

MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Tuesday, March 21, 2017
- TIME:** 1:30 pm or Upon Adjournment
- PLACE:** Room EW42
- MEMBERS:** Chairman Luker, Vice Chairman Malek, Representatives Perry, Dayley, Trujillo, McDonald, Cheatham, , Nate, Chaney, Amador, Hanks, Zito, Zollinger, Gannon, McCrostie.
- ABSENT/  
EXCUSED:** Rep. Kerby and Wintrow.
- GUESTS:** Victor McCraw, Idaho POST; Kimberly Simmons, PDC; Kelly Jennings, PDC; Sen. Jim Rice
- Chairman Luker** called the meeting to order at 2:14 P.M.
- MOTION:** **Rep. Gannon** made a motion to approved the minutes of March 7, 2017. **Motion carried by voice vote.**
- S 1093:** **Sen. Rice** presented **S 1093**, which raises unlawful entries committed while the offender is fleeing from the police to a felony. The bill would also clarify that the victim can recover restitution.
- In response to questions, **Sen. Rice** said this would be a felony charge in addition to charges already being faced by the individual. The individual does not need to be in "hot" pursuit by corrections, the individual only needs to be knowingly hiding from correctional officers. Fleeing into a backyard or store will add a felony charge for fleeing from police.
- MOTION:** **Rep. Zito** made a motion to send **S 1093** to the floor with a **DO PASS** recommendation.
- SUBSTITUTE MOTION:** **Rep. Perry** made a substitute motion to send **S 1093** to General Orders. **Substitute motion carried by voice vote. Rep. Perry** will sponsor the bill on the floor.
- S 1119:** **Rep. Perry** presented **S 1119**, which is to exempt, from Idaho public record disclosure laws, applications and supporting documentation surrounding extraordinary litigation funding requests from the Idaho Public Defense Commission. The intent is to protect the confidentiality and fidelity of the court process and its participants.
- MOTION:** **Rep. Trujillo** made a motion to send **S 1119** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Perry** will sponsor the bill on the floor.
- S 1154:** **Victor McCraw**, Idaho POST, presented **S 1154**, which will allow Idaho's Peace Officer Training and Standards (POST) is a subunit of the Idaho State Police and administered by the Post Council. POST to be responsible for training and certifying Idaho's peace, corrections, probation and parole, detention and emergency communications officers. POST relies on receiving Criminal Justice Information System (CJIS) data obtained during criminal history background checks of law enforcement employment applicants. POST has traditionally had direct access to necessary CJIS information. However, since 2015, POST has been denied direct access to necessary CJIS data as a result of the FBI's CJIS Advisory Committee's determination POST is not a criminal justice agency. As a result, POST is forced to rely on the unconfirmed attestation of the various hiring law enforcement agencies as to an applicant's qualifications with respect to criminal history. Yet the state

statutory requirement for the verification of applicant criminal history for purposes of certification rests with the POST Council. This legislation seeks to amend section 19-5109, Idaho Code. This amendment would designate POST a criminal justice agency, thereby improving the likelihood the POST Council will be approved for direct access to CJIS information by the CJIS Advisory Committee.

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

**H 202aaS:** **Rep. Harris** presented **H 202aaS**, which 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 comprise 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. Perry** made a motion to concur with the amendments made in the Senate **H 202aaS Motion carried by voice vote.** **Rep. Harris** will sponsor the bill on the floor.

**Chairman Luker** turned the gavel over to **Vice Chairman Malek**.

**SCR 122:** **Rep. Luker** presented **SCR 122**, which the Legislature authorized, and the Legislative Council, appointed the Administrative Hearing Officer Interim Committee to study ways to mitigate the risk of bias in administrative contested case proceedings. The committee made significant progress in this regard, but further work remains to be completed. This Concurrent Resolution would authorize the Legislative Council to reconstitute the Administrative Hearing Officer Interim Committee for the purpose of making recommendations regarding contested case reforms including, but not limited to (a) the potential of creating a central panel of hearing officers or administrative law judges; (b) where such a central panel would be located; (c) the types of agency contested cases that should be exempted from such a panel; and (d) appropriate amendments to the Administrative Procedures Act.

**MOTION:** **Rep. McCrostie** made a motion to send **SCR 122** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

**Vice Chairman Malek** turned the gavel over to **Chairman Luker**.

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

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Representative Luker  
Chair

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Heidi McKay  
Secretary