

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

**DATE:** Tuesday, January 29, 2019

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Dayley, Vice Chairman Chaney, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/  
EXCUSED:** Representative McCrostie

**GUESTS:** Vicki Olds, Jim Cawthon, David Kress, Jayme Sullivan, Barry Wood, Idaho Courts; Brianne McCoy, Kathleen J. Elliott, PDC; Jared Larsen, Governor's Office; Holly Koole Rebholtz, IPAA

**Chairman Dayley** called the meeting to order at 1:32 p.m.

**MOTION:** **Rep. Marshall** made a motion to approve the minutes of the January 23, 2019 meeting. **Motion carried by voice vote.**

**H 43:** **Kathleen Elliott**, Executive Director, State Public Defense Commission presented **H 43**, which changes the terms "grant" to "financial assistance" and "application" to "compliance proposal." There is no fiscal impact and it does not alter the procedures for distributing funds. It only clarifies the terminology for ensuring funds for the provision of indigent defense services are available to the counties. In answer to a questions from the Committee, Ms. Elliott clarified that compliance with standards and procedures has always been required and this bill only creates a fair name for the funds.

**MOTION:** **Rep. Chaney** made a motion to send **H 43** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

**Barry Wood**, Senior District Judge, Deputy Administrator of the Courts, Idaho Supreme Court introduced the panel of judges. He clarified the difference between Magistrate and District judges. Magistrate Judges hear a wide variety of topics.

**James Cawthon**, Magistrate Judge, Fourth Judicial District presented information about pre-trial justice. Pre-trial justice is the period of time in a criminal case from the time of arrest, to charges being filed, to the point of disposition. It is a judge's responsibility to balance the need for community safety, while also ensuring the constitutional rights of the accused. Forty counties now provide representation at the initial arraignment, which improves the quality of justice. In answer to questions from the Committee, Judge Cawthon said there is room for statutory modification to improve pre-trial processes for defendants with little financial means, but it requires a balance between state and local jurisdictions. He also explained that the Idaho Criminal Justice Commission and Idaho Supreme Court have been looking at ways to apply fair financial restitution and cost reimbursement, but it is challenging.

**Jayme Sullivan**, Magistrate Judge, Third Judicial District presented on civil protection orders. She stated the courts take the protection of individuals and families very seriously. She explained the difference between the four statutes that address protection orders. They include action for protection, stalking, malicious harassment and telephone harassment. I.C. § 18-7907, the action for protection, no longer requires a person to have a domestic relationship in order to file a protection order. As a result, the numbers have increased from 4,500 filings in 2015, to just under 8,000 filings in 2018. Judge Sullivan said the expansion of the telephone harassment provision is resulting in a very wide range of complaints that may be going beyond the original intent of the law. Feuding neighbors or teenagers voicing spats through social media are two examples. In answer to questions from the Committee, Judge Sullivan explained the requirement for a hearing to meet the provision of the telephone harassment statute is a significant weight on the courts. She also explained that civil protection orders are not a criminal charge. It would be reflected in the Court's Odyssey system if a case is dismissed, but a person could petition to have the record sealed.

**Victoria Olds**, Magistrate Judge, Second Judicial District presented information on the impact of amended penalty provisions such as driving without privileges, invalid driver's license, tax intercept for delinquent debts owed to the courts and cash bail forfeitures. There has been an impact on collections. Judge Olds suggested these are examples of things the legislature could look at to encourage people to pay their infractions.

**David Kress**, Magistrate Judge, Sixth Judicial District presented an update on Idaho's guardianship and monitoring program. He explained the funding to support these programs is making a difference. For example, monitoring by the courts of guardianship showed a 23 percent improvement in 2016. The monitors are finding problems that the courts are able to address more effectively. The monitors are finding good things as well. The overall goal is to move people to a family decision making model. The biggest need is the lack of guardians across the state.

**RS 26569:** **Rep. Wintrow** introduced **RS 26569**, which adds sexual battery of a minor child sixteen or seventeen years of age to I.C. § 18-310. This statute lists all felony crimes that disqualify a convicted felon from owning a firearm. After extensive research and consultation with the Attorney General, Rep. Wintrow stated that leaving this segment of the population out of the statute was an inadvertent mistake.

**MOTION:** **Rep. Chaney** made a motion to introduce **RS 26569**. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 3:06 p.m.

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Representative Dayley  
Chair

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Wendy Carver-Herbert  
Secretary