

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

**DATE:** Tuesday, January 23, 2018

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Luker, Vice Chairman Malek, Representatives Perry, Dayley, McDonald, Cheatham, Kerby, Nate, Chaney, Amador, Hanks, Zito, Zollinger, Ehardt, Gannon, McCrostie, Wintrow

**ABSENT/  
EXCUSED:** None

**GUESTS:** Sara Thomas, Jason Spillman, Christina Iverson, ISC; Jayme Sullivan, David Kress, Barry Wood, Kent Merica, ISC Magistrate; Jim Cawthon, Ada County Magisitrade; Greg Hedger, IFRM; Mike Kane, ISA

**Chairman Luker** called the meeting to order at 1:31 p.m.

**H 357:** **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts/Idaho Supreme Court presented **H 357**. This bill amends the answer and notification filing deadline in small claims cases to twenty-one (21) days. This brings this section of the statute in alignment with the seven (7) day increments used across the courts.

**MOTION:** **Rep. Kerby** made a motion to send **H 357** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Ehardt** will sponsor the bill on the floor.

**H 358:** **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts/Idaho Supreme Court presented **H 358**. Line 25 of Idaho Code § 19-2601 currently states the court "shall" retain jurisdiction over the prisoner. This bill amends the section to read "may," to reflect this is a matter of discretion and is not mandatory.

**MOTION:** **Rep. Chaney** made a motion to send **H 358** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Cheatham** will sponsor the bill on the floor.

**H 359:** **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts/Idaho Supreme Court presented **H 359**, which corrects pleading requirements as it relates to serving notice in forcible detainer cases. It also makes additional technical corrections. In response to questions from the committee, Mr. Spillman explained a property owner must attempt to make a demand for vacating a property as outlined in the law enacted last year. However, no documentation is required, but is advisable. He also confirmed that **Sen. Lakey** and **Rep. Youngblood**, the sponsors of last year's legislation, are aware of and support the changes in **H 359**.

**MOTION:** **Rep. McCrostie** made a motion to send **H 359** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

**H 360:** **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts/Idaho Supreme Court presented **H 360**. This bill amends the attempted strangulation law to treat all domestic violence offenders consistently with regard to evaluation, counseling and treatment. It clarifies the role of the Idaho Supreme Court in establishing uniform standards for domestic violence evaluators. The bill updates language regarding domestic violence evaluation and counseling to reflect consistent and current practices. In response to questions that came up during the RS introduction, Mr. Spillman clarified local judicial districts have the ability to propose rules for stricter standards, but it has been the Supreme Court's jurisdiction to establish uniform standards in criminal proceedings since 1995, as outlined in Idaho Code.

**MOTION:** **Rep. Kerby** made a motion to send **H 360** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

**Barry Wood**, Senior Judge, Administrative Office of the Courts/Idaho Supreme Court introduced the panel of judges along with a brief overview of the seven Idaho judicial districts.

**David Kress**, Judge, Sixth Judicial District provided an overview and update on Idaho's guardianship and monitoring program. Legislative funding for program expansion to all seven judicial districts last year has resulted in identifying a significant number of cases that benefited from further review and referral. This ultimately helps protected individuals. However, it continues to be a challenge to find willing and qualified guardians.

**James Cawthon**, Judge, Fourth Judicial District presented an overview and current results of the Safety Plus Justice Challenge. Ada County is the recipient of \$1 million grant from the MacArthur Foundation to evaluate and implement programs that create more efficient jail usage and better justice work. The program's approach to finding innovative solutions has resulted in better partnerships across the county justice system and could be a model for other Idaho counties. He stated the increase in felony filings is a challenge and will require a change in business as usual practices. Despite the jail running at near capacity levels, he believes progress can be made. In response to questions from the committee, Judge Cawthon explained Ada County law enforcement agencies are looking into why the number of felony cases are increasing. The answers are not clear, but population growth, and issues associated with drugs and domestic violence are factors. When asked what can be done to address the challenges, he stated, there are things that can be done at the front end to divert people from the courts. However, that must be balanced with the need to make sure jails are used for those who are a danger to our community.

**Jayme Sullivan**, Judge, Third Judicial District provided an overview and update on the effects of last year's change and expansion of civil protection orders. Changes in the domestic violence crime provisions have increased new case filings by 43% since the law's expansion. The courts have responded with a reallocation of resources and changes in how dockets and calendars are managed with the goal of adjudicating quickly and appropriately, but it is a challenge. Changes in the stalking provision provides a more expedient form of protection, which is an important step in extending protections to Idaho citizens. The malicious harassment provision is very narrowly defined in this statute, so very few people meet the "preponderance of evidence" standard to receive a protection order on these grounds. There also is a redundancy with the criminal process. Generally, people are already receiving protections under a criminal "no contact order," so there are very few cases that come up under this statute. The telephone harassment provisions are broadly defined and the courts are seeing an increase in cases that cover a wide range of topics that may, or may not, have been the intent of the statute when it was

enacted. In response to questions from the committee, Judge Sullivan clarified Magistrate judges are the only judges who see the types of cases where volatile or inflammatory exchanges are occurring in social media and people are seeking protection orders and civil actions.

**Kent Merica**, Judge, Second Judicial District presented on the growing number of self-represented litigants and the challenges that accompany this trend. More than 50,000 Idahoans access court assistance. He provided an overview of the new File and Guide program. This online system was launched to help people seeking self-representation in family law, small claims and guardianship cases. It provides easy access to filing forms, FAQs and videos. In answer to questions from the committee, Judge Merica explained the program is just rolling out, so results are not available, but word is spreading about it's availability. He said it is difficult to provide an answer on how well self-represented individuals do against professional legal representation, as some do rather well, but conceded knowledge of the law and procedural process can be an advantage.

**Judge Wood** ended the panel session by saying they have received feedback from judges across the state that telephone harassment proceedings have resulted in an enormous resource grab, and many do not have merit. However, the courts are not yet asking for a change in the statute because the recent changes are too new. The courts would like to gather more data to evaluate the statute, so they can ensure people who need to be protected, remain protected, but can come up with language that eliminates issues that are without merit.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:07 p.m.

---

Representative Luker  
Chair

---

Wendy Carver-Herbert  
Secretary