

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 21, 2017

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Luker, Vice Chairman Malek, Representatives Perry, Dayley, Trujillo, McDonald, Cheatham, Kerby, Nate, Chaney, Amador, Hanks, Zito, Zollinger, Gannon, McCrostie, 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 Library.

Chairman Luker called the meeting to order at 1:33 P.M.

RS 25173C1: **John Watts** presented **RS 25173C1**. The proposed legislation is to amend §31-3221, Idaho Code to allow a court to award credit/debit card convenience fees to a party when the party used a credit card to pay court costs and filing costs. Currently state law does not recognize credit card convenience fees as a debt owed to the court.

MOTION: **Rep. Perry** made a motion to introduce **RS 25173C1**. **Motion carried by voice vote.**

RS 25329: **Michael Henderson** Council, Idaho Supreme Court, presented **RS 25329**. The proposed legislation will correct and clarify provisions in the statutes regarding name changes. It clarifies who can petition for a name change for a minor. It also provides that an emancipated minor may petition for a name change. Also, it specifies the relatives of the minor who must be listed in the name change petition and who must be given notice of the hearing on the name change. This will provide a clear procedure for changing the name of a minor and will ensure that persons with an interest in such a name change will have the opportunity to bring their concerns to the attention of the court. The changes will also update the provision for publishing notice of a hearing on a name change petition.

MOTION: **Rep. Cheatham** made a motion to introduce **RS 25329**. **Motion carried by voice vote.**

RS 25335: **Rep. Harris** presented **RS 25335**. The proposed legislation will change the current code regarding civil asset forfeitures in several regards. Notably, modifications include: (1) vehicles would not be subject to forfeiture in connection with mere possession of a controlled substance; they would need to have been used in connection with trafficking offenses as enumerated, or to acquire ill-gotten gains; (2) property that is merely in proximity to a controlled substance is not subject to forfeiture absent a meaningful connection to a violation of the chapter; (3) mere presence of U.S. currency is not sufficient cause for a seizure or forfeiture; (4) creating a right of replevin of property while proceedings are pending provided the owners can show necessity and security; (5) courts must determine whether a property forfeiture is proportionate to the crime alleged, as is currently reflected in case law; (6) an obsolete publication provision is removed; (7) innocent owners are absolved of having to pay the state's costs associated with the seizure; (8) law enforcement may not bypass the disposition procedures and retain property without

judicial approval; and (9) reporting requirements regarding forfeited property are instituted.

MOTION: **Rep. Trujillo** made a motion to introduce **RS 25335**. **Motion carried by voice vote.**

Eric Fredrickson, Office of the State Appellate Public Defender, provided an update from their commission now staffing 23 full time and 1 part time employees. Mr. Fredrickson explained they oversee the Capital Crimes Defense Fund (CCDF) which acts as a insurance program for all 44 counties to participate in to cover additional defense costs in a capital case. There are three appellate cases handled, Direct Appeals, Habeas Corpus Appeals, and Post Conviction Appeals. For Capital Unit case types they also handle post conviction proceeding in District Court, consolidated appeals, and interlocutory appeals in post convictions.

In response to questions, **Mr. Fredrickson** explained the Ada County Prosecuting Office decides who prosecutes in capital cases.

H 180: **Rep. Thompson** presented **H 180**. This legislation will mirror the federal regulation and will clarify several issues that collection agencies are faced with. The amendment adds subsection (b) and relabels subsections (c) through (f).

MOTION: **Rep. Kerby** made a motion to send **H 180** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Thompson** will sponsor the bill on the floor.

H 146: **Rep. Wintrow and Matthew Gammet** presented **H 146**. This legislation will codify standards for sexual assault victims' access to medical examinations, as well as standards for sexual assault evidence retention and preservation. It ensures victims of sexual assault are not denied medical examinations regardless of the ability to pay for said examination. Additionally, this legislation defines evidence preservation periods based on the classification of the crimes alleged and ensures proper notification to victims upon destruction.

In response to questions, **Rep. Wintrow** said after being entered into the data base, evidence will be preserved for the periods of time outlined in the bill.

Jennifer Landhuis, Idaho Coalition, spoke in support of **H 146** due to studies showing sex offenders tend to be repeat offenders which was based on evidence. Victims report to law enforcement 30% of the time.

Greg Kingsley, Chief of Twin Falls Police spoke in support of **H 146**.

In response to questions **Mr. Kingsley** said the kits do return to the original jurisdiction and are retained as dry samples.

Ingrid Berdenell spoke in support of **H 146**.

Sheriff Donahue, Idaho Sheriff Association, spoke in opposition of **H 146**. He expressed concerns with the 55 year mark, that it seems too lengthy.

In response to questions, **Sheriff Donahue**, said 20 to 25 years should be sufficient.

In response to questions, **Rep. Wintrow** said written notification of evidence will be provided as active notification. Notification of process is online.

MOTION: **Rep. McDonald** made a motion to send **H 146** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.

H 123: **Rep. Anderst** presented **H 123**. The legislation will establish a needed legal standard simply stating that arbitrarily profiling motorcycle riders is not legal and defines what motorcycle profiling is. Because an individual rides a motorcycle or wears motorcycle paraphernalia does not mean that individual should be more likely to be detained or stopped by law enforcement. Similar laws have been passed in other states with broad support.

Lane Triplett, Chairman Idaho Coalition of Motorcycle Safety and **David Devereaux**, Council of Clubs and, **Stephanie Rothrock** spoke in support of **H 123**.

MOTION: **Rep. Perry** made a motion to send **H 123** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Anderst** will sponsor the bill on the floor.

In response to questions, **Rep. Anderst** said there are a number of federal and state laws preventing discrimination.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:02 P.M.

Representative Luker
Chair

Heidi McKay
Secretary