

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, March 09, 2016

TIME: 1:30 or Upon Adjournment

PLACE: Room EW42

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

**ABSENT/
EXCUSED:** Representative(s) Luker, McDonald, Perry

GUESTS: Holly Koole Rebholtz, IPAA; Michael Henderson, Idaho Supreme Court; Mike Kane, ISA; Caitlin Rusche, IAC.

Chairman Wills called the meeting to order at 1:31 PM.

S 1255: **Sen. Rice** presented **S 1255**. The purpose of this legislation is to amend the law regarding the investigative power of the State Attorney General into elected county officials. The current law has proven problematic, because the current law only allows for partial prosecutorial power, which requires the investigation to be passed on to another official. The preliminary investigation must be sent back to the prosecutor but it cannot include any information due to conflict of interest, which requires it go to a conflict attorney who must go through the Attorney General's office. This takes a great deal of time. This legislation clarifies if it is clear the matter does not need further investigation, there will be no requirement to pursue it.

Michael Kane, ISA, presented **S 1255**. At this time, the Attorney General is required to investigate any accusation, no matter how de minimis or anonymous. The current law mandates the Attorney General involve himself in civil claims, however this is outside the normal function of a criminal law enforcement agency and the law does not provide a way for the Attorney General to proceed on behalf of one party or another in civil matters. The solution is to allow the Attorney General to have true prosecutorial discretion and power in criminal matters involving county elected officials. There is no fiscal impact because limiting the number of cases being pursued will not require additional people to be hired.

MOTION: **Rep. Trujillo** made a motion to send **S 1255** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

S 1327: **Michael Henderson**, ISC presented **S 1327**. This bill concerns a defect in the law pertaining to vulnerable adults. The statute defines "neglect" as a failure of a caretaker to provide certain basic needs "in such a manner as to jeopardize the life, health and safety of the vulnerable adult". The use of "and" means proving neglect requires the State to show the life of the vulnerable adult was jeopardized, in addition to his or her health or safety. This appears to make all neglect of a vulnerable adult a felony. It is believed the Legislature intended acts jeopardizing the health or safety of a vulnerable adult, but not necessarily his or her life, would be an offense punishable as a misdemeanor.

MOTION: **Rep. Kerby** made a motion to send **S 1327** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** will sponsor the bill on the floor.

S 1352: **Michael Henderson**, ISC, presented **S 1352**. This bill corrects an omission in the statute relating to guardianship. It amends Idaho Code to provide a person interested in the welfare of a ward, or a ward who is at least 14 years old, may petition the court for modification or termination of the guardianship on the grounds the modification or termination would be in the best interest of the ward. This would fill the gap in the Idaho Code and provide guidance to all persons concerned in a guardianship.

MOTION: **Rep. Trujillo** made a motion to send **S 1352** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Sims** will sponsor the bill on the floor.

H 573: **Rep. Redman** presented **H 573**. Current law allows temporary voluntary custody arrangements between families outside of the Idaho Child Protection Services foster care system. This legislation extends existing legislation to a year for temporary custody and longer for active-duty military. It adds new legislation to Idaho Code to specify non-profit organizations can be involved in helping facilitate these voluntary partnerships between families. It will provide a less restrictive option to support families in crisis before conditions rise to the level of CPS intervention. Often parents do not seek help out of fear their children will be taken into the foster care system. The average time children spend away from parents is 29 days and the parents maintain full custody of their children.

MOTION: **Rep. Dayley** made a motion to send **H 573** to the floor with a **DO PASS** recommendation.

In response to a question from the committee, **Rep. Redman** explained there are 29 states which have enacted the legislation and 3 states have policy in place. It is important for Idaho to have a policy in place so the non-profit is recognized as having the authority to act in the capacity of reviewing host families for placements. The sole responsibility, including liability and exposure, of vetting a host family will rest on the non-profit. The State cannot be liable due to the passage of this bill.

VOTE ON MOTION: **Motion carried by voice vote.** **Reps. Nate, McCrostie, Gannon, and Wintrow** requested to be recorded as voting **NAY.** **Rep. Redman** 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.

Representative Wills
Chair

Katie Butcher
Secretary