep. Luker
<a href="#">H 102</a>	Curfews, penalties/juveniles	Rep. Luker
<a href="#">H 121</a>	Criminal Procedure, Penalty revise	Rep. Luker
<a href="#">H 139</a>	Duels	Michael Kane, Idaho Sheriffs Association
<a href="#">H 138</a>	County jails, repeals	Michael Kane, Idaho Sheriffs Association

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
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MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Thursday, February 19, 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:** Michael Kane, ISA; Holly Koole Rebholtz, IPAA; Kathy Griesmyer, ACLU; Holly Cook.

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

**MOTION:** **Rep. Dayley** made a motion to approve the minutes of the February 11, 2015, meeting. **Motion carried by voice vote.**

**Chairman Wills** thanked **Nicholas Wills** for his service as a page.

**H 101:** **Rep. Luker** presented **H 101** which repeals two statutes and is related to a group of bills to reclassify low level misdemeanors to infractions to reduce public defense work load and cost. Neither statute has been used recently. The first statute makes it an offense to refuse or neglect to assist the county law enforcement in making an arrest. The second statute addressed tampering with a vehicle, but is addressed by other laws.

**MOTION:** **Rep. Kerby** made a motion to send **H 101** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

**H 102:** **Rep. Luker** presented **H 102** which reclassifies curfew violations from a low level misdemeanor to an infraction and sets a \$150 infraction fine for curfew violations.

**MOTION:** **Rep. McDonald** made a motion to send **H 102** to the floor with a **DO PASS** recommendation.

In response to a question from the committee, **Rep. Luker** noted that this bill would only apply to state law, and would not specifically change a city ordinance. Most cities consider a curfew violation to be a misdemeanor and the city fine would be more than the amount set in this bill.

**VOTE ON MOTION:** **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

**H 121:** **Rep. Luker** presented **H 121** which amends two statutes to have fixed fine amounts for infraction fines instead of the previously set variable fine amounts.

**MOTION:** **Rep. Nye** made a motion to send **H 121** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

**Kathy Griesmyer**, ACLU expressed their support for **H 101** and **H 102**. (See attachment 1.)

**H 139:** **Michael Kane**, Idaho Sheriffs Association presented **H 139** which repeals an obsolete law regarding jurisdiction in cases of fighting duels.

- MOTION:** **Rep. Sims** made a motion to send **H 139** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Cheatham** will sponsor the bill on the floor.
- H 138:** **Michael Kane**, Idaho Sheriffs Association presented **H 138** which repeals an obsolete law requiring permission from a district judge before a sheriff moves a prisoner in cases of pestilence or contagious disease. It also repeals an obsolete law regarding expenses or removing a person from the county jail.
- MOTION:** **Rep. McCrostie** made a motion to send **H 138** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.
- ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:58 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

## SUPPORT HB 101

### Repealing refusing assistance to an officer and tampering with a vehicle

Mr. Chairman and members of the committee, my name is Kathy Griesmyer and I'm the Public Policy Strategist for the American Civil Liberties Union of Idaho. The ACLU of Idaho is a non-partisan, non-profit organization dedicated to protecting the civil rights of all Idahoans, including the fundamental rights to free speech, freedom to and from religion, privacy, and due process. I'm here today to testify in support of HB 101 and to encourage each of you to vote yes in sending the legislation forward to the House floor with a do pass recommendation.

The changes considered by this legislation strike a balance for how to appropriately deal with offenses that do not merit jail time. Over the past several decades our criminal justice system has been inundated with more misdemeanor statutes that have ultimately resulted in a higher burden for courts, prosecutors, public defenders and those accused of committing an offense.

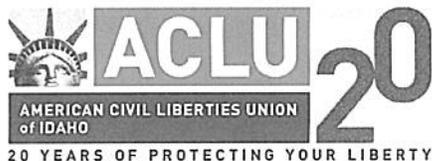
Our current public defense system is unsustainable and as the legislature grapples with how to fix it, these misdemeanor repeals serve as only a symbolic effort in alleviating the burdens defenders face in the court room every day, but the legislature must take further action. These bills will have no real or meaningful impact; our public defender system will remain as broken and under-resourced as it has been for too long.

For example, based on a 2013 report from the Idaho Courts listing misdemeanor charges for the year, there were only 27 charges related to refusing assistance to officers and only 18 charges related to tampering with a vehicle.

An excessive number of misdemeanor crimes at the municipal and state level have put huge pressure on the ailing indigent defense system. Every charge that carries the threat of jail time triggers the requirement to provide constitutionally adequate representation to that person. The more charges are brought, the more lawyers must be provided, and this legislation will restore a proper balance to the criminal justice system.

In a 2009 report from the National Association of Criminal Defense Lawyers titled "The Terrible Toll of America's Broken Misdemeanor Courts", they stated that public defenders and judges across the country have noted that misdemeanor case loads are clogged with crimes that should not be punishable with expensive incarceration. With less misdemeanor crimes on the books, it allows for public defenders to focus their energy and resources on more important cases where there is a higher chance or threat level for incarceration. At the same time, while reducing low-level misdemeanors to infractions, we can be sure that there are no major impacts to public safety, while also saving taxpayer dollars as we spend less on costly incarceration.

While reclassification is not, by itself, "the solution" to indigent defense problems, it is a sensible and practical way to go about reducing pressure on the system and freeing up resources for more serious offenses. But the legislature will have to look at misdemeanors that are commonly charged, like driving without privileges, if it wants to have any effect. We ask that you vote yes in sending HB 101 forward with a do pass recommendation.



## SUPPORT HB 102

### Reclassifying the penalty for juvenile curfew violation to an infraction

Mr. Chairman and members of the committee, my name is Kathy Griesmyer and I'm the Public Policy Strategist for the American Civil Liberties Union of Idaho. The ACLU of Idaho is a non-partisan, non-profit organization dedicated to protecting the civil rights of all Idahoans, including the fundamental rights to free speech, freedom to and from religion, privacy, and due process. I'm here today to testify in support of HB 101 and to encourage each of you to vote yes in sending the legislation forward to the House floor with a do pass recommendation.

The changes considered by this legislation strike a balance for how to appropriately deal with offenses that do not merit jail time. Over the past several decades our criminal justice system has been inundated with more misdemeanor statutes that have ultimately resulted in a higher burden for courts, prosecutors, public defenders and those accused of committing an offense.

Our current public defense system is unsustainable and as the legislature grapples with how to fix it, these misdemeanor repeals serve as only a symbolic effort in alleviating the burdens defenders face in the court room every day, but the legislature must take further action. These bills will have no real or meaningful impact; our public defender system will remain as broken and under-resourced as it has been for too long.

For example, based on a 2013 report from the Idaho Courts listing misdemeanor charges for the year, there were only 12 charges related to juvenile curfew violations.

An excessive number of misdemeanor crimes at the municipal and state level have put huge pressure on the ailing indigent defense system. Every charge that carries the threat of jail time triggers the requirement to provide constitutionally adequate representation to that person. The more charges are brought, the more lawyers must be provided, and this legislation will restore a proper balance to the criminal justice system.

In a 2009 report from the National Association of Criminal Defense Lawyers titled "The Terrible Toll of America's Broken Misdemeanor Courts", they stated that public defenders and judges across the country have noted that misdemeanor case loads are clogged with crimes that should not be punishable with expensive incarceration. With less misdemeanor crimes on the books, it allows for public defenders to focus their energy and resources on more important cases where there is a higher chance or threat level for incarceration. At the same time, while reducing low-level misdemeanors to infractions, we can be sure that there are no major impacts to public safety, while also saving taxpayer dollars as we spend less on costly incarceration.

While reclassification is not, by itself, "the solution" to indigent defense problems, it is a sensible and practical way to go about reducing pressure on the system and freeing up resources for more serious offenses. But the legislature will have to look at misdemeanors that are commonly charged, like driving without privileges, if it wants to have any effect. We ask that you vote yes in sending HB 101 forward with a do pass recommendation.

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, February 23, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 163</a>	Justice System	Rep. Wills
<a href="#">H 104</a>	Debris, highways, property	Rep. Luker
<a href="#">H 160</a>	Debris on highways, misdemeanor	Rep. Luker
<a href="#">H 136</a>	County jail, probationers/parolees	Michael Kane, Idaho Sheriffs Association
<a href="#">H 137</a>	Retirement police, deputy sheriffs	Michael Kane, Idaho Sheriffs Association
<a href="#">H 157</a>	State police contracts	Maj. Richardson, Idaho State Police

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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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.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, February 25, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 158</u></a>	Bail, failure to appear	Barry Wood, Idaho Supreme Court
<a href="#"><u>SCR 103</u></a>	Public defense reform commission	Sen. Lakey
<a href="#"><u>H 162</u></a>	Juror Compensation	Rep. Gannon
<a href="#"><u>H 159</u></a>	Tobacco infractions, minors	Rep. Luker

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
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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

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
1:30 or Upon Adjournment  
Room EW42  
Tuesday, March 03, 2015

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1026</a>	Driving privileges, DUI	Michael Henderson, Idaho Supreme Court
<a href="#">S 1027</a>	Senior judge eligibility	Michael Henderson, Idaho Supreme Court
<a href="#">S 1029</a>	Fraud, financial transaction cards	Michael Henderson, Idaho Supreme Court
<a href="#">HCR 013</a>	Idaho State Police, rule rejection	Rep. Wills

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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MINUTES

**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Tuesday, March 03, 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:** Reps. Gannon, Perry

**GUESTS:** Michael Henderson, ISC; Barry Wood, ISC; Holly Koole, IPAA.

**Vice Chairman Dayley** called the meeting to order at 2:49 PM.

**S 1026:** **Michael Henderson**, Idaho Supreme Court, presented **S 1026**. This bill was submitted to correct uncertain language in Idaho Code concerning driving under the influence of alcohol or drugs. There is conflicting language regarding whether or not a defendant may have a restricted driver's license after the first year of a license suspension. This bill would clarify the language by stating that the court shall suspend the defendant's driving privileges, of any kind, for one year. It would allow the suspension of privileges to be extended up to four years, allowing for restricted driving privileges if necessary for employment or family health needs. This is the same standard for granting restricted driving privileges that applies in the case of first-time DUIs. This will help to resolve any possible conflict regarding license suspensions for third-time DUI offenders.

**MOTION:** **Rep. Wills** made a motion to send **S 1026** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McDonald** will sponsor the bill on the floor.

**S 1027:** **Michael Henderson**, Idaho Supreme Court, presented **S 1027**. The purpose of this bill is to correct provisions regarding the outside activities of senior judges. Current statutes regarding senior judges contain provisions stating that they cannot accept a position in another branch of state government, any political subdivision, or a position in the government of the United States or another state or nation. These provisions are far more sweeping than the provisions that apply to active, sitting judges. The restrictions on the activities of senior judges should be no more limiting than those that apply to the activities of active senior judges.

**MOTION:** **Rep. Cheatham** made a motion to send **S 1027** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nate** will sponsor the bill on the floor.

**S 1029:** **Michael Henderson**, Idaho Supreme Court, presented **S 1029**. This bill is intended to correct an omission in Idaho Code relating to FTCs and FTC numbers. The current language implies that acquiring an FTC or FTC number from another without the consent of the card holder or issuer, even if done innocently and with no evil intent, is a felony. This bill corrects this omission by adding the intent to use to defraud, to the crime of acquiring an FTC or FTC number.

**MOTION:** **Rep. McCrostie** made a motion to send **S 1029** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** will sponsor the bill on the floor.

**HCR 13:** **Rep. Wills** presented **HCR 13**. This Concurrent Resolution rejects rule **11.11.01.052.02** of the Idaho Peace Officers Standards and Training contained in **Docket No. 11-1101-1403** relating to applicants who are home schooled and removes the section requiring them to have a GED in order to apply to POST.

**MOTION:** **Rep. Sims** made a motion to send **HCR 13** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wills** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:16 PM.

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Representative Dayley  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
1:30 or Upon Adjournment  
Room EW42  
Thursday, March 05, 2015

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1034</a>	Prisoners, juvenile escape	Sharon Harrigfeld, Idaho Department of Juvenile Corrections
<a href="#">S 1051</a>	Informal probate	Robert Aldridge, TEPI
<a href="#">S 1052</a>	Spendthrift trusts	Robert Aldridge, TEPI

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Thursday, March 05, 2015  
**TIME:** 1:30 or Upon Adjournment  
**PLACE:** Room EW42  
**MEMBERS:** Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek (Malek), Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow  
**ABSENT/  
EXCUSED:** Reps. Wills, Wintrow, Perry, McMillan and Luker  
**GUESTS:** Sharon Harrigfeld, IDJC; Bob Aldridge, TEPI.

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

**S 1034:** **Director Sharon Harrigfeld**, Idaho Department of Juvenile Corrections, presented **S 1034**. This bill would close a gap in the law. Current law states that a person over the age of 18 in custody on a juvenile case should be adjudicated for escape under the Juvenile Corrections Act (JCA). JCA states there is no jurisdiction for acts committed by persons over 18. Anyone over 18 who escapes on a juvenile case cannot be prosecuted under the JCA or the current statute in magistrate court. **S 1034** would revise the law to allow those over 18 who escape on a juvenile case to be adjudicated as adults in adult court. It is logical, since they are committing a crime by escaping and they are an adult because they are over 18, that the case be handled in adult court.

**MOTION:** **Rep. Gannon** made a motion to send **S 1034** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

**S 1051:** **Robert Aldridge**, Trust and Estate Professionals of Idaho (TEPI) presented **S 1051**. This bill is to clarify an ambiguous and vague provision in the Idaho Probate Code. The original code was intended to say that conflicting documents could not be filed for probate in the original petition for probate. For example, two different wills could not be filed in a single probate case by the petitioner, essentially asking the court to figure out which was the correct one. However, a will and one or more codicils have not been deemed to be conflicting. The language used was not clear and should be clarified.

**MOTION:** **Rep. McCrostie** made a motion to send **S 1051** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

**S 1052:** **Robert Aldridge**, Trust and Estate Professionals of Idaho (TEPI) presented **S 1052**. This bill corrects the use of the wrong word by replacing it with the correct word. The statute pertains to spendthrift trusts, which are trusts designed to prevent the beneficiary from selling or assigning their rights in the trust, and to prevent creditors of the beneficiary from invading the trust to pay the debt. The statute should have referred to an "ascertainable standard", which is a standard for distribution that is clear, such as: health, education, support and maintenance, one of the most frequently used ascertainable standards. However, instead the phrase was written as "ascertainable standing", which doesn't fit in the context of that section. It is an obvious typographical error and should be corrected.

**MOTION:** **Rep. Nye** made a motion to send **S 1052** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nye** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:40 PM.

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Representative Dayley  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 or Upon Adjournment**  
**Room EW42**  
**Monday, March 09, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1014</a>	Exemption of property, attment/levy	John Mackey
<a href="#">S 1035</a>	Juvenile Corrections	Sharon Harrigfeld, Idaho Department of Juvenile Corrections
<a href="#">S 1004</a>	Board of Correction, inmate incentive pay	Josh Tewalt, Department of Correction
<a href="#">S 1054</a>	Documents Act	Robert Aldridge, TEPI

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills  
 Vice Chairman Dayley  
 Rep Luker  
 Rep McMillan  
 Rep Perry  
 Rep Sims

Rep Malek  
 Rep Trujillo  
 Rep McDonald  
 Rep Cheatham  
 Rep Kerby  
 Rep Nate

Rep Scott  
 Rep Gannon  
 Rep McCrostie  
 Rep Nye  
 Rep Wintrow

COMMITTEE SECRETARY

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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.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
1:30 or Upon Adjournment  
Room EW42  
Tuesday, March 17, 2015

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 241</a>	Orders prohibiting conduct	Holly Koole Rebholtz, IPAA
<a href="#">S 1025</a>	Uniform business organizations code	Mike Brassey
<a href="#">S 1109</a>	UBOC, repeals	Mike Brassey
<a href="#">S 1056aa</a>	Nonprobate transfers	Robert Aldridge, TEPI
<a href="#">S 1040aa</a>	Criminal procedures	Sara Thomas, State Appellate Public Defender

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

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MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Tuesday, March 17, 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:** Holly Koole Rebholtz, IPAA; Grant Loeb, IPAA; Whitney Welsh, Ada County Prosecutors Office; Laurie Nolan, Ada County Prosecutors Office; Sara Thomas, State Appellate Public Defender; Robert Aldridge, TEPI; Mike Brassey, Uniform Law Commission; David Jensen, Uniform Law Commission; Sandra Meyer, IPAA; Ian Thompson, IPDC; Bill Vasconcellas, UBS Financial Services.

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

**MOTION:** **Rep. Dayley** made a motion to approve the minutes of the March 9, 2015, meeting. **Motion carried by voice vote.**

**H 241:** **Holly Koole Rebholtz**, Idaho Prosecuting Attorneys Association (IPAA) presented **H 241**. This bill creates a new title, violation of an order prohibiting conduct, for Idaho Code 18-920. Presently the law allows for a no contact order to be issued when a criminal case has been filed and the order is only valid once it has been served on the defendant. If the order is violated it becomes a new criminal case, and the defendant must have a criminal jury trial and be found guilty beyond a reasonable doubt. The intent of this title change is to move the conversation away from the word contact and change it to a violation of an order prohibiting conduct. In order to adequately protect victims, Idaho Code 18-920 must delegate power to the court to issue an order prohibiting conduct. An order prohibiting conduct must be broader than "contact", and must allow Idaho Judges discretion to narrowly tailor the order based on the facts and circumstances of each case. The purpose of an order prohibiting conduct is to protect victims from being re-victimized. The courts need the ability to respond to the specific needs of each case. The judge can only set the terms of the order based on facts that are reasonably related to the case, the judge cannot abuse their discretion.

In response to questions from the committee, **Ms. Rebholtz** clarified that if charges have been filed and the charges do not include use of a gun, an individuals gun rights would not be addressed in the court order. Changing the court order to include an all inclusive "or" would not address the question of what contact means. Does contact have an ordinary definition and does that definition apply to this order. Changing the order to an order prohibiting conduct is a preemptive action due to the direction the prosecutors believe the orders are going. By changing the order to conduct it gives the judge the opportunity to look at the specific incidents of the case, which is not possible with a no contact order. Simply revising the order won't fix the situation; however, revising the order will remain an option.

**Grant Loeb**s, Idaho Prosecuting Attorneys Association (IPAA) testified in support of **H 241**. The best option for a victim is to allow judge discretion, based on the facts presented and the behavior observed, to add conduct to the order. There is nothing that prohibits the legislature from delegating this discretion to the court. It is not likely judges would abuse this discretion since the orders must pertain specifically to the details of the case. In light of *State v. Herren*, it is important judges are allowed to tailor the order to the specific case.

In response to questions from the committee, **Mr. Loeb**s, explained the options before the committee are to continue with the narrowly defined definition of contact; to define and list what defines contact; or to allow the judge, who is familiar with the case, to determine what conduct should be included in the order. The sidebar designated for the judge is in place by stating the restrictions must be reasonably related to the case. Additionally, the defense will have representation in the court room to challenge any restrictions in the court order and the order can be modified as necessary. The current code addresses contact and it is up to the judge to determine what contact is. The intent of this bill is to remedy the issue that occurred when the judge in *State v. Herren* determined being within a certain distance as contact even though it was not defined as contact in the no contact order. Mr. Loeb explained even though references to victims have been removed from the statute, context for the statute is found in the crimes listed, all of which involve a victim.

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

**Whitney Welsh**, Ada County Deputy Prosecuting Attorney testified in support of **H 241**. The intent of this bill is to bring notice and clarity to this statute for both the State and the defense. Presently the statute only prohibits contact, resulting in a gray area for victims and especially defendants. A more appropriate tool would be a prohibited conduct order which provides clarity and protection for both parties.

In response to questions from the committee, **Ms. Welsh** stated she is not familiar with similar language being used by other states. Similar statutes in Idaho would be the violation of protection order statute. The Ada County no contact order includes items that are not contact and not in statute.

**MOTION:** **Rep. Nye** made a motion to send **H 241** to the floor with a **DO PASS** recommendation.

**SUBSTITUTE MOTION:** **Rep. Gannon** made a substitute motion to send **H 241** to General Orders with an amendment as follows: Add to page 1, line 17 the words, "forbidding certain contact by the defendant with another person as defined by the order."

**AMENDED SUBSTITUTE MOTION:** **Rep. Luker** made an amended substitute motion to **HOLD H 241** in committee. Roll call vote was requested. **Motion carried by a vote of 11 AYE, 6 NAY. Voting in favor** of the motion: **Reps. Dayley, Luker, McMillan, Perry, Sims, Trujillo, Cheatham, Nate, Scott, McCrostie, and Nye. Voting in opposition** to the motion: **Reps. Malek, McDonald, Kerby, Gannon, Wintrow and Chairman Wills.**

**S 1025:** **Mike Brassey**, Uniform Law Commissioner presented **S 1025**. The original intent was to harmonize unincorporated business organizations, such as partnerships, limited partnerships, limited liability companies and unincorporated non profit organizations, for the purpose of easier use by practitioners. It was determined that all statutes pertaining to unincorporated business organizations should be updated with the most modern language and definitions. For this purpose, the Uniform Law Commissioners requested members of the Corporate and Business section of the Bar form a committee. However, after years of work, the committee determined all statutes pertaining to business, including assumed business names and professional organizations, should be reorganized into one section. The result of their work is **S 1025**.

**David Jensen**, chairman of the committee assigned to update the statutes, testified **in support of S 1025**. The committee was comprised of members of the Corporate and Business section of the Bar and representatives from the Secretary of State's Office. They reviewed existing acts Idaho had adopted and noted slight variations in each act. The committee's principle objective was to harmonize the language and definitions throughout the sections of code without changing any substantive content. Additionally, the committee included Assumed Business Names (ABN) and Professional Entities in Idaho Code despite their absence in the uniform act and did not adopt statutory trusts or limited cooperative associations despite their inclusion in the uniform act. The uniform act does not address registering out of state entities who are conducting business in the state as an entity that is not recognized by the state. There was no mechanism for these entities to register with the Secretary of State and so the committee added a mechanism to Idaho Code.

In response to a question from the committee, **Mr. Jensen** explained that although it could be possible substantive changes were made although that was not the committee's objective. No fees were increased and the fee amounts were provided by the Secretary of State. It is possible some fees were added due to new filings provided for in the act but the new fees would be consistent with fees originally in the section.

**MOTION:** **Rep. Nye** made a motion to send **S 1025** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** requested to be recorded as voting **NAY.** **Rep. Malek** will sponsor the bill on the floor.

**S 1109:** **Mike Brassey** presented **S 1109**. This bill is a trailer bill to **S 1025** and repeals laws that were inadvertently not repealed in the first bill. In addition, it amends statutory references pertaining to professional licensing statutes referring to professional corporations statutes and cleans up some language.

**MOTION:** **Rep. Malek** made a motion to send **S 1109** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Malek** will sponsor the bill on the floor.

**S 1056aa:** **Robert Aldridge**, Trust and Estate Professionals of Idaho (TEPI) presented **S 1056aa**. This bill creates the ownership method of community property with right of survivorship for personal property. The Idaho Legislature has passed legislation allowing community property with right of survivorship in real property. That enactment has greatly helped estate planning for married couples who want to pass their real property to each other at first death and want to avoid having to probate the property to get that passage. All that is needed is the recording of a death certificate to automatically transfer the property to the surviving spouse. This bill extends that same concept to personal property which is essentially any property that is not real property.

**Bill Vasconcellas**, UBS Financial Services testified **in support of S 1056aa**. Presently when you open an investment account you can only title the account as joint tenancy with the right of survivorship or community property with no survivorship. The risk with titling the account as joint tenancy with the right of survivorship is the IRS can determine you do not get a step up in basis for the second half of the community property.

**MOTION:** **Rep. Trujillo** made a motion to send **S 1056aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

**S 1040aa:** **Sara Thomas**, State Appellate Public Defender, presented **S 1040aa**. This bill is designed to make the statute consistent and to clearly designate when a defendant can claim ineffective assistant of council. The statute is unclear and does not designate a specific time, it simply says successive petitions must be filed in a reasonable amount of time from when the defendant knows there is a issue. The courts have continuously held a reasonable amount of time in a capital case is 42 days. If the defendant makes their claim of ineffective assistance of council within the 42 days, the State Appellate Public Defender (SAPD) must simultaneously represent the defendant in the appeal and handle the defendants claim of ineffective assistance of council. The confusion in the statute and the determined reasonable amount of time results in lack of clarify for the defendant about when they should file a claim and SAPD being forced to pay out of their operating expenses for a conflict attorney to handle the case, who might not even be necessary if the appeal is won or the sentence is overturned. Potentially it could result in issues with Federal Courts and it has created inconsistent procedure in Idaho Courts. SAPD proposes the time to file a successive petition claiming ineffective assistant of council be set to run from the date of the final remittitur.

**MOTION:** **Rep. Trujillo** made a motion to send **S 1040aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Perry** will sponsor the bill on the floor.

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

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 4:03 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
1:30 or Upon Adjournment  
Room EW42  
Thursday, March 19, 2015

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1069aa, aa</a>	Judgment enforcement time	Sen. Davis
<a href="#">S 1053aa</a>	Guardians Presentation on Utah's Child Protection Registry	Robert Aldridge, TEPI Evelyn Everton, Unspam Technologies.

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher  
Room: EW56  
Phone: 332-1127  
email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Thursday, March 19, 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:** Chairman Wills

**GUESTS:** Evelyn Everton, Unspam Technologies; Robert Aldridge, TEPI; Senator Davis; Jared Larsen.

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

**S 1069aa,aa:** **Sen. Davis** presented **S 1069aa,aa**. This bill amends Idaho Code regarding the recovery of money issued, or renewed on or after July 1, 2015, to be enforceable up to ten years. The amendments on this bill pertain to the effective date. Simply put, once you get a money judgment, this bill determines the life of the money judgment.

**MOTION:** **Rep. McDonald** made a motion to send **S 1069aa, aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McDonald** will sponsor the bill on the floor.

**S 1053aa:** **Robert Aldridge**, Trust and Estate Professionals of Idaho (TEPI) presented **S 1053aa**. A limited number of attorneys acting as Guardians ad Litem have taken the position that the second half of paragraph (2) of Section 15-5-316 and paragraph (2) of Section 15-5-435 is not limited to carrying out the duties of the Guardian ad Litem, but instead makes the Guardian ad Litem a sort of "super guardian" and "super conservator" who can take any action that the person could have taken, including making medical or living decisions, changing investments, and so forth. This assumption of super rights by the Guardian ad Litem has created major problems for properly handling the case, both before and after appointment of a guardian and/or conservator. Often the actions taken will be in direct opposition to the actions of the guardian or conservator. This bill clarifies and carries out the original intent of the code sections by providing that the rights and powers of the Guardian ad Litem are to fulfill their duties under the Code. This will keep the Guardian ad Litem in the proper role.

**MOTION:** **Rep. Malek** made a motion to send **S 1053aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

**Evelyn Everton**, Unspam Technologies presented information on Utah's Child Protection Registry. In this registry Utah families can register their child's contact point which is a E-mail address, mobile phone number, instant messenger id, social networking id and fax numbers. Registered contact points are protected from adult oriented marketing. There is no fiscal impact to Utah or taxpayers. The registry is enforced by families if their child continues to receive messages after thirty days. (See attachment 1.)

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:25 PM.

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Representative Dayley  
Chair

---

Katie Butcher  
Secretary



**EVELYN EVERTON**

SPokesPERSON \* UTAH CHILD PROTECTION REGISTRY

435.513.2631

*evelyn@unspam.com*  
donotcontact.utah.gov



# Utah Child Protection Registry

## **What is the Utah Child Protection Registry?**

Modeled after national Do-Not-Call legislation and successfully implemented in Utah and Michigan, the Utah Child Protection Registry is a “Do-Not-Contact” program that allows families to prevent adult product solicitations to their electronic contact points. This registry blocks advertisements or promotions primarily of products that minors are prohibited from purchasing, including alcohol, tobacco, gambling, pornography and illegal drugs.

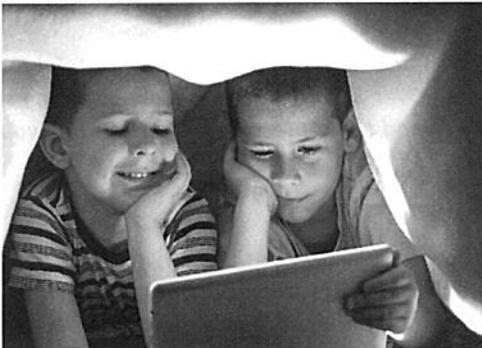


## **Why is a registry like this important?**

Children as young as two are spending more time on computers, tablets and cell phones than ever before. Marketers, selling adult-oriented products, are also using technology more and more to promote their brands and services. Unfortunately, the solicitations these companies are sending are falling in front of the eyes of minors through their email, text messages and instant messenger. We have laws in place to protect children from this kind of marketing in stores, in magazines and on television—the registry would extend those protections to email.

## **Who can register?**

Any electronic contact point to which a minor may have access can register for this service free-of-charge, including parents, grandparents, care-givers, schools and institutions.



## **How does it work?**

Those who wish to stop adult product solicitations can register their email addresses, instant messenger IDs, and cell phone numbers at a state run website created for this purpose. Adult-oriented solicitors will then scrub their contact lists against the registry. Registered emails and other "contact points" will then be removed. The marketers will NOT have access to the actual contact point information.

## **Do children still use email?**

Social media sites and mobile apps require an email address to register for their service. Many schools require children to have email addresses to correspond with their teachers. Email is still a preferred form of communication and will continue to be into the future.

## **How is the registry enforced?**

Violations will be reported by recipients, at which point fines may be assessed. Marketers have 30 days to scrub registered contact points from their lists before complaints may be filed.

## **What's the fiscal impact?**

The registry is funded by charging adult product marketers a small fee based on the number of addresses they check against the registry, so there will be no fiscal impact to any state that participates. In fact, the Utah and Michigan registries have generated revenue for those states.

## **Does it work?**

Today over 1 million contact points have been protected in both Utah and Michigan. Both states have generated over \$1.25 Million in revenue to protect children online. Millions of adult content messages have been blocked from targeting children and families.

# **TESTIMONIALS**

## **Representative Greg Hughes**

### **Speaker, Utah House of Representatives**

*"As a legislator I am constantly balancing the needs of my constituents with the cost involved. The Utah Child Protection Registry has been able to provide a valuable service to families while bringing positive revenue to the state. A win-win for taxpayers and children in our state."*

## **House Representative Eric Hutchings**

### **District 38, Salt Lake County**

*"Over the years that I have served in the legislature I have become increasingly concerned that we smother our youth with inappropriate and sometimes disturbing material from the internet, and then we stand back in wonderment and watch them acting out in ways that children a generation ago could not have even fathomed. From the first day that I was introduced to the Utah Kids Registry I have been an avid supporter. Finally we have an effective way of keeping adult marketing a little further away from our children. Every year I am a little more impressed with how effective this program has been, and I am proud to have been involved early on."*

## **Tibby Milne, CEO**

### **Utah Council For Crime Prevention**

*"A major part of the Utah Council for Crime Prevention's mission is the protection of children and their families. We are grateful for the Utah Child Protection Registry that serves as a valuable tool to help us reach this goal. Over 350,000 Utah individuals, homes, schools, businesses, and other organizations have recognized the importance of the Registry and the protection it offers. Thank you for helping us 'take a bite out of Crime'."*

## **Lane Beattie, Salt Lake Chamber President**

*"We believe a thriving business community and the well-being of our residents together contribute to a positive environment that makes Salt Lake a desirable place to live. The Utah Child Protection Registry has given parents the ability to ensure our most precious resource, children, are protected from those marketing enticements that can be harmful to young minds. Not only has the impact on local business been negligible, we consider this program to be a great asset to our members and families."*

## **Governor Rick Snyder**

### **Governor of Michigan**

*"I am confident that, under the leadership of Secretary of State Johnson and with the department's resources, the program will deliver the best possible service for Michigan families."*

## **Secretary of State Ruth Johnson**

### **Michigan Secretary of State**

*"It's a struggle for parents to just keep up with the new social media sites and the online games our kids are using. But this registry is an easy and simple way to put some controls in place. Our department has contact with more Michigan citizens than any other state agency and that provides an ideal opportunity for us to advance the mission of this registry and protect our children."*



## Privacy and the Utah Child Protection Registry

### **Are contact points stored in the system?**

Privacy is paramount to the Utah Child Protection Registry and as such the registry never stores contact points. In order to accomplish this, contact points are “salted” and then converted to 32 digit codes with a technology referred to as “hashing”. Only the resulting hashes are stored within the registry. When adult product marketers scrub their list it is converted into the same 32 digit codes and only the “fingerprint” is compared.

***\*\*Even if the data center was broken into and the registry server was stolen, the contact points could not be retrieved because only the hash codes are stored and cannot be converted to the original contact point.***

### **What is hashing? How is hashing different than encryption?**

Hashing and encryption are two ways of securing information. Encryption lets you later recover the original text by decrypting it. Hashing summarizes text into a short fingerprint that **can't be decrypted**. Here's how it works:

With just a hashed fingerprint, there's no way to know exactly which text was summarized even though any given text always produces the same fingerprint. Only the hashed fingerprint of the email addresses and phone number registered are stored for each corresponding person.

When an adult product marketer imports its data file, that data is hashed locally. When the hashed IDs are uploaded, the registry compares it to find all the matching IDs. If a marketer imports a hashed email address that isn't contained in the registry, it won't match anything. The registry won't know the original email address, so it never receives a marketer's list. In this way, the registry is able to scrub marketers list without either company's data leaving its respective servers.

***\*\*Hashing is considered to be the industry's best practice and is utilized by companies like Facebook and Google.***

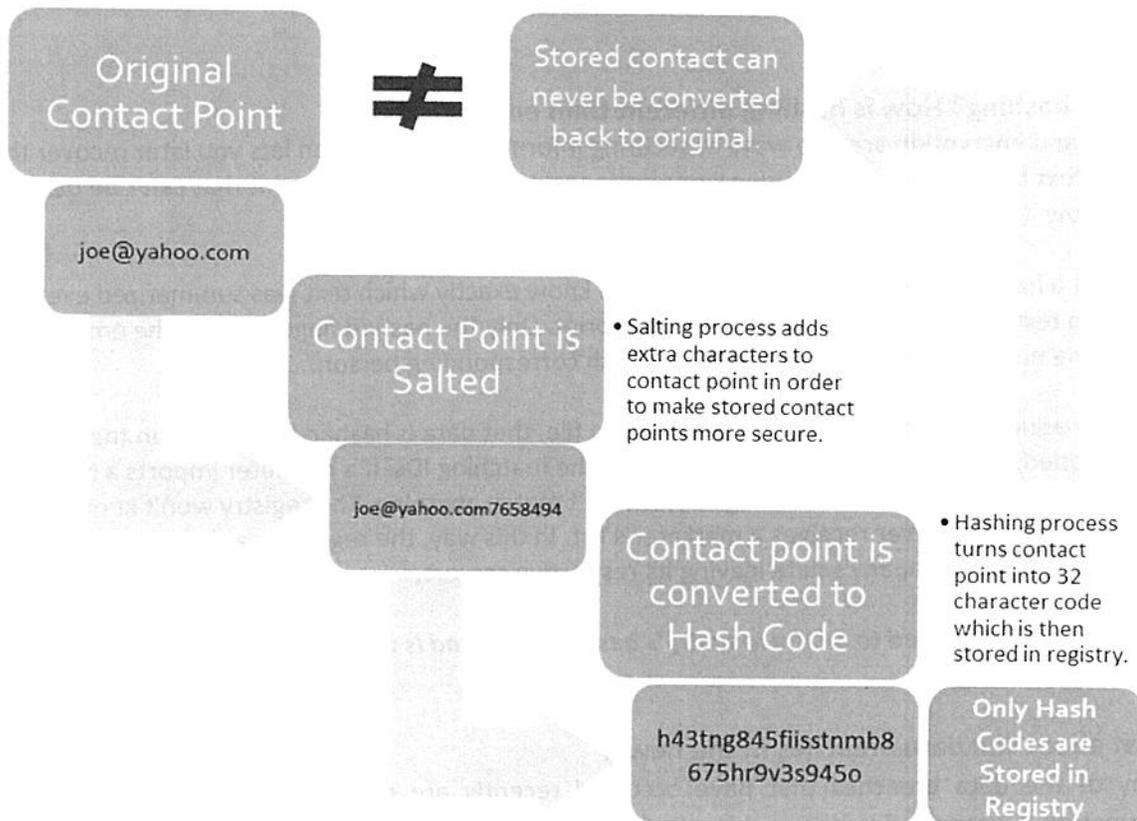
### **What about the data breaches in the news?**

Many of the data breaches that have occurred recently are due to the fact that customer information is encrypted and stored in a way that it can be retrieved and used. Contact points in the registry never need to be accessed once they are converted into the 32 character hash code. ***As such, a hacker trying to get into the system would only find codes instead of usable data.*** This process ensures that both the marketers and the state's list are kept completely private.

## Can a bad actor obtain a list of minors' contact information from the registry?

No. The registry does not distinguish between a contact point belonging directly to an adult or a minor. When a solicitor checks their list against the registry, the only information they receive is if a person on their list has taken the affirmative step to mark a contact point as off-limits to adult content. The actual contact points are not stored within the system. Marketers who apply to scrub their lists with the state face an identity verification process in which business names registered with the state, physical addresses and IP addresses are verified. Additionally, marketers are contacted for further verification prior to being able to check their lists.

## Salting and Hashing Process



# UTAH HOUSE OF REPRESENTATIVES

GREG HUGHES  
SPEAKER OF THE HOUSE

350 N. STATE ST., SUITE 350  
SALT LAKE CITY, UT 84114  
DISTRICT 51, SALT LAKE COUNTY



TEL: (801) 538-1930  
FAX: (801) 326-1544  
email: greghughes@le.utah.gov

January 13, 2015

To Whom It May Concern,

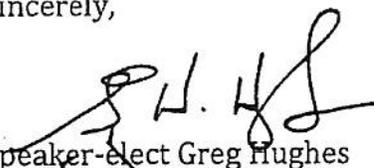
It has come to my attention that your state is considering passing legislation to create a Child Protection Registry. In 2005, the Utah Child Protection Registry was created and since then millions of adult advertisements have been blocked from reaching children in our state. This program has been extraordinarily successful in Utah and I would encourage you to support this bill.

I often hear from constituents they are concerned with the barrage of negative advertising messages their children are exposed to. In a state like Utah, where family values and protecting our youth is a high priority, helping parents mitigate that exposure to children has been a welcome service. The Utah Child Protection Registry contains over 500,000 registered contact points, successfully shielding children from harmful enticements while still protecting Utah family's privacy.

It is rare that government can provide a service to families while not creating extra burden on taxpayers but the Child Protection Registry has been able to accomplish just that. As a legislator, I am constantly balancing the needs of my constituents with the cost involved. The Utah Child Protection Registry has been able to provide a valuable service to families while bringing positive revenue to the state. A win-win for taxpayers and children in our state.

Utah has proven to be a successful testing ground for this program over the last nine years and I would encourage you to support this program. Please feel free to contact me for any additional questions you may have.

Sincerely,

  
Speaker-elect Greg Hughes  
Utah House of Representatives





January 8, 2015

To Whom It May Concern,

It has come to the attention of the Salt Lake Chamber that your state legislature is considering the implementation of a Child Protection Registry. We are writing this letter in order to help your members know what our experience has been with the Utah Child Protection Registry over the last 9 years.

Since 2004, the Salt Lake Chamber has not experienced any negative business impact as a result of this program. The scope of the registry has been limited to those businesses that market alcohol, tobacco, pornography, gaming and illegal drugs, with no other industries being affected. Additionally, these are products that should not be marketed to minors and because the registry is completely optional for individuals who do not wish to receive these advertisements, we fully support the objectives of this program.

We believe that a thriving business community and the well being of our residents contribute to a positive environment that makes Salt Lake City a desirable place to live and work. The Utah Child Protection Registry has given parents the ability to ensure our most precious resource; children, are protected from those marketing enticements that can be harmful to young minds. Not only has the impact on local businesses been negligible, we consider this program to be a great asset to our members and their families.

We support this program in our community and applaud our legislature for giving Utah parents an extra tool in protecting their children online. Please feel free to contact me for any additional questions you may have.

Sincerely,

Lane Beattie  
President and CEO Salt Lake Chamber



**AMENDED AGENDA #2**  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 or Upon Adjournment**  
**Room EW42**  
**Monday, March 23, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1033aa</a>	Criminal history records/fingerprints	Sen. Burgoyne
<a href="#">SCR 124</a>	Admin. hearing officer committee	Sen. Burgoyne
<a href="#">S 1092</a>	Knives	Sen. Heider
<a href="#">S 1041aa</a>	Sexual Offender Management Board	Kathy Baird, Department of Correction
<a href="#">S 1136</a>	Parole violations, hearing officers	Sandy Jones, Commission of Pardons and Parole

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills  
 Vice Chairman Dayley  
 Rep Luker  
 Rep McMillan  
 Rep Perry  
 Rep Sims

Rep Malek  
 Rep Trujillo  
 Rep McDonald  
 Rep Cheatham  
 Rep Kerby  
 Rep Nate

Rep Scott  
 Rep Gannon  
 Rep McCrostie  
 Rep Nye  
 Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
 Room: EW56  
 Phone: 332-1127  
 email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
1:30 or Upon Adjournment  
Room EW42  
Wednesday, March 25, 2015

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1135aa</a>	Claim of lien, owner, deed of trust	Sen. Davis

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher  
Room: EW56  
Phone: 332-1127  
email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Wednesday, March 25, 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:** Representative(s) Kerby, Gannon, Perry

**GUESTS:** Mike Snowball; Holly Koole, IPAA.

**Chairman Wills** called the meeting to order at 2:40 PM.

**S 1135aa:** **Jared Larsen** presented **S 1135aa** pertaining to mechanics liens for materials and labor. This bill aims to overturn a line of Supreme Court decisions known as Parkwest Two. A mechanic or material man has the ability to place a lien for the material or labor completed, but has not been recovered. The lien is placed on the property as long as the requirement for listing the name of the owner or reputed owner is met. In Parkwest Two, it was determined the creditor did not substantially comply with this requirement, which resulted in the lien not being attached to the property and the obligation not being repaid. This bill removes the requirement for a trustee to be listed.

**Rep. Sims** invoked Rule 38 stating a possible conflict of interest but that she would be voting on the legislation.

**MOTION:** **Rep. McCrostie** made a motion to send **S 1135aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:47 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 or Upon Adjournment**  
**Room EW42**  
**Friday, March 27, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1154aa</a>	Criminal history record, expungement	Sen. Rice
<a href="#">S 1170</a>	Judges, justices qualifications	Sen. Burgoyne

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills

Vice Chairman Dayley

Rep Luker

Rep McMillan

Rep Perry

Rep Sims

Rep Malek

Rep Trujillo

Rep McDonald

Rep Cheatham

Rep Kerby

Rep Nate

Rep Scott

Rep Gannon

Rep McCrostie

Rep Nye

Rep Wintrow

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Friday, March 27, 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:** Reps. Perry, McMillan, Dayley, Sims and Malek

**GUESTS:** None

**Chairman Wills** called the meeting to order at 1:01 PM.

**S 1170:** **Sen. Burgoyne** presented **S 1170** which improves Idaho's judicial qualifications statutes by filling in qualification gaps, making the qualifications consistent and crediting legal experience in the military or as a judge toward the current legal requirements in the statutes. Current gaps and omissions in the code are as follows: the judicial qualifications in Idaho Code only apply to District Judges; magistrate judges are not required to be citizens of the United States or legal residents of Idaho; Court of Appeals Judges and Justices of the Supreme Court are not required to be registered to vote; no judicial position is required to have a clean ethical record; and, current legal experience requirements do not recognize military legal experience. This bill corrects these omissions and would require the following for all Idaho Judicial Officials: the individual must be 30 years of age; a United States citizen; a legal resident of Idaho for 2 years; lawfully registered to vote; in good standing as active or judicial members of the Idaho State Bar for at least 2 years; and have a minimum of 5 years legal experience for magistrate courts and 10 years legal experience for all other judicial officials.

**MOTION:** **Rep. McCrostie** made a motion to send **S 1170** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wills** will sponsor the bill on the floor.

**S 1154aa:** **Sen. Rice** presented **S 1154aa**. Slavery has become a criminal enterprise both in the case of labor and sex trafficking. Victims are often forced to commit crimes including prostitution and robbery which can result in criminal convictions and arrest records. Law enforcement and prosecutors do not wish to prosecute these victims for crimes they were coerced or forced to commit. Arrests, convictions and prosecutions become public record and interfere with the victims ability to get a job, a house or further their education. This bill provides a mechanism for victims with Idaho arrests, prosecutions and convictions to be expunged. A petition would be filed with the court where the arrest, prosecution or conviction occurred. Their burden of proof is to prove they were a victim of human trafficking and were required to commit the crime by their abductor. If the court grants the victim's petition the court would vacate any conviction and expunge the record, resulting in the victim being able to swear under oath that they were not arrested or convicted.

**MOTION:** **Rep. Kerby** made a motion to send **S 1154aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Youngblood** will sponsor the bill on the floor.

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

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

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:21 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
1:30 or Upon Adjournment  
Room EW42  
Thursday, April 02, 2015

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<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1181</a>	Session, laws, journals	Rep. Gannon
<a href="#">S 1182</a>	Uniform business code	Mike Brassey

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
Room: EW56  
Phone: 332-1127  
email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**

**DATE:** Thursday, April 02, 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:** Representative(s) Perry  
**GUESTS:** None  
**MOTION:** **Chairman Wills** called the meeting to order at 11:44 AM.  
**Rep. Dayley** made a motion to approve the minutes of the March 27, 2015, meeting. **Motion carried by voice vote.**  
**Chairman Wills** turned the gavel over to **Vice Chairman Dayley**.  
**S 1181:** **Rep. Wills** presented **S 1181**, which removes outdated publishing and distribution language and seeks to determine which session laws need to be printed for the following years as a cost saving measure.  
**MOTION:** **Rep. Trujillo** made a motion to send **S 1181** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.  
**Vice Chairman Dayley** turned the gavel over to **Chairman Wills**.  
**S 1182:** **Mike Brassey**, Idaho Uniform Law Commissioner, presented **S 1182**. This bill adjusts the transition provisions of the business organization code. These provisions are not uniform and are handled differently in each state. This bill sets the effective date for the Non Profit Corporation Act to July 1, 2015 for the purpose of having the same effective date as the Business Corporation Act. This bill also delays the repeal of the existing laws relating to partnerships, limited partnerships and limited liability companies until July 1, 2017 due to confusion created by **S 1025** pertaining to the adoption of the uniform transition period.  
**MOTION:** **Rep. Dayley** made a motion to send **S 1182** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.  
**Chairman Wills** thanked **Erin Feeley** for her service as a page, and **Katie Butcher** for her service as the committee secretary.  
**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 11:58 AM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, April 09, 2015**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1067</a>	Health-welfare, family support act	Kandee Yearsley, Department of Health and Welfare

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Thursday, April 09, 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:** Patricia Felts; Russ Smerz, Leadership Council; Katherine Frazier; Ronalee Linsenmann; Jared Tatro, LSO; Paula Davina; Dale Pearce; Doug Davina; Tom Munds; Steve Pugmire; Kandee Yearsley, DHW; Andrea Sorensen, DHW; Cade Hulbert, DHW; Elizabeth Allan Hodge; Jerry Steele; Scott Keim, Office of the Attorney General; Alan Hodge.

**Chairman Wills** called the meeting to order at 1:53 PM.

**MOTION:** **Rep. Dayley** made a motion to approve the minutes from the April 2, 2015, meeting. **Motion carried by voice vote.**

**S 1067:** **Kandee Yearsley**, Department of Health and Welfare presented **S 1067**. This bill relates to the Uniform Interstate Family Support Act or UIFSA and pertains to the enforcement of child support obligations both internationally and throughout the United States. Idaho has participated in international child support enforcement since at least 1976 under the previous versions of the UIFSA. In all previous versions of UIFSA the term state has been defined to include foreign countries.

The 2007 Hague Convention necessitates some changes to the Uniform law and by extension, some changes to Idaho law. These changes have resulted in the 2008 Amendments to the Uniform Interstate Family Support Act which are contained in **S 1067** which was developed by the Uniform Law Commission. As a condition of receiving federal welfare related program funding, Idaho, like all states, is required to maintain an approved child support enforcement program, because child support payments serve to lessen welfare case loads and costs. Since 1996, one of the requirements for an approved program has been the mandatory enactment of UIFSA.

On September 18, 2014, Congress passed legislation, known as the Preventing Sex Trafficking and Strengthening Families Act, requiring all states, including Idaho, to update their version of UIFSA to adopt the 2008 Amendments to the Uniform Act in a verbatim manner. If Idaho does not do so this legislative session, it could lose \$30.4 million per year in federal welfare program funding and an additional \$16.2 million per year in federal child support enforcement funding. All 50 states must enact the 2008 version of UIFSA. The convention and amendments will improve the ability of Idaho children to receive child support from parents who are overseas. Many foreign countries will not process child support requests from beyond their borders without a treaty obligation to do so.

Currently Idaho has over 156,000 child support enforcement cases. Only 97 of those have an international component, 76 of the 97 cases involve a support order against an individual living in a foreign country and only 21 involve a support order on behalf of a child living in a foreign country. The number of countries participating in the convention exceeds the number of countries with which the U.S. has been able to negotiate bilateral agreements, and these bilateral agreements do not include all the provisions for administrative cooperation included in the convention. For example, under current law, U. S. and Idaho families can receive support enforcement services through state enforcement programs. By enacting the 2008 uniform law amendments and participating in the convention, the states assure that these services will also be extended by the foreign countries signing on to the convention.

Most of the amendments are technical, simply assuring Idaho can: lawfully receive and when appropriate, enforce foreign child support orders; can send other countries Idaho child support orders to be enforced overseas; and can redirect child support payments to the appropriate agency to ensure distribution to the family or to the agency that may be providing benefits.

Other important and substantive provisions include: defining when Idaho, other states and foreign countries will have jurisdiction to decide child support questions for a particular child; assuring that only one child support order is controlling; providing that hearings can be conducted by electronic means so that parents who owe or are owed child support and are not in the same place can participate in court hearings without having to travel; providing that child support "records" include those in electronic form so that "records" can be sent quickly and efficiently over long distances, so courts have a complete record of evidence and jurisdictional documents; providing when a parent has fulfilled his or her support duty under a controlling order, another tribunal cannot force further payments; assuring Idaho will not be required to enforce manifestly unjust support orders which includes Idaho's concepts of due process; providing an agreement for a support order obtained by fraud or falsification is not valid; providing an Idaho proceeding to enforce a foreign support order must be suspended if the foreign order is being challenged or appealed in the foreign country and vice versa; providing an Idaho court cannot modify a foreign support order if the person ordered to pay support is a resident of that country and is appealing or challenging that order; and providing Idaho residents always have the right to challenge an order from another state or country.

This bill enhances the ability of Idaho children to obtain child support payments from overseas parents in a world that sees ever increasing numbers of people living outside their countries.

In response to questions from the committee, **Ms. Yearsley** explained that the process of obtaining child support from a parent who is no longer living in the same state or country as their child, is enforced by the Office of Child Support Enforcement which is under the Department of Health and Human Services and is assisted by the Federal Office of Child Support Enforcement.

**Patricia Felts; Russ Smerz**, Leadership Council; **Katherine Frazier; Ronalee Linsenmann** testified in opposition to **S 1067**. This bill does not promote state sovereignty which is of the utmost importance. The program should be managed by the State without federal involvement, monetary or otherwise. The United Nations' policies do not reflect the values held by Idahoans and should not dictate the laws they live under.

**Jared Tatro**, Legislative Services, provided information regarding the funding that would be lost if **S 1067** was not passed. The federal government has indicated funding will immediately cease, affecting all cases the Department is enforcing. The loss of federal dollars would result in the loss of a state child support enforcement program, which would result in the loss of the TANF grant, which would result in the workforce being reduced to approximately 55 employees who could be funded by the State Department of Health and Welfare. (See attachment 1).

In response to questions from the committee, **Scott Keim**, Deputy Attorney General, explained the reference to AT-14-11, in the letter from the Department of Health and Human Services, is a statement of intent and policy requirement. The act is the framework for the state and the interpretation and application is determined by the judiciary branch. The two concerns that have been raised include: adding "or foreign country" to the code, and that a decision made by a Sharia Law Tribunal would supersede law in Idaho. However, it is important to note, due process is increased by the 2008 amendments because they assure Idaho will not be required to enforce manifestly unjust support orders which includes Idaho's concepts of due process. Also, foreign country has already been defined in the code due to the adoption of the 2001 amendments.

**Paula Davina; Dale Pearce; Tom Munds; Steve Pugmire; Elizabeth Allan Hodge; and Sen. Nuxoll** testified in opposition to **S 1067**. This bill has the potential to result in additional litigation and court costs, and is in direct opposition to the constitution. Signing agreements with foreign agencies, such as the Hague Convention, is not in the best interest of the citizens of Idaho. Choosing to not pass this bill would be a step in the right direction to limit the federal government in the State of Idaho. The purpose of this bill is to recognize foreign countries that are known to have Islamic law, which does not hold the rights of women and children in high regard.

In response to questions from the committee, **Scott Keim**, Deputy Attorney General, explained the enforcement of the order is overseen by the Department of Health and Welfare. However, if the action being taken is to contest the order, the Department does not provide legal support and the individual contesting the order would have to seek private counsel. If a decision was issued by a Sharia Law Tribunal the order would be reviewed by the country before it could be enforced. States that have passed the 2008 amendments with any caveat, were only able to do so because they passed the amendments prior to the treaty being signed. Originally if all fifty states did not ratify the amendments the Department of Health and Human Services would not have been able to withhold funds; however, with the passing of the Preventing Sex Trafficking and Strengthening Families Act, all states are now required to update their version of UIFSA to adopt the 2008 Amendments to the Uniform Act in a verbatim manner.

Due to time constraints, **S 1067** will be carried over to the meeting of April 10, 2015, subject to the call of the Chair.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 4:13 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary



February 25, 2015

Kandace Yearsley  
Director, Idaho Child Support Program  
Department of Health and Welfare  
P.O. Box 83720  
Boise, Idaho 83720-0036

Dear Ms. Yearsley:

The purpose of this letter is to assist the Idaho Child Support Program in ensuring compliance with Section 301 of the Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, signed by the President on September 29, 2014. Title III, Improving International Child Support Recovery, includes provisions that make significant improvements to the child support program established under title IV-D of the Social Security Act (Act).

Section 301(f)(1) of P.L. 113-183 amends section 466(f) of the Act, requiring all states to enact any amendments to the Uniform Interstate Family Support Act "officially adopted as of September 30, 2008 by the National Conference of Commissioners of Uniform State Laws" (referred to as UIFSA 2008). UIFSA 2008 is widely supported by the child support community; because it will improve interstate case processing and ensure that more child support collections are paid to families who live in different states and countries.

Section 301(f)(3)(A) of P.L. 113-183 requires that UIFSA 2008 must be in effect in every state "no later than the effective date of laws enacted by the legislature of the State implementing such paragraph, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act." If a state has a 2-year legislative session, "each year of the session shall be deemed to be a separate regular session of the State legislature."

As stated in AT-14-11, dated October 9, 2014, in order to implement this new requirement, States will be required to submit a State plan amendment certifying to the Secretary of the Federal Department of Health and Human Services that the State has enacted UIFSA 2008 verbatim by the effective date noted in P.L. 113-183. Idaho is required to pass UIFSA 2008 in the next legislative session beginning in 2015.

A State must have an approved State IV-D plan in order to receive Federal funding under title IV-D of the Act. As stated in OCSE-AT-97-05, dated April 28, 1997, a State plan disapproval would result in immediate suspension of all Federal payments for the State's child support enforcement program. For Federal Fiscal Year (FFY) 2012, the Federal share of expenditures for the Idaho IV-D program, including incentive payments, was \$16,120,927 million.

In addition, section 402(a)(2) of the Act provides that the chief executive officer of a State must certify that the State will operate a child support program under an approved IV-D plan as a condition for

eligibility for a Temporary Assistance for Needy Families (TANF) block grant under title IV-A of the Act. Therefore, Idaho should be aware that the TANF funds might also be at risk. For FFY 2012, the TANF block grant to Idaho was \$30,412,562 million.

You also asked OCSE to provide an explanation for the requirement stated in AT-14-11 <http://www.acf.hhs.gov/programs/css/resource/pl-113-183-uifsa-2008-enactment> that all states must enact Uniform Interstate Family Support Act (UIFSA) 2008 verbatim. We have provided information on this requirement in attachment I.

We appreciate greatly your efforts and persistence in moving UIFSA 2008 forward in Idaho. We look forward to the day when all states are operating under the same version of UIFSA. There is widespread agreement that passage of uniform interstate child support laws has been extremely beneficial for improving the collection of child support in interstate cases.

Please contact me at (206) 615-3768 should you require additional clarification. OCSE is also available to provide additional assistance to Idaho for the state legislative session.

Sincerely,



Nancy J. Mathieson  
Program Specialist, Region 10  
Office of Child Support Enforcement

cc: Vicki Turetsky, Commissioner  
Office of Child Support Enforcement

Yvette Riddick, Director  
OCSE Division of Policy and Training

Levi Fisher, Regional Program Manager, Region 10  
Office of Child Support Enforcement

## Attachment I – Uniform Interstate Family Support Act

The 2008 amendments to the Uniform Interstate Family Support Act (UIFSA) represent a collaborative effort among the Uniform Law Commission, federal and state child support officials, and representatives of national child support organizations. The amendments standardize rules for the enforcement and modification of child support orders -- both domestic and international. Passed with bipartisan support, P.L. 113-183 requires all states to pass UIFSA 2008 verbatim in the current legislative session (42 USC 666(f)).

### (f) Uniform Interstate Family Support Act

In order to satisfy section 454(20)(A), each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, including any amendments officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws. (emphasis added)

OCSE believes the clear language of the statute and intent of the Congress is for states to pass UIFSA 2008 verbatim as adopted by the National Conference of Commissioners on Uniform State Laws. Moreover, the Congressional Research Services report on P.L. 113-183 notes that the law requires all states to pass UIFSA 2008 verbatim. (Copy of report available if requested).

Please note that, as with UIFSA 1996, states may replace bracketed language with terminology appropriate under state law, for instance, “[tribunal]” may be replaced with “court.” States are not required to adopt the same numbering of the uniform statute. Also, where the statute refers to other laws or statutes by article or section number, even if not included in brackets, the state may replace these references with the appropriate article or section number of that state’s statutes. OCSE will review minor, nonsubstantive, and trivial deviations between UIFSA 2008 and state law on a case-by-case basis.

The remainder of this attachment provides historical information addressing the requirement for states to adopt UIFSA 1996 and UIFSA 2008 verbatim.

### Background:

The U.S. Commission on Interstate Child Support’s Report to Congress recommended in 1992 that federal law require all states adopt UIFSA verbatim. U.S. Commission on Interstate Child Support’s Report to Congress (adopted May 21, 1992), pg. 236 (attached) “Supporting Our Children: A Blueprint for Reform” Recommendation #90 UIFSA Endorsement:

Subject to the risk of losing federal funding, states shall adopt verbatim the URESA drafting committee’s final version of UIFSA as printed in the report’s appendix, with the Act taking effect nationwide on the same date.

All 54 States and Territories with an approved title IV-D child support plan passed the Uniform Interstate Family Support Act (1996) in 1997 and 1998 (as required by federal law). As states were passing UIFSA 1996, OCSE issued this Q&A in AT-97-10.

AT-97-10 <http://www.acf.hhs.gov/programs/css/resource/miscellaneous-issues-regarding-prwora>:

## UIFSA, ADOPTION OF UNIFORM STATE LAWS

### Section 321:

Question 1: Section 321 of the PRWORA requires States by January 1, 1998 to adopt the version of UIFSA approved by the ABA on February 9, 1993 together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.

Section 321 does not use the term “verbatim” but simply says we must have in effect the Act. Are minor changes acceptable?

Answer 1: To comply with section 321 of PRWORA, States must enact, by January 1, 1998, the version of UIFSA approved by ABA on February 9, 1993 together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws. Minor changes are not acceptable nor may States substitute their own wording or leave out parts of the UIFSA. However, throughout UIFSA there are parentheticals which allow States to have a choice in terminology (e.g., section 102 gives States some flexibility in identifying which entities constitute the “tribunal” authorized to deal with family support).

In the mid-late 2000s, in reviewing exemption requests from states to adopt UIFSA 2001, OCSE determined that some states had not passed UIFSA 1996 verbatim. Then, after the Uniform Law Commission developed UIFSA 2008, several states asked OCSE if states could adopt the new UIFSA 2008. In DCL-08-41 <http://www.acf.hhs.gov/programs/css/resource/uniform-interstate-family-support-act-2008>, OCSE stated that, “The Office of Child Support Enforcement has determined that States may enact UIFSA 2008 verbatim with a provision that the effective date of its enactment will be delayed until the Treaty is ratified and the United States deposits its instrument of ratification.”

On September 29, 2014 President Obama signed Public Law (P.L.) 113-183, the Preventing Sex Trafficking and Strengthening Families Act. This law amended section 466(f) of the Social Security Act, requiring all states to enact any amendments to the Uniform Interstate Family Support Act “officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws”.

OCSE issued guidance on UIFSA 2008 in AT-14-11 <http://www.acf.hhs.gov/programs/css/resource/pl-113-183-uifsa-2008-enactment> and noted the following: “All states must enact UIFSA 2008 verbatim by the effective date noted in P.L. 113-183. Where UIFSA 2008 has bracketed language, states may use terminology appropriate under state law.” Also, in a conference call with state directors this past fall, Commissioner Turetsky and Yvette Riddick, Director, Division of Policy and Training, noted that while states need to pass UIFSA 2008 verbatim, OCSE understands that wording changes that are nonsubstantive, minor or trivial are acceptable. The Commissioner also acknowledged that numbering and section references will vary depending on the state.

Since 1996, states have been required to adopt UIFSA in order to receive federal funding for the child support program. The rationale for this requirement and the importance of “uniform” law is stated clearly in the following conference report for the Personal Responsibility and Work Opportunity Reconciliation Act.

PRWORA HOUSE REPORT NO. 104-651, pg. 1411 Mr. Kasich, from the Committee on the Budget, submitted the following R E P O R T together with MINORITY, ADDITIONAL, AND DISSENTING VIEWS Westlaw Screen #38 CHAPTER 3--STREAMLINING AND UNIFORMITY OF PROCEDURES 12. ADOPTION OF UNIFORM STATE LAWS.

**Present law:**

States have several options available for pursuing interstate child support cases including direct income withholding, interstate income withholding, and long-arm statutes which require the use of the court system in the State of the custodial parent. In addition, States use the Uniform Reciprocal Enforcement of Support Act (URESAs) and the Revised Uniform Reciprocal Enforcement of Support Act (RURESAs) to conduct interstate cases. Federal law imposes a Federal criminal penalty for the willful failure to pay past-due child support to a child who resides in a State other than the State of the obligor. In 1992, the National Conference of Commissioners on State Uniform Laws approved a new model State law for handling interstate child support cases. The new Uniform Interstate Family Support Act (UIFSA) is designed to deal with desertion and nonsupport by instituting uniform laws in all 50 States that limit control of a child support case to a single State. This approach ensures that only one child support order from one court or child support agency will be in effect at any given time. It also helps to eliminate jurisdictional disputes between States that are impediments to locating parents and enforcing child support orders across State lines. As of February 1996, 26 States and the District of Columbia had enacted UIFSA.

**Explanation of provision:**

By January 1, 1998, all States must have enacted the Uniform Interstate Family Support Act (UIFSA) and any amendments officially adopted by the National Conference of Commissioners of Uniform State Laws before January 1, 1998, and have the procedures required for its implementation in effect. States are allowed flexibility in deciding which specific interstate cases are pursued by using UIFSA and which cases are pursued using other methods of interstate enforcement. States must provide that an employer that receives an income withholding order follow the procedural rules that apply to the order under the laws of the State in which the noncustodial parent works.

**Reason for change:**

Mandatory passage and use of UIFSA is a cornerstone of a major purpose of the committee proposal-improved child support enforcement in interstate cases. Without uniform laws and procedures governing child support, the success of interstate cases will continue to be severely constrained. Virtually every witness that testified on interstate enforcement before the committee recommended that UIFSA be made mandatory. Effective date October 1, 1996, except where otherwise noted.



AGENDA  
**HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE**  
Morning Recess, Subject to the Call of the Chair  
Room EW42  
Friday, April 10, 2015

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1067</a>	Continued Discussion - Health-welfare, family support act	Kandee Yearsley, Department of Health and Welfare

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Wills  
Vice Chairman Dayley  
Rep Luker  
Rep McMillan  
Rep Perry  
Rep Sims

Rep Malek  
Rep Trujillo  
Rep McDonald  
Rep Cheatham  
Rep Kerby  
Rep Nate

Rep Scott  
Rep Gannon  
Rep McCrostie  
Rep Nye  
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher  
Room: EW56  
Phone: 332-1127  
email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Friday, April 10, 2015

**TIME:** Morning Recess, Subject to the Call of the Chair

**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:** Andrea Sorensen, DHW; Cade Hulbert, DHW; Dave Taylor, DHW; Kandee Yearsley, DHW; Russ Barron, DHW; Jared Tatro, LSO.

**Chairman Wills** called the meeting to order at 2:38 PM.

**S 1067:** **Kandee Yearsley**, Department of Health and Welfare presented **S 1067**. This bill ensures there is uniform child support enforcement across the nation and internationally. Not passing this bill will directly affect Idaho children. Ultimately, this bill empowers Idaho courts, supports Idaho children, and holds parents accountable. Most importantly, this is about supporting children financially. Including the loss of 16 million dollars, every tool used by the State Department of Health and Welfare would no longer be available for their use. This includes the: federal parent locator service, national directory of new hires, federal tax refund offset, passport denial program, federal case registry, access and visitation grants, administrative offset programs that garnish federal payments for child support, interstate automated communication tools known as CSENet, and QUICK, which is an electronic communication tool for state caseworkers to communicate real-time on interstate cases. Each tool necessary to enforcement would no longer be available. The total number of children and parents affected would be nearly 400,000.

In response to questions from the committee, **Ms. Yearsley** explained all 50 states must adopt the 2008 amendments in order for the treaty to be ratified. If the treaty is not ratified, the treaty is not in effect for the United States.

In response to questions from the committee, **Scott Keim**, Deputy Attorney General, (participating via conference call) confirmed there are no countries operating under Sharia Law jurisprudence signed on to the treaty. Foreign jurisdiction would only apply to the individual who is subject to the court order if the individual were to move to another country. If the order was created in a different country, Idaho courts cannot review the case and submit its own order in place of the original order. Idaho courts can review the facts of the case if they are set forth in the order at the time of registration. The laws of the country issuing the order can be reviewed outside of the order at any time. Idaho courts may refuse to recognize or enforce an order, resulting in the order not attaching to the individual as long as they are a resident of Idaho.

**MOTION:** **Rep. Malek** made a motion to send **S 1067** to floor with a **DO PASS** recommendation.

**SUBSTITUTE MOTION:** **Rep. Trujillo** made a substitute motion to lay **S 1067** on the table. Roll call vote was requested. **Motion carried by a vote of 9 AYE, 8 NAY. Voting in favor** of the motion: **Reps. Dayley, Luker, McMillan, Sims, Trujillo, Cheatham, Kerby, Nate, Scott. Voting in opposition** to the motion: **Reps. Perry, Malek, McDonald, Gannon, McCrostie, Nye, Wintrow and Chairman Wills.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:50 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary