

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
Upon Adjournment of the House  
Room EW42  
Friday, January 13, 2017

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Organizational Meeting	
	Administrative Rules Overview	Vice Chairman Malek

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham
Vice Chairman Malek	Rep Kerby
Rep Perry	Rep Nate
Rep Dayley	Rep Chaney
Rep Trujillo	Rep Amador
Rep McDonald	Rep Hanks

Rep Zito
Rep Zollinger
Rep Gannon
Rep McCrostie
Rep Wintrow

COMMITTEE SECRETARY

Heidi McKay  
Room: EW56  
Phone: 332-1127  
email: [hjud@house.idaho.gov](mailto:hjud@house.idaho.gov)

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

**DATE:** Friday, January 13, 2017  
**TIME:** Upon Adjournment of the House  
**PLACE:** Room EW42  
**MEMBERS:** Chairman Luker, Vice Chairman Malek, Representatives Perry, Dayley, Cheatham, Nate, Chaney, Amador, Hanks, Zito, Zollinger, McCrostie,  
**ABSENT/  
EXCUSED:** Representatives Trujillo, McDonald, Kerby, Gannon, Wintrow  
**GUESTS:** Holly Koole Nebholtz

**Chairman Luker** called the meeting to order at 8:24 A.M.

**Chairman Luker** welcomed the committee and those in attendance. The committee members introduced themselves. He introduced his committee secretary, **Heidi McKay**, and the House Page, **Gabriel Hooper**, a home schooled high school senior. Chairman assigned Rep. Gannon and Rep. Kerby as proofreaders for the Committee.

**Vice Chairman Malek** reviewed the Rules Review process, and explained all the rules would be heard before the full committee on Thursday, January 19th.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 8:41 A.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, January 17, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS24852</u></a>	Liquor Buy Drink, License Actual Use	Russ Wheatley, Idaho State Police
<a href="#"><u>RS24889</u></a>	Retirement System, Police, Fire	Sharon Harringfeld, Department of Juvenile Corrections

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker            Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry                  Rep Nate  
Rep Dayley                Rep Chaney  
Rep Trujillo                Rep Amador  
Rep McDonald              Rep Hanks

Rep Zito  
Rep Zollinger  
Rep Gannon  
Rep McCrostie  
Rep Wintrow

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

**DATE:** Tuesday, January 17, 2017

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

**PLACE:** Room EW42

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

**ABSENT/  
EXCUSED:** Representative Perry

**GUESTS:** Josh Tewalt, IDOC; Russ Wheatley, Idaho State Police; Charles Ketchum, Idaho State Police; Teresa Baker, Idaho Associations of Counties; Sharon Haringfeld, Idaho Department of Juvenile Corrections, Dustin Hurset, Idaho Reporter.com; Brian Pousley; Colby Cameron, Sullivan & Reberger.

**Chairman Luker** called the meeting to order at 1:30 P.M.

**MOTION:** **Rep. Dayley** made a motion to approve the minutes of the January 13, 2017 meeting. **Motion carried by voice vote.**

**RS 24852:** **Russ Wheatley**, Alcohol Beverage Control for the Idaho State Police, presented **RS 24852**. The proposed legislation to set a requirement of 20 hours a week and the 20 liquor by the drink sales per week as a condition to maintain a license. Newly issued liquor licenses must be placed into actual use six days a week for eight hours a day during the first six months. New legislation is not dictating which days of the week a business is open, only they have to be open for legitimate sale of liquor 20 hours per week. It will be left up to the individual licensee to decide their 20 hours of business for the week. This standard will allow remote businesses to operate within the confines of the rules, and also provide the agency with an enforceable standard when liquor licenses are not actually in use.

In response to questions from the committee, **Captain Wheatley** explained not allowing unused alcohol licenses to remain used will encourage more sales and promote competition providing an increased taxable income.

**MOTION:** **Rep. McDonald** made a motion to introduce **RS 24852**. **Motion carried by voice vote.**

**RS 24889:** **Teresa Baker**, Director of Government Affairs and Associate General Counsel for Idaho Association of Counties, presented **RS 24889**. The proposed legislation is requested to resolve ongoing issues with counties and the Department of Juvenile Corrections ability to recruit and retain professionals in public safety fields such as juvenile detention, juvenile and misdemeanor probation, and public safety or emergency communications. This RS would place these public safety professionals into the classification of Rule 80 for the purposes of retirement under the PERSI system. These professionals are currently under the Rule of 90 and are POST certified, except for emergency communications, who are eligible for certification. As public officials need to do their best to retain these employees the state has spent thousands of dollars in training.

In response to questions from the committee, **Mrs. Baker** explained she would amend the Fiscal Note on the SOP to reflect the updated changes accurately.

**MOTION:** **Rep. Amador** made a motion to introduce **RS 24889** **Motion carried by voice vote.** **Rep's Trujillo, Hanks, and Zito** requested to be on record as a **NAY**.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:09 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, January 19, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">06-0102-1601</a>	Rules of the Corrections Industries	Andrea Sprengel, Idaho Corrections Industries
<a href="#">57-0101-1601</a>	Rules of the Sexual Offender Management Board	Aileen Lucas, Sexual Offender Management Board
<a href="#">11-1101-1601</a>	Rules of the Idaho Peace Officer Standards and Training Council	Victor McCraw, Idaho Peace Officer Standards and Training
<a href="#">11-1101-1602</a>	Rules of the Idaho Peace Officer Standards and Training Council	Victor McCraw, Idaho Peace Officer Standards and Training
<a href="#">11-1102-1601</a>	Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers	Victor McCraw, Idaho Peace Officer Standards and Training
<a href="#">11-1104-1601</a>	Rules of the Idaho Peace Officer Standards and Training Council for Corrections Officers and Adult Probation and Parole Officers	Victor McCraw, Idaho Peace Officer Standards and Training
<a href="#">61-0101-1601</a>	Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds	Kelly Jennings, Idaho State Public Defense Commission

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham	Rep Zito
Vice Chairman Malek	Rep Kerby	Rep Zollinger
Rep Perry	Rep Nate	Rep Gannon
Rep Dayley	Rep Chaney	Rep McCrostie
Rep Trujillo	Rep Amador	Rep Wintrow
Rep McDonald	Rep Hanks	

COMMITTEE SECRETARY

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

**DATE:** Thursday, January 19, 2017

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

**PLACE:** Room EW42

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

**ABSENT/  
EXCUSED:** Representative Perry

**GUESTS:** Jon Burnham, Sex Offender Management Board; Nancy Vella, SOMB; Aileen Lucas, SOMB; Kelly Jennings, Public Defense Commission; Andrea Sprengel, Correctional Industry; Andrea Brown, Correctional Industry; Holly Koole Nebholtz, IPAA; Alan Anders, Correctional Industries; Victor McGraw, Idaho POST; Knute Sandahl; Idaho DOI/SFM; Andrew Masser, Public Defense Commission; Karen Magnelli, OAG-SOMB; Brenda Bauges, OAG-SOMB; Eric Voebrolsen, SADD,

**Chairman Luker** called the meeting to order at 1:32 P.M.

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

**DOCKET NO. 06-0102-1601:** **Andrea Sprengel**, Financial Manager for Idaho Correctional Industry, presented **Docket No. 06-0102-1601**. The proposed rule was approved last year by the House and Senate with a request made to modify the language in Section 013. Under Section 013 changed the heading from Inmate Compensation to Distribution of Funds. The new heading describes the content of Section 013 better. Under sub section b also removed the word "may" and replaced it with "must", as suggested by the Senate Judiciary and Rules Committee last year.

In response to questions from the committee, **Ms. Sprengel** explained this change defines the ways IDOC can use funds to compensate inmates for their work.

**MOTION:** **Rep. McCrostie** made a motion to approve **Docket No. 06-0102-1601**. **Motion carried by voice vote.**

**DOCKET NO. 57-0101-1601:** **Jon Burnham**, Chair, Sexual Offender Management Board, presented **Docket No. 57-0101-1601**. The proposed rule will split the current single level of post-conviction sexual offender polygraph examiner certification to be placed at certification levels. Seventy-five dollars for senior/approved level post conviction sexual offender polygraph examiner and fifty dollars for biennial certification renewal applications for both certification levels.

In response to questions from the committee, **Mr. Burnham** explained polygraphs are the best way to provide a sexual history and give the best recommendations on an offender. Senior level will be able to operate with no supervision and associates will work face to face until able to move up to a senior position.

**MOTION:** **Rep. Chaney** made a motion to approve **Docket No. 57-0101-1601**. **Motion carried by voice vote.**

**DOCKET NO. 11-1101-1601:** **Victor McCraw**, Division Administrator, Idaho Peace Office Standards and Training, presented **Docket No. 11-1101-1601**. Mr. McCraw explained the proposed changes in Section 010 will clarify the definition of "Law Enforcement Profession" to establish and administer agreements with POST training programs. The changes in Section 055 will establish the minimum prohibition on marijuana use as one year, and the confirmed use of marijuana as three years, prior to an application for POST training and certification. Mr. McCraw explained the changes to Section 058 simplifying the driver's license requirements for applicants for POST training or certification, with respect to suspensions which concluded within ten years of the application. The final change proposed to Section 081 to clarify and simplify the Agreement to Serve requirements of, exemptions, and proration for reimbursement of training costs to POST for officer who do not remain in the Idaho law enforcement profession of two years.

In response to questions from the committee, **Mr. McCraw** explained none of these changes fall under Rule 80 or 90. Also, explained not all marijuana products are listed, they are following Federal laws of legalization, not the regulations of use in other states prior to moving or employment in Idaho. Mr. McCraw believes this will be a way to bring in more applicants and retain employment in the state of Idaho.

**MOTION:** **Rep. Gannon** made a motion to approve **Docket No. 11-1101-1601**. **Motion carried by voice vote.**

**DOCKET NO. 11-1101-1602:** **Victor McCraw**, Division Administrator, Idaho Peace Office Standards and Training, presented **Docket No. 11-1101-1602**. Mr. McCraw explained the proposed rule each applicant must undergo a comprehensive background investigation. The changes will establish the requirement for the hiring agency to compile and retain a background investigation for each applicant. Changes will also clarify when POST may or must inspect the background investigation file during the compliance review of an applicant.

**MOTION:** **Rep. McDonald** made a motion to approve **Docket No. 11-1101-1602**. **Motion carried by voice vote.**

**DOCKET NO. 11-1102-1601:** **Victor McCraw**, Division Administrator, Idaho Peace Office Standards and Training, presented **Docket No. 11-1102-1601**. Mr. McCraw explained the proposed rule will remove unnecessary language referring to the desire to become certified and references to uncertified instructors and updates specific curriculum content.

**MOTION:** **Rep. Kerby** made a motion to approve **Docket No. 11-1102-1601**. **Motion carried by voice vote.**

**DOCKET NO. 11-1104-1601:** **Victor McCraw**, Division Administrator, Idaho Peace Office Standards and Training, presented **Docket No. 11-1104-1601**. **Mr. McCraw** explained the proposed rule removes multiple sections referencing a set of standards no longer approved by the POST Council for certification.

In response to questions from the committee, **Mr. McCraw** explained all citizenship requirements are covered in one rule and standard by state of Idaho.



**MOTION:**           **Rep. McCrostie** made a motion to approve **Docket No. 11-1104-1601.**  
Committee meeting terminated due to Fire Alarm prior to vote.

**ADJOURN:**       3:42 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, January 23, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">11-1104-1601</a>	Rules of the Idaho Peace Officer Standards and Training Council for Corrections Officers and Adult Probation and Parole Officers	Victor McCraw, Idaho Peace Officer Standards and Training
<a href="#">50-0101-1602</a>	Rules of the Commission of Pardons and Parole	Sandy Jones, Idaho Commission of Pardons and Paroles
<a href="#">61-0101-1601</a>	Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds	Kelly Jennings, Idaho State Public Defense Commission
<a href="#">61-0107-1601</a>	Rules Governing Standards for Defending Attorneys That Utilized Idaho's Principals of an Indigent Defense Delivery Systems	Kelly Jennings, Idaho State Public Defense Commission
<a href="#">05-0103-1601</a>	Rules of Custody Review Board	Sharon Harringfeld, Idaho Department of Juvenile Corrections
	Presentation Idaho Criminal Justice Commission	Sharon Harringfeld, Chair
	Presentation Idaho of Juvenile Corrections	Sharon Harringfeld, Director

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham	Rep Zito
Vice Chairman Malek	Rep Kerby	Rep Zollinger
Rep Perry	Rep Nate	Rep Gannon
Rep Dayley	Rep Chaney	Rep McCrostie
Rep Trujillo	Rep Amador	Rep Wintrow
Rep McDonald	Rep Hanks	

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Monday, January 23, 2017

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

**PLACE:** Room EW42

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

**ABSENT/  
EXCUSED:** Representative Perry

**GUESTS:** Jarod Cash, Idaho Commission of Pardons and Parole; Victor McCraw, Idaho POST; Mary Schoeler, Idaho Commission of Pardons and Parole; Kelly Jennings, Idaho Public Defense Commission; Teresa Baker, IAC; Kathy Griesmyer, ACLU; Kimberly Simmons, Idaho Public Defense Commission; Andrew Masser, PDC; E. Fredrickson, SAPN; Holly Koole Rebholtz, IPAA; Sandy Jones, Parole Commission; Nicole LeFavour.

**Chairman Luker** called the meeting to order at 1:30 P.M.

**Chairman Luker** introduced the committee's Intern for the session **J.J. Watkins**.

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

**VOTE ON MOTION:** **Vice Chairman Malek** called for a vote on the motion to approve **Docket No. 11-1104-1601. Motion carried by voice vote.**

**DOCKET NO. 50-0101-1602:** **Jarod Cash**, Deputy Director for Idaho Commission of Pardons and Parole, presented **Docket No. 50-0101-1602**. The proposed rule is an extension of changes made in previous rules.

In response to questions from the committee, **Mr. Cash** clarified there are no new changes, all strike outs remain the same. The only request is for another two year extension of previous changes.

**MOTION:** **Rep. Cheatham** made a motion to approve **Docket No. 50-0101-1602. Motion carried by voice vote.**

**DOCKET NO. 61-0101-1601:** **Kelly Jennings**, Deputy Director, Idaho Public Defense Commission, (PDC) presented **Docket No. 61-0101-1601**. The proposed rule focuses primarily on the administration of training funds. This rule guides the agency internally and provides transparency to stakeholders. The new addition contains a Pending Rule Governing Training Requirements for Defending Attorneys and the Administration of Training Funds.

**MOTION:** **Rep. Trujillo** made a motion to approve **Docket No. 61-0101-1601. Motion carried by voice vote.**

**DOCKET NO. 61-0107-1601:** **Kelly Jennings**, Deputy Director, Idaho Public Defense Commission, presented **Docket No. 61-0107-1601**. This rule provides guidance for the PDC internally and defines defense attorney case loads and the standards for recipients of training funds for defending attorneys that utilize Idaho's principals of an indigent defense system. PDC believes rolling out standards over time allows the counties to develop robust infrastructure for supporting indigent defense delivery systems.

In response to questions from the committee, **Ms. Jennings** clarified there were some standards and definitions mulled over during the several discussions and meetings. Many of these questions will be answered following the case study over the next few months with funding PDC already has acquired to determine accurate numbers for defense attorney's case loads in Idaho's counties.

**Teresa Baker**, Idaho Association of Counties, testified **in support** of **Docket No. 61-0107-1601**. After surveying all 44 counties with positive feedback concerning the first round of standards, they look forward to the actual survey and numbers for Idaho's case load standards.

**Kathy Griesmyer**, Policy Director, American Civil Liberties Union, testified **in opposition** to **Docket No. 61-0107-1601** due to concerns over using the word "should" and the removal of case standards until Idaho case study has been completed.

In response to questions, **Ms. Griesmyer** stated the ACLU believes there should be stricter terminology and actual case load numbers and details to pass the rule. Currently there are not enough details to pass the rule.

**Kimberly Simmons**, Deputy Director, Idaho Public Defense Commission explained the end goal for all ACLU and PDC is the same, to improve the public defense system in Idaho. Originally used Federal statistics, in the end pulled the numbers due to the high need to obtain Idaho figures for felony, mental health, and misdemeanor offenses. This workload research will provide the unique numbers to Idaho and reform to our needs.

In response to questions, **Ms. Simmons** stated this is not to provide a court challenge or an argument for mistrial of ineffective counsel.

**MOTION:**

**Rep. Trujillo** made a motion to approve **Docket No. 61-0107-1601**.

**SUBSTITUTE MOTION:**

**Rep. Wintrow** made a substitute motion to reject **Docket No. 61-0107-1601**.

**AMENDED SUBSTITUTE MOTION:**

**Rep. Kerby** made an amended substitute motion to approve **Docket No. 61-0107-1601** with the exception of **Section III(b)**.

**Vice Chairman Malek** ruled the amended substitute motion out of order for the following reason; authority to approve cannot change the incorporated standards that are already adopted by the Public Defense Commission. As a legislature we are unable to add language to a rule.

**AMENDED SUBSTITUTE MOTION:**

**Rep. Gannon** made an amended substitute motion to approve **Docket No. 61-0107-1601** with the exception of **Rule 004.02** standards for defending attorneys.

**Vice Chairman Malek** clarified if this reference to also intend page 45 to include **Subsection .021** that also makes reference to the standards for defending attorneys.

**Rep. Gannon** responded by saying there is a need to reject **Rule 004.02** and **Subsection 021**.

**ROLE CALL VOTE ON AMENDED SUBSTITUTE MOTION:**

**Rep. Trujillo** requested a role call vote. **Motion failed by a vote of 3 AYE and 12 NAY. Voting in favor** of the motion: **Reps. Gannon, McCrostie, and Wintrow. Voting in opposition** to the motion: **Reps. Luker, Malek, Dayley, Trujillo, Cheatham, Kerby, Nate, Chaney, Amador, Hanks, Zito, and Zollinger.**

**Vice Chairman Malek** clarified with **Ms. Simmons** this is a new rule, the amendments were changes made during rule making, and if this is rejected there will be no rule.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Rep. Wintrow** made a unanimous consent request to withdraw her substitute motion.

**VOTE ON  
ORIGINAL  
MOTION:**

**Vice Chairman Malek** called for a vote on the original motion to approve **Docket No. 61-0107-1601. Motion carried by voice vote.**

**DOCKET NO.  
05-0103-1601:**

**Sharon Harrigfeld**, Director Idaho Department of Juvenile Corrections presented **Docket No. 50-0103-1601**. The proposed rule focuses primarily on juveniles in state custody as they turn 19 years of age. The changes to the docket to correct the Code will change and remove unnecessary examples. It will correct the citation powers and duties under the general provision, adding testimony to make it clear that testimony is made on all matters and correcting another citations. There are Title changes, which will change Powers and Duties to Placement for clarification to the board.

**MOTION:**

**Rep. Dayley** made a motion to approve **Docket No. 05-0103-1601. Motion carried by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 4:13 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, January 25, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Idaho Public Defense Commission Presentation	Kim Simmons, Executive Director
	Idaho Commission of Pardons and Parole Presentation	Sandy Jones, Executive Director
	Presentation Idaho Criminal Justice Commission	Sharon Harrigfeld, Chair
	Presentation Idaho of Juvenile Corrections	Sharon Harrigfeld, Director

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker            Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry                  Rep Nate  
Rep Dayley                Rep Chaney  
Rep Trujillo                Rep Amador  
Rep McDonald              Rep Hanks

COMMITTEE SECRETARY

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

**DATE:** Wednesday, January 25, 2017

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

**PLACE:** Room EW42

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

**ABSENT/  
EXCUSED:** Representative Perry

**GUESTS:** Kim Simmons, Idaho State Public Defense Commission; Kelly Jennings, ISPDC; Andrew Masser IPDC; Sharon Harrigfeld, Idaho Department of Juvenile Corrections; Marcy Chadwell, IDJC; Darrell Boll, PDC; Eric Fredriksen, ISPDC; Sandy Jones, Parole Commission; Jarod Cash, Parole Commission; Holly Koole Rebholtz, IPAA; Sara Thomas, ICJC

**Chairman Luker** called the meeting to order at 1:30 P.M.

**MOTION:** **Rep. Kerby** made a motion to approve the minutes of the January 17, 2017 meeting. **Motion carried by a voice vote.**

**Kim Simmons**, Executive Director, Idaho State Public Defense Commission (ISPDC), presented a brief history leading to the establishment of the Idaho Public Defense Act **H 542** in 2014 along with the power and duties that expanded following the expansion of the ISPDC. Through **H 504** the ISPDC improved the delivery of trial-level indigent defense services by providing funding and creating standards with which counties must comply. This year the ISPDC have been training defending attorneys, collaborating with Idaho's counties, and working on defining Idaho's workload studies. Ms. Simmons summarized for the 43 of 44 counties that applied for an Indigent Defense Grant all were eligible and 20 of the counties were eligible for more than \$25,000.

In response to questions, **Ms. Simmons** explained ISPDC is working with Boise State University to look at how other states are collecting data. They are looking to collect data from rural and urban counties to obtain a good sample.

**Sandy Jones**, Executive Director, Idaho Commission of Pardons and Parole presented a description of the Parole Commissions organizational structure, the commission workload, and a description of the parole system review of an inmate who has met the standards for release. Taken into consideration are the inmate's criminal history, the nature of the crime, institutional behavior and victim's input. When an inmate has their parole revoked the commissioners are responsible for addressing violations and hold an initial hearing by a Hearing Officer.

In response to questions, **Ms. Jones** explained when an inmate decides to "top out" their time and complete their full sentence, it is not always for mental health issues. Some individuals do not want to participate in parole and have somebody monitoring them. If the commission observes a possible mental health reason to a person's decision to stay in prison for the full duration, they will work with staff and the inmate to seek mental health and medication to stabilize the inmate for approximately a year, then review the inmates progress for release. The commission does not feel pressure to release at risk inmates due to over crowding.

**Sharon Harrigfeld**, Director, Idaho Criminal Justice Commission (CJC), presented the legislative update of the strategic plan to combat crime and protect citizens by reducing victimization and providing education, prevention, and accountability. The goals of the CJC also include advanced delivery of justice through effective interventions by proposing balanced solutions which are cost effective and based on the best practices. Another goal is to promote well-informed policy decisions by identifying strategies, implementing data, and maintaining awareness of substance abuse trends and priority issues.

In response to questions, **Ms. Harrigfeld** explained CJC is unique to Idaho, it uses Problem Solving courts to reduce recidivism rates using statewide standards depending on the program.

**Sharon Harrigfeld**, Director, Idaho Department of Correction, presented community incentive programs used to diverting Idaho's youth from the courts. The programs ensure juvenile accountability through effective use of evidence-based practices such as Positive Peer Culture (PPC) and Dialectical Behavior Therapy (DBT). Use of family engagement and ensuring community protection is teaching skills of improvement to the families. The returning juveniles to the community following these engagements have had positive outcomes and an increase academically in reading and math scores. Utilizing the substance use disorder system providing timely screenings, assessments, and treatments served 1,247 juveniles in 2016.

In response to questions, **Ms. Harrigfeld** explained the decrease in 2017 substance abuse funding went through Health and Welfare, the separation made changes in the budget for the year.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 3:22 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary



AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, January 31, 2017**

SUBJECT	DESCRIPTION	PRESENTER
	Introduction to Judicial System	Judge Barry Wood, Senior Judge Administrative Office of the Courts
	Magistrate Judges Overview	Judge Jayme Sullivan, Third Judicial District
	Pre-Trial Release Reforms	Judge Michael Oths, Fourth Judicial District
	Criminal Courts	Judge Rick Carnaroli, Sixth Judicial District
	Problem Solving Courts	Judge Ryan Boyer, Seventh Judicial District
	Domestic Violence	Judge Rick Bollar, Fifth Judicial District
	Juvenile Justice	Judge Bryan Murray, Sixth Judicial District
	Child Protection	Judge Anna Eckhart, First Judicial District
	Family Law (Guardian/Conservator)	Judge Kent Merica Second Judicial District

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Rep Zito
Rep Zollinger
Rep Gannon
Rep McCrostie
Rep Wintrow

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Tuesday, January 31, 2017

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

**PLACE:** Room EW42

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

**ABSENT/  
EXCUSED:** Representative Cheatham

**GUESTS:** Anna Eckhart, Courts; Jayme Sullivan, Courts; Michael Oths, Courts; Rick Carnaroli, Courts; Ryan Boyer, Courts; Bryan Murray, Courts; Kent Merica, Courts; Barry Wood, ISC; Rick Bollar, Courts; Sara Thomas, ISC; Miren Unsworth, IPHW; Jesse Taylor, ABC and SunWest Surety.

**Chairman Luker** called the meeting to order at 1:30 P.M.

**Barry Wood**, Senior Judge, Administrative Office of the Courts, presented the departments of government and described the three distinct departments; legislative, executive, and judicial. No person or collection of persons charged to exercise powers belonging to one department may exercise any power belonging to another department. The judicial power of the state shall be vested in a court for the trial of impeachments. The courts shall constitute a unified and integrated system for administration and supervision by the Supreme Court. Each inferior court's jurisdiction will be set by legislature, until provided by law, no changes shall be made in the manner of judge selection.

In response to questions, **Mr. Wood** explained currently all 44 Judicial Districts have at least one Magistrate Judge.

**Jayme Sullivan**, Judge, Third Judicial District, presented a brief overview of what a Magistrate judge of Idaho does. Initially a judge is appointed to a bench through a process governed by statute. To qualify for appointment a person must be 30 years of age, a lawyer for at least 5 years, a citizen of the United States, a resident of Idaho, and in good standing with the bar for at least 2 years. The first 18 months on the bench are served as a probationary period, and following they stand for election every 4 years. Idaho has 91 Magistrates, with at least one in each county. Ada County has the most judges due to population and case loads. Magistrate judges oversee issues such as marriage, divorce, adoptions, and small claims court such as contesting a dog at large or a traffic citation.

**Michael Oths**, Judge, Forth Judicial District, presented on Pre-Trial release reforms. Judge Oths discussed that this is an area being studied in Ada County. The study started in November and was initiated by the former Sheriff and is being carried on by the new Sheriff. He explained the process of arraignment.

In response to questions, **Judge Oths** explained forcing an offender to pay bond for release instead of using the bond for other resources does not effect whether they attend or fail to attend court.

**Rick Carnaroli**, Judge, Sixth Judicial District, presented on obtaining warrants in the criminal courts. Magistrate judges are on call 24 hours a day in and on rotation, if more than one judge is in the district. Warrants can be issued for felonies, misdemeanors, infractions and for specialty courts dealing with drug or domestic violence court.

**Ryan Boyer**, Judge, Seventh Judicial District, presented on problem solving courts. These courts present a different structure than regular courts and are overseen by a magistrate judge. Problem solving courts preside over domestic violence review court, misdemeanor driving under the influence, and juvenile mental health. The defendants in problem solving court are typically 80% under the influence and 80% of them also have a co-occurring disorder of a mental health diagnosis along with an addiction.

In response to questions, **Judge Boyer** explained a magistrate judge does most of their work during day, and additionally puts in very rewarding volunteer hours solving court cases.

**Rick Bollar**, Judge, Fifth Judicial District, presented on Domestic Violence courts created with the support of the legislature. Domestic Violence courts enhance victim safety and the offender's accountability along with providing effective case management and coordinating information for families with multiple cases. Domestic Violence cases are criminal, the protection order cases are civil. Domestic Violence courts avoid separate judges presiding over them to prevent different rulings, confusion, and any negative effects on the family. There are Domestic Violence courts in 6 of the 7 Judicial Districts which all have fast track dispositions and ongoing judicial rules. Offenders in Domestic Violence courts are held to a higher standard of accountability and the victim is allowed a greater voice. Domestic Violence courts have been able to improve the handling of domestic violence cases and create services and treatment options for victims and offenders.

In response to questions, **Judge Bollar** explained domestic violent offenders probation increased to two years to ensure treatment has been completed by the offender prior to closing the case.

**Bryan Murray**, Judge, Sixth Judicial District, presented on juvenile justice and the importance of providing kids with a different court system than adults due to developmental needs and providing the same rights as an adult. Juvenile courts focus on restorative justice, early intervention, and swift punishment before the adolescent forgets what they did to get in trouble in the first place. Kids make mistakes, plus it is important to deal with the misdemeanors and provide services to educate them and their family back into the community before their actions become felonies. Many have already had tragic life experiences. When the community helps a child along the way they can help prevent poor outcomes.

In response to questions, **Judge Murray** explained some incidences occur due to substance abuse, some from learning disability or mental health issues and some stem from trauma.

**Anna Eckhart**, Judge, First Judicial District, presented on child protection in Idaho, which was ranked number 1 in the nation in 2012 by the Foundation for Government Accountability. Child protection cases are started by a law enforcement officer, a judge, a referral to the Department of Health and Welfare, or to law enforcement by someone such as a teacher, nurse, or mental health professional. Once a case is filed a magistrate judge is required to hold a hearing within 48 hours. Next, a hearing or trial is held within 30 days with a review hearing every 6 months. After these hearings the judge determines if placement within or outside the home is necessary. A Guardian ad Litem can be assigned to do what is best for the children.

**Kent Merica**, Judge, Second Judicial District, presented on Coordinated Family Services which was established to meet the needs of families and children in the courts by fostering family relationships, offering legal assistance, and responding to domestic violence. Coordinated Family Services is made up of Family Court Services (FCS), Court Assistance Offices (CAO), and Domestic Violence Courts (DVC). Coordinated Family Service utilizes Co-Parent Education, Supervised Access which provides an opportunity for children to spend time with their parents under circumstances that would typically make access difficult, and provides mediation over custody disputes.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:00 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, February 01, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Judicial Branch Budget	Jared Hoskins, Legislative Services Office
<a href="#">RS25050C1</a>	Attorney's Fees Presentation	Representative Luker Jon Burnham, Sex Offender Management Board

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham
Vice Chairman Malek	Rep Kerby
Rep Perry	Rep Nate
Rep Dayley	Rep Chaney
Rep Trujillo	Rep Amador
Rep McDonald	Rep Hanks

Rep Zito
Rep Zollinger
Rep Gannon
Rep McCrostie
Rep Wintrow

COMMITTEE SECRETARY

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

**DATE:** Wednesday, February 01, 2017

**TIME:** 1:31 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:** Barry Wood, ISC; Jim Arnold, ISC; Sara Thomas, ISC; Jon Burnham, SOMB; Kathy Baird, SOMB; Aileen Lucas, SOMB; Nancy Volle, SOMB

**Chairman Luker** called the meeting to order at 1:31 P.M.

**Jared Hoskins**, Budget Analysis for Legislative Services Office provided an update on the Judicial Branch Budget, providing an overview of the court operations, Guardian Adlitem program, judicial counsel, and all standard maintenance adjustments that occurred.

In response to questions, **Mr. Hoskins** clarified some funding goes toward recruitment, training, advertising and back ground checks for employees. In response to a question regarding judges pay increase for the year, Mr. Hoskins said it is comparable, if not lower than other states.

**RS 25050C1:** **Rep. Luker** presented **RS 25050C1**. This proposed legislation amends Section 12-121 of Idaho Code regarding the award of attorney fees in civil cases. The proposed amendment restores the rule existing before the Supreme Court ruling in the Hoffer case of awarding attorney fees when cases are brought, pursued or defended frivolously, unreasonably, or without foundation.

**MOTION:** **Rep. Gannon** made a motion to introduce **RS 25050C1**. **Motion carried by voice vote.**

**Jon Burnham**, Sex Offender Management Board (SOMB) presented an update on their functions working with the Idaho Department of Correction and what they have accomplished over the year. SOMB is developing changes in the coming year on refining the quality assurance process and a multi-level risk-based sexual offender registrations system.

In response to questions, **Mr. Burnham** advised that SOMB does not have any upcoming legislation this year.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:37 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
1:30 P.M.  
Room EW42  
Tuesday, February 07, 2017

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Rule 18 Discussion	Chairman Luker
<a href="#">RS25098C1</a>	Motorcycling, Profiling	Representative Anderst
<a href="#">H 97</a>	Attorney Fees	Representative Luker
<a href="#">H 21</a>	Retirement System, Police, Fire	Sharon Harrigfeld, Idaho Criminal Justice Commission

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker      Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry      Rep Nate  
Rep Dayley      Rep Chaney  
Rep Trujillo      Rep Amador  
Rep McDonald      Rep Hanks

Rep Zito  
Rep Zollinger  
Rep Gannon  
Rep McCrostie  
Rep Wintrow

COMMITTEE SECRETARY

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

**DATE:** Tuesday, February 07, 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 1:30 P.M.

Joint Rule 18 discussion confirming the changes and necessary explanation on writing Statement of Purpose.

**RS 25098C1** **Rep. Anderst** presented **RS 25050C1**. The proposed legislation establishes a needed legal standard simply stating that arbitrarily profiling motorcycle riders is not legal and defines what motorcycle profiling is. When 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.

**MOTION:** **Rep. Perry** made a motion to introduce **RS 25089C1**. **Motion carried by voice vote.**

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

**H 97:** **Rep. Luker** presented **H 97**. This bill amends section 12-121 of Idaho Code regarding the award of attorney fees in civil cases. The proposed amendment addresses a change made in the Hoffer Case by the Supreme rescinding of awarding attorney fees when cases are brought, pursued or defended frivolously, unreasonably, or without foundation. The amendment restores that standard for awarding attorney fees.

In response to questions, **Rep. Luker** advised this is a catch all when no specific rules are in place.

**Vice Chairman Malek** returned the gavel to **Chairman Luker**.

**MOTION:** **Rep. McCrostie** made a motion to send **H 97 to the floor with a DO PASS recommendation**. **Motion carried by voice vote**. **Rep. Luker** will sponsor the bill on the floor.

**H 21:** **Teresa Baker** presented **H 21**. This bill would change the PERSI retirement Rule of 90 to the Rule of 80 to officers of the Idaho Department of Juvenile Corrections and those employed by Idaho's counties working in the areas of juvenile detention, juvenile probation, and misdemeanor probation. These professionals are required to have POST certification. Emergency communications officers primarily employed by Idaho counties are eligible for POST certification but not currently statutorily required be certified and would be included in the Rule of 80. The change in classification from the Rule of 90 to the Rule of 80 will better assist agencies in recruiting and retaining these employees that require extensive and extended training in their field.



In response to questions, **Ms. Baker** advised PERSI has reviewed the changes and there are no negative long term effects. The change of Rule 80 was based on personnel type position and attending POST certification. Current employees will have the option of Rule 80 or 90, new employees will be at Rule 80.

**Lieutenant Kevin Haight**, Idaho State Police spoke **in support** of Rule 80, Dispatch workers are the first response and always there to connect and support responders with callers.

In response to questions, **Lt. Haight** advised the change to Rule 80 will increase the pool and quality of applicants. The transition to Rule 80 will be applied to all Emergency Response communications in Idaho.

**Don Drum** PERSI, responded to questions regarding Rule 80 advising the extra cost will fall primarily on the employee paying a higher contribution rate, but there will be some increases for agencies.

**Tracey McCombs** and **Cassie Owens**, Ada County Dispatchers, spoke **in support** of Rule 80 for their fellow dispatchers that have not reached retirement.

**Chris Palmer**, Ada County Probation Parole Supervisor, spoke **in support** of Rule 80 explaining the environment of corrections has changed over the past 20 years.

**Mike Kane**, Idaho Sheriff Association, spoke in strong support of Rule 80 for the little guys working stressful positions in law enforcement.

**Mario Imania**, Jerome County Probation, spoke **in support** of Rule 80 risk factors have changed over his years of service.

**Skip Clop**, Director Valley Court Services, spoke **in support** of Rule 80 for his dedicated employees.

**Diane Legister**, Nampa Dispatch spoke **in support** of Rule 80 educating PTSD and high stress can lead to heart issues and multiple other health risks.

Due to time constraints, H 21 will be carried over to the meeting of February 9, 2017 at 1:30 p.m. The meeting was adjourned at 4:16 P.M.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 4:16 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, February 09, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 21</a>	Retirement System, Police, Fire	Teresa Baker, Idaho Criminal Justice Commission
<a href="#">RS25248</a>	Sexual Assault Evidence	Representative Wintrow
<a href="#">RS25176</a>	Change of names, notice	Michael Henderson, Supreme Court
<a href="#">RS25190</a>	Guardians and conserv, Co-Guardians	Michael Henderson, Supreme Court
	Administrative Judge Presentation	
	Introduction and the Role of the Administrative District Judge	Senior Judge Barry Wood
	Judicial Excellence and Education Program (JEEP)	Administrative District Judge Jeff Brudie
	Value and Use of Senior Judges in Idaho	Administrative District Judge Darren Simpson
	Update on iCourt and Odyssey Implementation	District Judge Timothy Hansen
	Problem Solving Courts and Crisis Centers	Administrative District Judge Richard Bevan
	Impact of a Capital Case on a Judicial District's Resources	District Judge Barbara Buchanan
	Implementation of the Justice Reinvestment Initiative and the Need for Additional Probation and Parole Officers	Administrative District Judge Mitchell Brown
	Courthouse Facilities, Security, ADA Compliance and Language Access	Administrative District Judge Bradly Ford

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham	Rep Zito
Vice Chairman Malek	Rep Kerby	Rep Zollinger
Rep Perry	Rep Nate	Rep Gannon
Rep Dayley	Rep Chaney	Rep McCrostie
Rep Trujillo	Rep Amador	Rep Wintrow
Rep McDonald	Rep Hanks	

COMMITTEE SECRETARY

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

**DATE:** Thursday, February 09, 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 1:31 P.M.

**MOTION:** **Rep. Kerby** made a motion to approve the minutes of the January 25, 2017 and January 31, 2017 meetings. **Motion carried by voice vote.**

**H 21:** Continuation of the meeting of February 7, 2017 at 1:30 p.m.

**MOTION:** **Rep. Malek** made a motion to send **H 21 to the floor with a DO PASS recommendation.**

**Rep. Wintrow** spoke in support of H 21.

**SUBSTITUTE MOTION:** **Rep. Kerby** made a substitute motion the send **H 21** to General Orders.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** **Rep. Perry** requested a roll call vote. **Motion failed by a vote of 1 AYE, 14 NAY and 2 Absent/Excused.** **Voting in favor** of the motion: **Rep. Kerby.** **Voting in opposition** to the motion: **Reps. Luker, Malek, Perry, Trujillo, McDonald, Cheatham, Nate, Amador, Hanks, Zito, Zollinger, Gannon, McCrostie, and Wintrow.** **Absent/Excused Rep. Dayley and Chaney.**

**ROLL CALL VOTE ON ORIGINAL MOTION:** **Motion failed by a vote of 4 AYE, 12 NAY and 1 Absent/Excused.** **Voting in favor** of the motion: **Reps. Malek, Gannon, McCrostie, and Wintrow.** **Voting in opposition** to the motion: **Reps. Luker, Perry, Trujillo, McDonald, Cheatham, Kerby, Nate, Chaney, Amador, Hanks, Zito, and Zollinger.** **Absent/Excused Rep. Dayley**

**RS 25248:** **Rep. Wintrow** presented **RS 24248.** The proposed legislation establishes standards for sexual assault victims' access to medical examinations, and standards for sexual assault evidence retention and preservation. The legislation will ensure victims are provided medical examination regardless of ability to pay. The proposed legislation also defines evidence preservation periods based on the classification of the crimes alleged and ensures proper notification to victims upon destruction.

**MOTION:** **Rep. Cheatham** made a motion to introduce **RS 25248.** **Motion carried by voice vote.**

**RS 25176:** **Michael Henderson** Supreme Court, presented **RS 25176**. The proposed legislation corrects and clarifies 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. Second, 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. Finally, it updates the provision for publishing notice of a hearing on a name change petition.

In response to questions, **Mr. Henderson** advised this will not include electronic publishing.

**MOTION:** **Rep. Malek** made a motion to introduce **RS 25176**. **Motion carried by voice vote.**

**RS 25190:** **Michael Henderson**, Supreme Court, presented **RS 25190**. The proposed legislation is a recommendation from the Guardianship and Conservatorship Committee who deal with this area of the law. This will amend the guardianship statutes in a few ways. The current statutes permit the appointment of only a single guardian for a minor. This bill would permit the appointment of two co-guardians for minors, incapacitated persons, and persons with developmental disabilities. It sets standards for the appointments of co-guardians, and provides that the court would determine whether the co-guardians could act independently or would be required to act jointly. The legislation would clarify the standards for temporary guardians appointed by a court when a guardian has not yet been appointed but a temporary guardian is needed to protect the individual, or when there is substantial evidence an appointed guardian is not performing the duties of a guardian. The bill also provides the Supreme Court rules establishing the qualifications of court visitors and the standards for visitors' reports to the court. Finally, the bill would require that in cases of persons with developmental disabilities, the reports of evaluation committees would be made in compliance with Supreme Court rules.

**MOTION:** **Rep. Trujillo** made a motion to introduce **RS 25190**. **Motion carried by voice vote.**

**Senior Judge Barry Wood** presented an introduction regarding the role of the Administrative District Judge. **Judge Wood** also provided an overview of the Idaho judiciary branch, qualifications to be an Administrative District Judge and the judicial districts in the state of Idaho.

**Administrative District Judge Jeff Brudie** presented Judicial Excellence and Education Program (JEEP) that the judicial education and improvement programs will enhance judicial excellence, education, and wellness throughout a judge's service. Three judges are randomly selected for a survey of 100 people they have seen in their courtroom, and the results are used as an educational tool. These surveys are mandatory and take place throughout a judge's time on the bench.

In response to questions, **Judge Brudie** said the surveys are done through Human Resources office of the Supreme Court.

**Administrative District Judge Darren Simpson** presented on the value and use of Senior Judges in Idaho. Senior Judges are judges retired from office and apply to the Supreme Court to be a Senior Judge. They have the same responsibilities as regular judges and are compensated for days served at 90%. Senior Judges provide coverage in cases where the District Judge is disqualified and must excuse himself. Senior Judges cover during long term illnesses, or perform other duties required by the Supreme Court. They also cover meetings with County Commissioners to review budgets.

In response to questions, **Judge Simpson** said the cost of 11 more judges versus the Senior Judge program would be significantly more.

**Administrative District Judge Timothy Hansen** presented an update on iCourt and Odyssey Implementation which moves from the traditional paper system to an online electronic system. The modern system is necessary to prevent delays in cases. Advances of using the iCourt system are immediate accurate reports as needed, immediate access to documents, court records of other counties, same record different locations same time. Also allows remote work and submission of documents 24 hours a day 7 days a week. Reduces amount of time necessary to research cases. There is a need for more time spent on training staff on the new system. Overall, iCourt saves the taxpayers money.

In response to questions, **Judge Hansen** said Odyssey had a period of 30 days to utilize paper filing as well. Civil filing taking longer are responding to issues quickly being addressed and corrected.

**Administrative District Judge Richard Bevan** presented on Problem Solving Courts and crisis centers. The crisis center in Twin Falls has been very successful in the year it has been running. An average 1.25 people a day are servicing and meeting the needs of keeping people out of jail when in crisis. Mental Health court is also being supported through their process. Mental Health Court has been able to divert non violent addicts or mentally ill to get them back on the right track treating them with direct supervision and expediting due process to break the cycle of criminal behavior. They are expanding problem solving courts into domestic violence courts, DUI courts and Veterans treatment courts.

In response to questions, **Judge Bevan** said problem solving Administrative Judges and members do many of these hours under volunteer time, and currently do not have the resources to expand at this time.

**District Judge Barbara Buchanan** presented on the impact of a Capitol case on a Judicial District's resources when a person faces the death penalty. Thirty-two states have the death penalty, Judge Buchanan provided Idaho's history of people executed in Idaho. It is unconstitutional for Judges to make the verdict to place a person on death row according to the supreme court, it must be a trial by jury. It can take decades to complete the court process and cost the state an incredible amount of tax payers money.

In response to questions, **Judge Buchanan** said the total cost to defend a person facing the death penalty is unknown but is definitely less expensive to incarcerate the person indefinitely without the possibility of parole.

**Administrative District Judge Mitchell Brown** presented on the implementation of the justice reinvestment initiative and the need for additional probation and parole officers. In 2014 the Council for State Government reported since 2008 the Idaho prison population has increased by 8% and is projected by 2019 to increase by another 16%. This will result of a projection costs operating increase of \$288 million.

In response to questions, **Judge Brown** said they are working on preventing an increase in population and are working with the inmates who can work safely on the street to prevent building another prison.

**Administrative District Judge Bradley Ford** presented on courthouse facilities, security, ADA compliance and language. Following the history of the courthouses, Judge Ford advised the limitations of updating the courthouses and ability to improve handicap limitations, especially for less populated counties.

In response to questions, **Judge Ford** said he does not worry about lack of security in smaller counties, and he would like to address the long term strategies.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:46 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, February 13, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS25254</a>	Civil Forfeitures	Representative Harris
<a href="#">RS25021</a>	Peace Officers, Extraterritorial	Representative Malek
<a href="#">RS25084</a>	County Records/Law Enforcement Media Records	Teresa Baker
<a href="#">RS25141</a>	Police, Rule Rejection	Representative Erpelding
<a href="#">RS25171</a>	Staff Attorneys, Salaries	Representative Perry
<a href="#">RS25207</a>	Fines, District Court Fund	Representative Perry
<a href="#">RS25216</a>	Asbestos Bankrupt Trust Claims	Alex LaBaeu
<a href="#">RS25239</a>	Homicide, Heroin	Representative Gannon
<a href="#">RS25251</a>	Bail Enforcement Agents	Michael Kane, Idaho Sheriffs Association
<a href="#">RS25258</a>	Controlled Substances, Mandatory Minimum Trafficking	Representative Rubel
<a href="#">RS25119</a>	Debt Collectors	Representative Thompson

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham	Rep Zito
Vice Chairman Malek	Rep Kerby	Rep Zollinger
Rep Perry	Rep Nate	Rep Gannon
Rep Dayley	Rep Chaney	Rep McCrostie
Rep Trujillo	Rep Amador	Rep Wintrow
Rep McDonald	Rep Hanks	

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Monday, February 13, 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:** Fred Birnbourn, Idaho Freedom Foundation; Holly Koole Libholtz; Jesse Taylor, American Bail Coalition; Teresa Baker, Idaho Association of Counties; Terry Dexoen, Ada County Sheriff; Mike Kane, Idaho Sheriff Association; Elisha Figuena, ODP; Tom Arkoosh, Idaho Association of Criminal Defense Lawyers
- Chairman Luker** called the meeting to order at 1:31 P.M.
- RS 25254:** **Rep. Harris** presented **RS 25254**. The proposed legislation will make changes to the current code regarding civil asset forfeitures in several regards. Notably, to include: 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. Property merely in proximity to a controlled substance is not subject to forfeiture absent a meaningful connection to a violation of the chapter. The presence of U.S. currency is not sufficient cause for a seizure or forfeiture and creating a right of replevin of property while proceedings are pending provided the owners can show necessity. Courts must determine whether a property forfeiture is proportionate to the crime alleged, as is currently reflected in case law and an obsolete publication provision is removed. An innocent owner is absolved of having to pay the state's costs associated with the seizure and law enforcement may not bypass the disposition procedures and retain property without judicial approval along with a reporting requirements regarding forfeited property are instituted.
- MOTION:** **Rep. Nate** made a motion to introduce **RS 25254**. **Motion carried by voice vote.**
- RS 25021:** **Rep. Malek** presented **RS 25021**. The proposed legislation will amend the law relating to the jurisdiction of peace officers as it pertains to conducting investigations. The current code allows for limited authority outside an officer's original jurisdiction but does not allow detectives to interview suspects, victims, or witnesses, or gather evidence outside their political jurisdiction within the state of Idaho. The intent of this amendment is not to allow or encourage regular enforcement efforts outside a peace officer's original jurisdiction, but provide a greater public safety by adding the ability for officers to conduct follow-up investigation, such as interviews and evidence gathering, on crimes that were committed within their jurisdiction. This amendment provides greater protection from suppression hearings and liability issues while improving overall public safety by removing an administrative hindrance to conducting proper criminal investigations.
- MOTION:** **Rep. Cheatham** made a motion to introduce **RS 25021**. **Motion carried by voice vote.**



- RS 25084:** **Teresa Baker** presented **RS 25084**. The proposed legislation requires counties to retain digital files of video and audio recordings for a minimum of two years as they, by default are considered temporary records. Given the size and volume of media files, plus the hard costs of management and storage, counties are currently unable to retain digital recordings for the minimum requirement of two years. This legislation will add language to define digital recordings and set a minimum retention requirement for specified media files based upon the evidentiary value of the media. These amendments will encourage counties to invest in digital recording devices by making the retention of county law enforcement records more achievable under county budgets.
- In response to questions, **Ms. Baker** responded this is intended to protect the privacy of people not in the videos themselves.
- MOTION:** **Rep. Malek** made a motion to introduce **RS 25084. Motion carried by voice vote.**
- RS 25141:** **Rep. Erpelding** presented **RS 25141**. The proposed legislation is to reject **Subsection 04.** of the Idaho State Police Administrative Code relating to Rules Governing Alcohol Beverage Control in order to align the rules with legislative intent.
- MOTION:** **Rep. Chaney** made a motion to introduce **RS 25141. Motion carried by voice vote.**
- RS 25171:** **Rep. Perry** presented **RS 25171**. The proposed legislation will remove the personnel cost of staff attorneys, who work for the district judges at the county level, from the counties and place them officially as employees of the Idaho Supreme Court. The purpose is to ensure staff attorneys are being paid by the entity which employs them. Secondly, this is intended to remove pressure from the county's justice fund levy.
- MOTION:** **Rep. McDonald** made a motion to introduce **RS 25171. Motion carried by voice vote.**
- RS 25207:** **Rep. Perry** presented **RS 25207**. The proposed legislation will re-direct twenty-two and one half percent from fines remitted for state motor vehicle violations from the public school income fund to the court fund. This is an alignment with historical motives of using these monies for court services.
- In response to questions, **Rep. Perry** said the amount would be approximately \$1.1 million.
- MOTION:** **Rep. McCrostie** made a motion to introduce **RS 25207. Motion carried by voice vote.**
- RS 25216:** **Rep. Malek and Alex LaBeau** presented **RS 25216**. The proposed legislation will establish procedures for a claimant in a civil action for damages due to asbestos exposure to disclose additional claims the claimant has filed with an asbestos trust. The Idaho Asbestos Bankruptcy Trust Claims Transparency Act establishes a method the courts in Idaho will use to determine whether a person filing a claim for an asbestos action has made a claim or recovered monies from any Asbestos Trust in the past. In order for the court to make this determination, the legislation would require the claimant to provide the court with information related to prior claims. Any action could be dismissed for noncompliance and a trial would not be set until at least 180 days after the requirements are met. The bill would allow the defendant to request a stay and a set time frame in which to provide information supporting additional trust claims made by the claimant, upon which the claimant would have ten days to respond.
- MOTION:** **Rep. Kerby** made a motion to introduce **RS 25216. Motion carried by voice vote.**

**RS 25239:** **Rep. Gannon and Holtzclaw** presented **RS 25239**. The proposed legislation will increase the penalty for the direct or indirect sale of heroin to users when a user of the heroin dies. The penalty under such circumstances becomes second degree murder. As discussed in the Statement of Intent, this law is directed against those who sell this highly addictive and extremely dangerous drug, which is becoming more widely used throughout our state. It is intended to send a strong message to discourage those who would come to our State and sell heroin to our citizens.

In response to questions **Rep. Gannon** said this would apply to any person selling or reselling heroin.

**MOTION:** **Rep. McDonald** made a motion to introduce **RS 25239**. **Motion carried by voice vote.**

**RS 25251:** **Michael Kane**, Idaho Sheriff Association, presented **RS 25251**. The proposed legislation is to place limits on private citizens who work with bail agents to arrest Idaho citizens. Currently there is no law in Idaho whatever that places any restrictions on "bounty hunters" in any way. This bill will still allow the practice of "bounty hunting" but will make it clear that the adjudicated mentally ill, fugitives, illegal aliens and persons under twenty one years of age may not act as bounty hunters. It also sets forth limits as to how bounty hunters identify themselves and prohibits them from representing themselves as police officers, and sets minor penalties for failing to abide by Idaho law.

In response to questions, **Mr. Kane** said this is similar to a bill from last year.

**MOTION:** **Rep. Amador** made a motion to introduce **RS 25251**.

**SUBSTITUTE MOTION:** **Rep. Trujillo** made a motion to return **RS 25251** to the sponsor. **Motion carried by voice vote. Reps Perry, McCrostie and Wintrow** requested to be recorded as **NAY**.

**RS 25258:** **Representative Rubel** presented **RS 25258**. The proposed legislation will make changes to the current code pertaining to mandatory minimum sentencing provisions for trafficking in controlled substances in order to provide for judicial discretion in such sentencing, as is the case for the overwhelming majority of criminal offenses.

In response to questions, **Rep. Rubel** said the charges remain a felony, the change is to strike the requirement of a minimum sentence.

**MOTION:** **Rep. Wintrow** made a motion to introduce **RS 25258**.

**SUBSTITUTE MOTION:** **Rep. Malek** made a motion to return **RS 25258** to the sponsor.

In response to questions, **Rep. Rubel** said the majority of judges tend to stick to the medium in sentencing unless there are extreme circumstances.

**Rep. Kerby** spoke in favor of the original motion to introduce the legislation to be able to hear testimony and have a thorough discussion on the topic.

**Rep. Perry** spoke in favor of the original motion to introduce the legislation to discuss how the change would impact corrections and citizens.

**MOTION WITHDRAWN:** **Rep. Malek** withdrew his substitute motion.

**VOTE ON THE MOTION:** **RS 25258. Motion carried by voice vote.**

**RS 25119:** **Rep. Thompson** presented **RS 25119**. The proposed legislation will more closely 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 introduce **RS 25119**. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:55 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Wednesday, February 15, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Idaho Department of Corrections Update	

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham
Vice Chairman Malek	Rep Kerby
Rep Perry	Rep Nate
Rep Dayley	Rep Chaney
Rep Trujillo	Rep Amador
Rep McDonald	Rep Hanks

Rep Zito
Rep Zollinger
Rep Gannon
Rep McCrostie
Rep Wintrow

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, February 15, 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:** Reps. Malek, Perry, and Chaney.

**GUESTS:** Holly Koole Rebholtz, IPAA.

**Chairman Luker** called the meeting to order at 1:32 P.M.

**Henry Atencio**, Idaho Department of Correction (IDOC), presented an IDOC Update on population trends, specifically on prison population and community correction supervised population, as well as on the reform initiatives the agency is working on. The total incarcerated population has rebounded after a dip between September 2015 to September 2016. However, it is still below the four-year average. Term population (those sent to prison for longer periods of time) is down. The rider population (those who courts retain jurisdiction over) and the parole violators population are both up from average. The bad news is that these populations are growing, the good news is that it is in areas where the individuals only stay within the system for shorter times. The community corrections population, which is the adult convicted probationers and parolees that the department supervises, has increased by 4% since 2012. What has helped manage this population is the Limited Supervision Unit (LSU). Director Atencio reviewed the new programs that were put into place following the agency's top to bottom justice program assessment: Five new Core Programs, The April 2016 RIDER Program, the August 2016 Term Population, the Train and Trainer process, and Quality Assurance. Early success has been seen in these new programs. The restrictive housing reform in the prisons was begun over a year ago. Restrictive housing comes in two forms: short-term, disciplinary housing and long-term segregation. This process does not necessarily work, however. The reform includes: repurposing 17 beds at SICI, creation of transition tier, Administrative Segregation eliminated 120 beds, and the step down program out of long-term segregation.

**Director Atencio** summarized Probation and Parole Supervision versus Focused Supervision. Probation and Parole Supervision are subject to high case loads with mixed risk levels; this type of supervision is an outdated solution. Focused supervision, however, allows for more resources (Probation and Parole Officers) to be focused on highest-risk offenders, which includes increased supervision. This type of supervision also gives the agency the opportunity to fully support Problem Solving Courts, change supervision standards to reflect what is expected for each of the risk groups, and to continue to push for appropriate early discharge and movement to LSU.

**Director Atencio** addressed Justice Reinvestment concerns. The sanctions for parole violators are prescribed in statute with little flexibility. The agency is hoping to put the discretion back in the Parole Commission to decide how to manage each case. The other concerns are the required reporting with a marker of 150% of fixed time and the possibility of creating the "right" to programming or parole.

**Director Atencio** said he feels the sense of urgency to reform, and greatly emphasized this. There is no time to waste. The agency also wants to focus on community reentry and incentivizing behavior in the inmate population. As the individuals make his or her own decisions, there are more opportunities available. Prison life should prepare individuals for reentry into the community.

In response to a question on what the new Core Programs are, **Mr. Atencio** said they are the drug and alcohol program, the cognitive behavior intervention for sex offending, the thinking for a change program, and aggression replacement training.

In response to a question on recidivism, **Director Atencio** said most are going to recidivate with the reuse of drugs. Sex offenders recidivate at a much lower rate.

**Director Atencio** said the heavy probation case loads do not allow the officers to be proactive; it would be better to have smaller case loads, where officers would be able to better approach each case individually and personally. If changes go into effect, and a parolee violates, then staff members are still expected to work with that individual; but when a violation report or arrest must be made, that person will go before the parole commission (the way it was prior to **S 1357**).

**Rep. Wintrow** asked what can be done in the inmate's environment to address the initial physical or sexual trauma that a majority of the female population experience prior to the crime they commit. **Director Atencio** replied the trauma programs the agency was using were discontinued, as they were not evidence-based and not successful. They have not yet discovered an evidence-based program, though they are exploring options and looking at their counterparts' programs across the nation. This is a significant issue that needs to be addressed.

In response to questions on how one-third of inmates are not making it out in a timely manner and how is it being addressed, **Director Atencio** said when the populations are a year away from being first eligible for parole, the agency begins programming with the five Core Programs. The goal is to program individuals as they are stepping out of the prison system, so they can use those new tools to their advantage. With these new Core Programs, there will be more efficient enrollment hopefully. Outside of the sex offenders category, which has longer waiting times, most inmates will have access to programming.

**Rep. Dayley** asked what are the results of the focused supervision. **Director Atencio** said the program was started in November 2016. Once it has been fully implemented, the agency should be able to see immediate results with being proactive with high-risk individuals.

In response to questions on assessments, **Director Atencio** said the agency is confident in the validity of preliminary assessments. These assessments follow the individuals into prison if they are sentenced. Also, if they are sentenced, they will go through a gain assessment, which includes substance abuse and mental health evaluation components.

**Director Atencio** addressed the parole violators spike, saying the agency is in the process of reviewing that now and seeing what the population makeup is and the subsequent actions that need to be taken.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:18 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Tuesday, February 21, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Presentation	Eric Fredrickson
<a href="#">RS25173C1</a>	Court Fees / Electronic Payment	Representative Chaney and John Watts
<a href="#">RS25329</a>	Change of Names, Notice	Michael Henderson
<a href="#">RS25335</a>	Civil Forfeitures	Representative Harris
<a href="#">H 180</a>	Debt Collectors	Representative Thompson
<a href="#">H 146</a>	Sexual Assault Evidence, Medical Exam	Representative Wintrow
<a href="#">H 123</a>	Motorcycling, Profiling	Representative Anderst

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker            Rep Cheatham  
Vice Chairman Malek    Rep Kerby  
Rep Perry                Rep Nate  
Rep Dayley              Rep Chaney  
Rep Trujillo             Rep Amador  
Rep McDonald          Rep Hanks

Rep Zito  
Rep Zollinger  
Rep Gannon  
Rep McCrostie  
Rep Wintrow

COMMITTEE SECRETARY

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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.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, February 23, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS25345</a>	Fines and Forfeits/ District Court Funds	Representative Perry
<a href="#">H 201</a>	Change of Names, Notice	Michael Henderson

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker      Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry      Rep Nate  
Rep Dayley      Rep Chaney  
Rep Trujillo      Rep Amador  
Rep McDonald      Rep Hanks

Rep Zito  
Rep Zollinger  
Rep Gannon  
Rep McCrostie  
Rep Wintrow

COMMITTEE SECRETARY

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

**DATE:** Thursday, February 23, 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:** Michael Henderson, Supreme Court

**Chairman Luker** called the meeting to order at 1:31 P.M.

**MOTION:** **Rep. Kerby** made a motion to approve the minutes of the January 25, 2017 and January 31, 2017 meetings. **Motion carried by voice vote.**

**MOTION:** **Rep. Kerby** made a motion to approve the minutes of the February 1, 2017 and February 7, 2017 meetings. **Motion carried by voice vote.**

**RS 25345:** **Rep. Perry** presented **RS 25345**. The proposed legislation is to re-direct twenty two and one half percent of monies from fines and forfeitures remitted for state motor vehicle violations and DUI's from the Public School Income Fund to the Supreme Court Fund. This move is in alignment with historical motives of using these monies for court services.

**MOTION:** **Rep. Malek** made a motion to introduce **RS 25345**. **Motion carried by voice vote.**

**H 201:** **Michael Henderson**, Council, Idaho Supreme Court presented **H 201** This legislation proposed by the Supreme Court will correct and clarify provisions in the statutes regarding name changes. First, 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. Second, 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. Finally, it updates the provision for publishing notice of a hearing on a name change petition.

**MOTION:** **Rep. Dayley** made a motion to send **H 201** to the floor with a **DO PASS** recommendation Motion carried by a voice vote. **Rep. Zito** will sponsor on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:56 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, February 27, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 148</a>	Guardians and conserv, Co-Guardians	Judge Barry Wood
<a href="#">H 200</a>	Court Fees/Electronic Payment	Rep. Chaney and John Watts
<a href="#">H 202</a>	Civil Forfeitures	Rep. Rubel and Harris
<a href="#">H 178</a>	Homicide, Heroin	Rep. Gannon and Holtzclaw

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker            Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry                  Rep Nate  
Rep Dayley                Rep Chaney  
Rep Trujillo                Rep Amador  
Rep McDonald              Rep Hanks

Rep Zito  
Rep Zollinger  
Rep Gannon  
Rep McCrostie  
Rep Wintrow

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Monday, February 27, 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:** Charlie Spencer, ISP; Mike Kane, ISA; Wayne Hoffman, IFF; Tom Arkoosh, IACPL; Michael Henderson, Supreme Court; Nanci Thoemert, Supreme Court; Chris Bieter, Court; Sara Thomas, ISC; Justin Cotton, Barbara Quatterbaum; Elisa Massoth, ACDL; David Pimentel, University of Idaho College of Law; Kathy Peter; Kathy Griesmeyer, ACLU; Carlyn Ward; Kay Hess; Richard Hess; Chief Jeff Lavey, Idaho Chiefs of Police; Teresa Baker, Idaho Association of Counties; Sharon Harrigfeld, ISA; Meray Chadwell, IDJC; Gene Hess; Dennis Farnhume, Idaho Farm Bureau
- Chairman Luker** called the meeting to order at 1:31 P.M.
- H 148:** **Michael Henderson**, Idaho Supreme Court presented **H 148**. This legislation is proposed by the Supreme Court based on a recommendation from its Guardianship and Conservatorship Committee, which brings together judges, practitioners, legislators, and others who deal with this area of the law. It will amend the guardianship statutes in a few respects. First, in *Doe I v. Doe II*, 160 Idaho 311, 372 P.3d 366 (2016), the Supreme Court held that the current statutes permit the appointment of only a single guardian for a minor. This bill will permit the appointment of two co-guardians for minors, incapacitated persons, and persons with developmental disabilities. It will set standards for the appointments of co-guardians, and also provide that the court would determine whether the co-guardians could act independently or would be required to act jointly. Second, the legislation will clarify the standards for temporary guardians, who are appointed by a court when a guardian has not yet been appointed but a temporary guardian is needed to protect the individual, or when there is substantial evidence that an appointed guardian is not performing the duties of a guardian. Third, the bill will provide that Supreme Court rules will establish the qualifications of court visitors and the standards for visitors' reports to the court. Finally, the bill will require that in cases of persons with developmental disabilities, the reports of evaluation committees would be made in compliance with Supreme Court rules.
- Judge Chris Beiter** Idaho Court spoke **in support** of **H 148**.
- In response to questions, **Judge Beiter** said the visitor section is up to the discretion of the guardian as to who may visit.
- MOTION:** **Rep. Trujillo** made a motion to send **H 148 to the floor with a DO PASS recommendation. Motion carried by voice vote. Rep. Trujillo** will sponsor the bill on the floor.
- H 200:** **Rep. Chaney** presented **H 200**. The proposed legislation will amend existing law §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.

**John Watts** spoke in support of H 200.

**MOTION:** **Rep. Kerby** made a motion to send H 200 to the floor with a **DO PASS recommendation. Motion carried by voice vote. Rep. Chaney** will sponsor the bill on the floor.

**H 202:** **Rep. Harris** presented H 202. This 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 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 & a pos'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.

**Rep. Rubel** spoke in support of H 202.

In response to questions, **Rep. Rubel** said money cannot be taken just because they are in possession of cash, this must be processed through the burden of proof.

**MOTION:** **Rep. Trujillo** made a motion to send H 202 to the floor with a **DO PASS recommendation.**

**Mike Kane**, Idaho Sheriffs Association, spoke in opposition H 202 due to the Sheriffs and Idaho State Police not being involved in the discussions.

In response to questions, **Mr. Kane** said the law is complex, this change will create favor on the drug trafficker, not on law enforcement officers. Money should be placed into evidence and proven through a court of law.

**Major Charles Spencer**, Idaho State Police spoke in opposition to H 202 outlining seizure versus forfeiture of property.

In response to questions, **Major Spencer** said the wording could be clearer, it is important for the courts to decide and follow seizure of property.

**Wayne Hoffman**, Idaho Freedom Foundation spoke in support of H 202.

**Tom Arkoosh**, and **Elisa Massoth**, Idaho Association of Criminal Defense Lawyers spoke in support of H 202.

**David Pimentel**, University of Idaho, College of Law spoke in support of H 202 on behalf of himself and as a scholar.

**Kathy Greismeyer**, American Civil Liberties Union of Idaho spoke in support of H 202 and the reporting requirements specified.

**Caroline Ward**, Legal Research Intern, Concordia University spoke in support of H 202 and reported her research process showing the Idaho counties currently have no uniform method or public access to account for money or assets that have been seized.

In response to questions, **Ms. Ward** said they requested information from 10 counties, but due to difficulties, research was not extended to another 10 counties at this time.



**Chief Jeff Levey**, Chief of Police, **spoke in opposition** of **H 202** since no Chiefs were contacted they would like to express their opinions.

**SUBSTITUTE MOTION:**

**Rep. McDonald** made a substitute motion the send **H 202** to General Orders.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:**

**Rep. Trujillo** requested a roll call vote. **Substitute motion failed by a vote of 5 AYE and 12 NAY. Voting in favor** of the motion: **Rep. Malek, McDonald, Cheatham, Kerby and Amador. Voting in opposition** to the motion: **Reps. Perry, Dayley, Trujillo, Nate, Chaney, Hanks, Zito, Zollinger, Gannon, McCrostie, Wintrow, and Luker.**

**VOTE ON ORIGINAL MOTION:**

**Chairman Luker** called for the vote on the original motion to send **H 202 to the floor with a DO PASS recommendation. Motion carried by voice vote. Rep. McDonald** requested to be recorded as voting **NAY. Rep. Harris** will sponsor the bill on the floor.

**Chairman Luker** called a recess of the committee at 4:00 p.m.

**Chairman Luker** reconvened the meeting at 4:10 p.m.

**H 178:**

**Rep. Holtzclaw** presented **H 178**. This legislation will increase the penalty for the direct or indirect sale of heroin to users when a user of the heroin dies. The penalty under such circumstances becomes second degree murder. As discussed in the Statement of Intent, this law is directed against those who sell this highly addictive and extremely dangerous drug, which is becoming more widely used throughout the state. It is intended to send a strong message to discourage those who would come to our state and sell heroin to our citizens.

In response to questions, **Rep. Gannon** said this bill will add to the tools Idaho needs to fight dangerous drugs for sale or resale. Sales can be made directly or indirectly.

In response to questions, **Rep. Holtzclaw** said this is to get the dealers not the users who need treatment.

**Tom Arkoosh**, Idaho Association of Criminal Defense Lawyers, spoke **in opposition** of **H 178**. This bill does not help solve the problem of drug addiction nor work as a deterrent to drug addicts since pushers do not tend to be prosecuted.

**Barbara Quatterbaum**, spoke **in support** of **H 178** based on personal experiences.

**Elisa Massoth**, Idaho Association of Criminal Defense Lawyers, spoke **in opposition** of **H 178**. The prosecution for death penalty or life in prison has a large fiscal impact on Idaho.

**Mike Kane**, Idaho Sheriffs Association, spoke **in support** of **H 178**.

**Kathy Griesmeyer**, ACLU, spoke **in opposition** of **H 178**. Many addicts are poly substance abusers, and it is difficult to determine if only heroine caused the death individually.

**Major Charles Spencer**, Idaho State Police, spoke **in support** **H 178**.

**Justin Cotton** spoke **in support** of **H 178**. Mr. Cotton's best friend died from a heroin overdose recently. Dealers are not chemically bound to sell and need to have strict punishment when caught.

**MOTION:**

**Rep. Gannon** made a motion to send **H 178** to the floor with a **DO PASS** recommendation.

**SUBSTITUTE MOTION:**

**Rep. Chaney** made a substitute motion to **Hold H 178** in Committee.

**ROLL CALL  
VOTE ON  
SUBSTITUTE  
MOTION:**

Rep. Trujillo requested a roll call vote. **Substitute motion failed by a vote of 7 AYE and 10 NAY. Voting in favor** of the motion: **Rep. Perry, Dayley, Chaney, Amador, Wintrow, McCrostie, and Luker. Voting in opposition** to the motion: **Reps. Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Hanks, Zito, Zollinger, and Gannon.**

**VOTE ON  
ORIGINAL  
MOTION:**

**Chairman Luker** called for the vote on the original motion to send **H 178** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Dayley, Chaney, McCrostie, and Wintrow** requested to be recorded as voting **NAY. Rep. Gannon** will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 5:50 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 PM Or Upon Adjournment**  
**Room EW42**  
**Tuesday, March 07, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1011</a>	Juvenile Corrections, Code Referral Correction	Sharon Harrigfeld
<a href="#">S 1091</a>	LLC's, Dissolution	Mike Brassey
<a href="#">H 221</a>	Asbestos Bankruptcy Trust Claims	Alex LaBeau

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker            Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry                  Rep Nate  
Rep Dayley                Rep Chaney  
Rep Trujillo                Rep Amador  
Rep McDonald              Rep Hanks

Rep Zito  
Rep Zollinger  
Rep Gannon  
Rep McCrostie  
Rep Wintrow

COMMITTEE SECRETARY

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

**DATE:** Tuesday, March 07, 2017

**TIME:** 1:30 PM Or Upon Adjournment

**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:** Benjamin Couture, Idaho Trial Lawyers Association; Mark Zaleski, Kelly Billings, International Brotherhood of Electrical Workers 291; Sharon Harrigfeld, Director, Idaho Department of Juvenile Corrections; Roy Bale, self; Matt Andrew, self; Aaron White, Idaho American Federation of Labor and Congress of Industrial Organizations; Holly Koole Rebholtz, Idaho Prosecuting Attorneys Association; Charlotte Nilson, CDA Tribe; Shaun Laughlin, Professional Firefighters of Idaho; Alex LaBeau, Steve Thomas, Idaho Association of Commerce & Industry; Kent Day, Liberty Mutual; Phil Goldberg, U.S. Chamber; Mike Brassey, Uniform Law Commissioner; Ken McClue, Idaho Liability Reform Coalition; Shakirah Sanders, self; Marty Durand, Building Trades

**Chairman Luker** called the meeting to order at 1:58 P.M.

**S 1011:** **Sharon Harrigfeld**, Director, Idaho Department of Juvenile Corrections, presented **S 1011**. This legislation seeks to amend Chapter 23, Title 67 because it no longer governs open meeting law, and therefore the change is necessary to ensure the reference cites the accurate applicable laws. This change will provide for correct citation of the Idaho Code for open meetings law and will change the "open meeting law" from singular to plural. The cost to make these changes will be absorbed by the Department in the statewide cost allocation and, therefore, will have a minimal cost to the public.

**MOTION:** **Rep. McCrostie** made a motion to send **S 1011** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

**S 1091:** **Mike Brassey**, Uniform Law Commissioner, presented **S 1091**. This legislation corrects a drafting error that occurred when section 30-25-701, Idaho Code was adopted in 2015. This section of Idaho's Limited Liability Company (LLC) statute relates to the dissolution of an LLC. The current statute includes language in both subsections (4) (B) and (4) (C) that should be included only in subsection (4) (C). As a consequence, the legislation strikes the duplicate and incorrect language in subsection (4) (B).

**MOTION:** **Rep. Kerby** made a motion to send **S 1091** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

**H 221:**

**Alex LaBeau** and **Steve Thomas**, Idaho Association of Commerce & Industry, presented **H 221**. This legislation amends Title 6, Idaho Code, by the addition of a new Chapter 31, to establish procedures for a claimant in a civil action for damages due to asbestos exposure to disclose additional claims the claimant has filed with an asbestos trust. The Idaho Asbestos Bankruptcy Trust Claims Transparency Act establishes a method the courts in Idaho will use to determine whether a person filing a claim for an asbestos action has made a claim or recovered monies from any Asbestos Trust in the past. The legislation would require the claimant to provide the court with information related to prior claims. Chapter 31 provides definitions of terms in section 6-1303; outlines required disclosures by claimant in section 6-3104; requires identification of additional or alternative trust claims by defendants in 6-3105; sets use of materials in discovery in section 6-3106; requires a record of valuation in trust claims and judicial notice in section 6-3107; establishes sanctions for a failure to provide information in the case in section 6-3108; provides presumptions of timing but gives the courts discretion in section 6-3109; provides for severability in section 6-3110; and clarifies that this act is prospective, and applies to all asbestos cases filed on or after its effective date in section 6-3111.

In response to questions, **Mr. LaBeau**, said there are an undisclosed amount of cases and a nation wide problem. When you fill out the application the claim goes to all the trusts. The standard providing fair disclosure by claimants is 180 days.

In response to questions, **Steve Thomas**, Idaho Association of Commerce & Industry, said asbestos may have multiple defendants. Claimants waive their protections when they file claims. Trial courts may shorten or lengthen time as necessary for investigation needs.

**Benjamin Couture**, Idaho Trial Lawyers Association, spoke **in opposition** of **H 221** advising the bill calls for unnecessary time consuming requirements the suffering veterans and working class with exposure should not have to endure during the remaining few months of their lives.

In response to questions, **Mr. Couture** said trusts do make them whole again, double dipping is a catch phrase. Many workers change employment multiple times in life and are exposed to multiple different asbestos companies and their products. Lawyers are able to file in the state the problem occurred, not their actual current resident state of diagnosis.

**Ray Bale**, Idaho resident with mesothelioma, spoke **in opposition** of **H 221** advising even with health insurance it has been very expensive, and this was a painful battle for his family while suffering from mesothelioma.

**Shaun Laughlin**, Professional Firefighter of Idaho, spoke **in opposition** of **H 221**.

**Phil Goldberg**, Idaho resident, spoke **in support** of **H 221** advising the changes provide clarification for jurors.

In response to questions, **Mr. Goldberg** said provided everybody plays by the rules there should be no judicial delays.

**Ken McClufe**, Idaho Liability Reform Coalition, spoke **in support** of **H 221** advising time frames are part of a speedy court process.

**Shakirah Sanders**, Associate Professor of Law, spoke **in opposition** of **H 221** advising the constitutional concerns and there are no issues in Idaho cases needing this reform. Any turn over of medical information is a violation of privilege and many provisions are not permissive and will be a violation of separation of powers.

**MOTION:**

**Vice Chairman Malek** made a motion to send **H 221** to General Orders.

**SUBSTITUTE  
MOTION:**

**Rep. Wintrow** made a substitute motion to **HOLD H 221** in Committee. **Substitute motion carried by a voice vote.** To be recorded as saying **NAY** : **Vice Chairman Malek, Reps. Dayley, Trujillo, McDonald, Kerby, and Amador.**

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 5:40 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Thursday, March 09, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1108</a>	Judges, Salary Increases	Sara Thomas
<a href="#">S 1013</a>	Juvenile Marijuana/ Drug Paraphernalia	Sharon Harrigfeld
<a href="#">S 1023</a>	Funeral Processions, Penalties Received	Michael Henderson
<a href="#">S 1024</a>	Child Protective Acts, Definition Received	Michael Henderson
<a href="#">S 1025</a>	Administrative Judges, Certain Power Removed	Michael Henderson
<a href="#">S 1026</a>	Criminal Procedure, Apply Relief	Michael Henderson

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham
Vice Chairman Malek	Rep Kerby
Rep Perry	Rep Nate
Rep Dayley	Rep Chaney
Rep Trujillo	Rep Amador
Rep McDonald	Rep Hanks

Rep Zito
Rep Zollinger
Rep Gannon
Rep McCrostie
Rep Wintrow

COMMITTEE SECRETARY

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

**DATE:** Thursday, March 09, 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:** Michael Henderson, Supremem Court; Sharon Harrigfeld, IDJC; Sara Thomas, ISC; Barry Wood, ISC

**Chairman Luker** called the meeting to order at 1:31 P.M.

**S 1108:** **Sara Thomas**, Supreme Court, presented **S 1108**, which is a base increase for all judicial officers of \$3,200, and restores appropriate salary differentials between judges and justices serving at different levels of the judiciary. It sets the annual salaries of justices of the Supreme Court at \$146,700, an increase of \$6,700 over their current salaries. The difference between salaries of Supreme Court justices and judges of the Court of Appeals is decreased from \$10,000 to \$9,000, resulting in a salary increase for Court of Appeals judges from \$130,000 to \$137,700. The difference between salaries of Court of Appeals judges and district judges is increased from \$1,500 to \$6,000, resulting in an increase in the salary of district judges from \$128,500 to \$131,700. The difference between salaries of district judges and magistrate judges remains at \$12,000, resulting in an increase in salaries of magistrate judges from \$116,500 to \$119,700. In addition, the bill increases the additional salary provided to the Chief Justice, the Chief Judge of the Court of Appeals, and Administrative District Judges from \$2,000 to \$3,000.

**MOTION:** **Rep. McDonald** made a motion to send **S 1108** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

**S 1013:** **Sharon Harrigfeld**, presented **S 1013**, which is necessary to promote uniformity when charging juveniles for possession of marijuana and will help to avoid confusion in the system as a whole. The two statutes, Idaho Code section 20-505 and section 18-1502C, conflict. Repealing Idaho Code section 18-1502C is necessary to promote the intent of the 1999 repeal of the exemption from jurisdiction of possession of marijuana in section 20-505, and to promote consistency within the Juvenile Corrections Act and its other provisions.

**MOTION:** **Rep. Malek** made a motion to send **S 1013** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.



**S 1023:** **Michael Henderson**, presented **S 1023**, which is one of the bills that the Supreme Court has recommended in its annual report to the Governor concerning defects or omissions in the law as required under Article V, Section 25 of the Idaho Constitution. Chapter 27 of Title 49 contains provisions concerning how funeral processions are to be conducted, and also specifies that pedestrians and drivers must yield the right-of-way to funeral processions, and may not interfere with them. I.C. § 49-2706 states that a violation of the provisions of the chapter is a misdemeanor punishable by a fine of up to \$100; there is no jail time for this offense. This bill would make these offenses traffic infractions, unless the interference is knowing and intentional, in which case it would be a misdemeanor punishable by both a fine and a possible jail sentence.

**MOTION:** **Rep. Gannon** made a motion to send **S 1023** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

**S 1024:** **Michael Henderson**, presented **S 1024**, which is one of the bills that the Supreme Court has recommended in its annual report to the Governor concerning defects or omissions in the law as required under Article V, section 25 of the Idaho Constitution. At the 2016 Legislative Session the Legislature enacted **1328aa**, which amended several statutes in the Child Protective Act. As a consequence, the definition of protective order in I.C. § 16-1602(34) now contains an outdated statutory reference, and also fails to note all of the circumstances in which a protective order may be issued. This bill would correct those errors.

**MOTION:** **Rep. Wintrow** made a motion to send **S 1024** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.

**S 1025:** **Michael Henderson**, presented **S 1025**, which is one of the bills that the Supreme Court has recommended in its annual report to the Governor concerning defects or omissions in the law as required under Article V, Section 25 of the Idaho Constitution. The powers and duties of Administrative District Judges are set out in I.C. § 1-907. Subsection (h) of that statute states that these duties include promulgating a schedule of offenses for which written appearances, waivers of trial, and pleas of guilt may be accepted, and establishing a schedule of fines and bails. These matters have long been addressed in rules adopted by the Supreme Court and made uniform throughout the state; they are no longer addressed by Administrative District Judges. This bill would remove this outdated provision.

**MOTION:** **Rep. McCrostie** made a motion to send **S 1025** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

**S 1026:** **Michael Henderson**, presented **S 1026**, which is one of the bills that the Supreme Court has recommended in its annual report to the Governor concerning defects or omissions in the law as required under Article V, Section 25 of the Idaho Constitution. I.C. § 19-2604 permits some defendants to have their convictions or pleas or findings of guilt set aside if certain conditions are met. The wording of the statute leaves it somewhat unclear whether a defendant in a misdemeanor case who has been sentenced to a jail term, with a portion of the jail term suspended, would be eligible for this relief. This bill would clarify that when any portion of the sentence of a defendant in a misdemeanor case has been suspended, the defendant could later ask the court for relief if the requisite conditions are met.

**MOTION:** **Rep. Trujillo** made a motion to send **S 1026** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:59 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 P.M.**  
**Room EW42**  
**Monday, March 13, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1113</a>	Criminal Justice, Pardon/Parole Communication	Sen. Lodge
<a href="#">S 1083</a>	Emergency Communication Officers Certification	Michael Kane
<a href="#">S 1089</a>	Criminal Proceedings, Facility Dogs	Louis Marshall
<a href="#">S 1092</a>	Renewal of Judgments, Liens	Senator Bart Davis
	Judiciary Salaries	Sara Thomas
	Office of Performance Evaluation	Rakesh Mohan, Director

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker            Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry                    Rep Nate  
Rep Dayley                  Rep Chaney  
Rep Trujillo                 Rep Amador  
Rep McDonald              Rep Hanks

Rep Zito  
Rep Zollinger  
Rep Gannon  
Rep McCrostie  
Rep Wintrow

COMMITTEE SECRETARY

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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Monday, March 13, 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 1:31 P.M.

**MOTION:** **Rep. Gannon** made a motion to approve the minutes of February 9, 2017. **Motion carried by voice vote.**

**MOTION:** **Rep. Dayley** made a motion to approve the minutes of February 13, 2017. **Motion carried by voice vote.**

**S 1113:** **Sen. Lodge** presented **S 1113**, which is a clarification of the Justice Reinvestment Initiative (JRI). This legislation creates two more member positions for the Parole Commission; increases members' pay to \$300 a day when they are in hearings; requires decisions to be unanimous, otherwise the decision must go to the full board. The sanctions for violations shall include community service, increased reporting, curfew, and cognitive behavior treatment. The intent of this legislation is to focus on prison space for those who are most violent. The bill will create sufficient programs so that lack of programming is not the primary cause of lack of parole eligibility. As for fiscal impact, more offenders could be re-incarcerated, leading to more funds being needed.

**Henry Atencio**, Director, Idaho Department of Correction, was called on to answer questions on how often current risk assessments occur, and when. He said the Level of Service Inventory Revised assessment is used at the PSI level and then every 6 months while that person is on probation or parole. When the person is in the institution, the assessment is done prior to leaving. Director Atencio also spoke **in support** of **S 1113**, saying that it returns case-by-case discretion to parole commissioners, allowing them to look at each case individually.

**Jan Bennetts**, Ada County prosecuting attorney, testified **in support** of **S 1113**, saying this bill represents consensus legislation and places the safety of citizens and law enforcement as a top priority. The 2015 data on parole violations shows that 85% were for crimes putting public at risk. This bill puts discretion in the Parole Commission and parole/probation officers; the decision is not based only on the crime, but on the offender's entire background. The bill eliminates the 90/180-day sanction, which precluded the Parole Commission and officers from making some better decisions.

**Chris Davis**, Boise Police Department, Fraternal Order of Police. Last year he was involved in two different incidents where he was almost killed. These were committed by individuals who had gone through the JRI system and should have been in prison.

**MOTION:** **Rep. McDonald** made a motion to send **S 1113** to the floor with a **DO PASS** recommendation.

Those speaking **in support** were **John Evans**, Garden City, Association of Idaho Cities; **Scott Johnson**, Sheriffs Association; **Rick Allen**, Idaho Chiefs Association; and **Kevin Holtry**. They stated the bill helps citizens, makes the hearing process more efficient, allows for more individualized assessment, and, from an administrative and budget standpoint, would be advantageous.

In response to committee questions, **Sen. Lodge** stated the increase in board members to seven is so only two members are required to convene a meeting, thus decreasing the case loads of the members. Currently, members are hearing 25 hearings a day.

In response to questions, **Sandi Jones**, executive director of the Parole Commission, testified **in support of S 1113**. She said all are in agreement that the 90/180 sanctions are not working. By having a two-person committee more cases can be heard. In order to keep the board member positions part time the two-person meetings are necessary. They came to this conclusion by looking at other states and saw the two-panel option. In response to questions, Ms. Jones said the numerical makeup of the hearing panel was designed for expediency. The goal is to shorten hearing days, which will add days to the end of the calendar, but keep revocation days separate. The daily per diem raise is meant to offset the extra cost members absorb when preparing for hearings.

**Ms. Bennett** was called upon to answer questions from the committee about the financial cost. She responded by saying the dollar and human cost of current legislation is evident. There has been increased cost due to investigation, patrols, and prosecutions. It is hard to predict what the cost savings would be from the proposed legislation.

**Director Atencio** was called on to answer questions from the committee. He stated it is his responsibility to help the Parole Commission. This legislation gives members discretion on a case by case basis, thus allowing for more options. The Department of Correction is looking at possible options for the Commission such as community work centers or a parole violator tier; today the only option is to place a person back in prison.

In response to a question regarding the amount of access parolees have to mental health care and substance abuse monitoring, **Director Atencio** said the Joint Finance and Appropriations Committee did support Health and Welfare. \$5.7M will help parolees access critical mental health care, which will help the parolee population stabilize.

**VOTE ON MOTION:** **Chairman Luker** called for a vote on the motion to send **S 1113** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Chairman Luker** will sponsor the bill on the floor.

**S 1083:** **Michael Kane**, Sheriffs Association, presented **S 1083**, which puts emergency communications officer training requirements into place through the Peace Officer's Standards and Training Council (POST). This legislation allows for proper training to respond to emergencies.

In response to a question on training hours **Mr. Kane** said the legislation collapses the voluntary 80 training hours to a 40 hour training curriculum designed by the POST Council. Also, there will be a required continued training of 40 hours every two years.

**Kevin Haight**, ISP and PSAP, was called on to answer questions regarding the certification hours and levels. Currently POST does have voluntary standards and certification levels (1, 2, and 3); under this proposal, those levels would change to basic, intermediate, and advanced; dispatchers could attain these after accruing certain education hours.

In response to questions, **Mr. Kane** stated that after being hired, employees would have 18 months to become certified and properly trained. Dispatchers would have a field training officer overseeing them to assess their capability. Afterward, they would still answer to supervisors.

**MOTION:** **Rep. Wintrow** made a motion to send **S 1083** to the floor with a **DO PASS** recommendation.

In response to committee questions, **Mr. Kane** said the bill is brought from the ground up. Training is not done at the city level because many do not have the capabilities; by collapsing training, it is cutting down on costs and increasing accessibility. Also, training can be done online. This bill sets up statewide standards, based on national levels; therefore, employees are able to move from one entity to another, as they move up in their career.

**VOTE ON MOTION:** **Chairman Luker** called for a vote on the motion to send **S 1083** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Packer** will sponsor the bill on the floor.

**S 1089:** **Louis Marshall**, Bonner County prosecuting attorney, presented **S 1089**, which would make it easier for facility dogs to be used with child witnesses.

**MOTION:** **Rep. Gannon** made a motion to send **S 1089** to the floor with a **DO PASS** recommendation.

In response to a question regarding how the dogs are introduced to the children, **Mr. Marshall** said the victim witness coordinator asks if the child would like to see the dog. If the child says no, then the dog is not introduced or utilized. Mr. Marshall also clarified that the facility dogs can be used for both criminal and civil cases, though civil cases are limited. The statute is procedural and the judge will still have discretion over his or her courtroom.

**VOTE ON MOTION:** **Chairman Luker** called for a vote on the motion to send **S 1089** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Dixon** will sponsor the bill on the floor.

**S 1092:** **Sen. Davis** was unable to attend the meeting to present **S 1092**. In lieu of Sen. Davis's presentation of **S 1092**, **Rep. Zollinger** said he would speak to the bill.

**MOTION:** **Rep. Zollinger** made a motion to send **S 1092** to the floor with a **DO PASS** recommendation. He spoke to the bill as something that judges have supported to correct a problem. This legislation clarifies judgment renewal in regard to the recently changed loss of judgments time period of 10 years, which used to be five years. It is a proactive bill. **Motion carried by voice vote.** **Rep. Zollinger** will sponsor the bill on the floor.

**Sara Thomas**, Administrative Director of the Courts, was called on to clarify earlier statements on **S 1108**, which is a Judicial CEC bill. She stated judicial salaries are set in statutes. The only CEC judges would get is the one stated in **S 1108**.

**Rakesh Moran**, Director, Office of Performance Evaluation (OPE), presented a summary on OPE's Child Welfare System report. The report addresses the importance and need to build a bridge between the foster parents and social workers. This report is rich in context, as many were consulted. The report's result showed that a whole systems approach is needed. This can be accomplished through an oversight entity that allows for accountability and visibility, while giving a forum for stake holders to voice their comments.

**Lance McCleve**, Principal Evaluator, OPE, summarized the Child Welfare System report. The findings were inconsistent results and diminishing accountability in the system. It is not at a crisis level, but it is serious. The foster parent supply is approximately level with the need and there is not much surplus. Therefore, children are not placed in optimal situations. For social workers, an excessive workload has led to a lot of inconsistent behavior. The workload has also contributed to a culture where work is repeatedly pushed aside because of more demanding problems. A systems approach to child welfare is necessary; in any single child welfare case, there are multiple individuals and organizations involved. As a result, outcome accountability and collaboration are crucial, as is the need for a formal way of ensuring a visible hearing. Other states are experiencing similar issues. They have addressed accountability and child welfare as a system through developing oversight, particularly through establishing ongoing legislative committees. The OPE recommends in the report a standing entity to be an ongoing center for legislative intention.

In response to questions from the committee, **Mr. McCleve** stated that approximately 21 other states had legislative solutions in place for the child welfare system; other options were multi-disciplinary task forces, though the OPE saw very diverse options across the state. The reduction in foster parents is partly due to foster parents' experience with children and difficult situations or behavioral issues, as is the misplacement of children with the optimum family. There is also a societal, national shift of fewer foster parents. The models most considerate of having the authority to accomplish goals were the legislative models. Mr. McCleve said other agencies were active in making improvements and were cooperative. Changes were being made with recognition of other parts.

**Mr. McCleve** added that preventative measures in the report that might be worth looking into are the cost of the program, the local services provided to families, and the best interest of the child.

In response to questions on the inflow of the system, **Mr. McCleve** said the OPE did not look at the inflow rate in an evaluative manner, though the inflow rates have decreased some.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:31 P.M.

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Representative Luker  
Chair

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Shelby Winkel  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
1:30 pm or Upon Adjournment  
EW 42  
Wednesday, March 15, 2017

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Controlled Substance, Mandatory Minimum Sentencing Information Meeting	Representative Rubel

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker            Rep Cheatham  
Vice Chairman Malek      Rep Kerby  
Rep Perry                  Rep Nate  
Rep Dayley                Rep Chaney  
Rep Trujillo                Rep Amador  
Rep McDonald              Rep Hanks

COMMITTEE SECRETARY

Heidi McKay  
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MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Wednesday, March 15, 2017

**TIME:** 1:30 pm or Upon Adjournment

**PLACE:** EW 42

**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:** Dan Trescott, Trescott Law; Ian Thompson, IACDL; Jeff Brownson; Jim Kouril; Mikel Hautzinger; Maribel Jimenez-Arguello; Joe Nooner; Scott Bandy, Heather Reilly, IPAA; Jeff Black; Kay Hess; Paul Jagosh, FOP; Michael Henderson, Barry Wood, Idaho Supreme Court; Marshall Wolfe; Joseph Miller, Mauk, Miller & Hawkins; Michael Dempsey; Tony Geddes; Bruab Holland, Jenna Maguire, AIF; Wayne Hoffman, IFF; Dallas Morris, Paul Riggins; Mike and Vicky Hormac; Kathy Griesmeyer, ACLU; Heidi Gillespie, IMMA; Gerald Wolff, CEPA

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

**Rep. Rubel** presented an informational hearing on Mandatory Minimum Sentencing. **Rep Rubel** presented reviewing the numbers and percentages on the incarcerated rate versus drug crime rate.

**Rep. Perry** provided a history on the minimum mandatory sentencing in Idaho and the impacts Idaho has proving no achievement effects on deterrence as previously believed.

**Ian Thompson**, Idaho Association Criminal Defense Lawyers, and **Judge Deb Bail** presented a Power Point in support. Idaho has the lowest crime rate and is the safest place to live. To best serve the state, judges should be allowed to use their tools and reduce recidivism.

**Holly Koole**, Idaho Prosecuting Attorney turned over her time to **Scott Bandy and Heather Reilly**, IPAA; to present opposition to removing minimum sentencing. To protect our state and keep drug king pins out of Idaho minimum mandatory sentencing should not be removed.

In response to questions, **Judge Bail** responded there have been good and bad experiences with minimum mandatory sentencing. Idaho needs to be protected from drug trafficking.

**Paul Jagosh**, FOP; **Clay Christensen**, Boise Police Department/FOP/, spoke **in opposition**. They were of the opinion that removing minimum mandatory sentencing would not protect Idaho from drug traffickers, but that can be done with judicial discretion.

**Dan Trescott**, Trescott Law, **Logan Joyce**, **Jeff Brownson**, **Mikel Hautzinger**, **Joe Nooner**, **Jeff Black**; **Kay Hess**, **Joseph Miller**, Mauk, Miller & Hawkins **Dallas Morris**, **Kathy Griesmeyer**, ACLU spoke **in support**. They were of the opinion that mandatory minimum sentencing does not allow the judges to look into individual circumstances.

**Gerald Wolff**, **CEPA** spoke **in opposition** to moving mandatory minimum sentencing declaring the current rules do not take away from a judges power.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 5:58 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

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

**DATE:** Friday, March 17, 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:** Rep. Malek, Perry and Kerby

**GUESTS:** Sandy Jones, Parole Commission; Tiffany Hales, Attorney; Joe Foster, Tates Rents; Jennifer Guittari, Idaho Legal Aid Services; J.C. Harris, Sam Castillo, ARA of Idaho; Matthew Gaumette, Lyndi Hall, Dawn Peck, Charlie Spencer, ISP; Renea and Brian Prindle; Katheryn Bishop; Michael Henderson; Kathey Griesmeyer, ACLU

**Chairman Luker** called the meeting to order at 1:30 P.M.

**MOTION:** **Rep. Gannon** made a motion to approved the minutes of February 15, 21, and 27 of 2017 **Motion carried by voice vote.**

**MOTION:** **Rep. Wintrow** made a motion to approved the minutes of February 23, 2017. **Motion carried by voice vote.**

**S 1120:** **Rep. Youngblood**, presented **S 1120**, which observes the current law provides a property owner who rents a home and has a tenant that does not pay rent under a lease will have a hearing or trial on the issue within twelve days of filing the complaint and service of the summons. This bill provides a property owner who has someone take up residence in the owner's property without the owner's awareness or permission the ability to have an expedited trial within 72 hours to determine whether the person must vacate the premises.

**Tiffany Hale, Sen. Lakey, Brian Prindle** spoke in support of **S 1120** stating this legislation will fix squatter issues in Idaho not directed at domestic violence situations.

**Jennifer Guittari**, Idaho Legal Aid Services, spoke in opposition of **S 1120** with concerns for victims of domestic violence being displaced.

**MOTION:** **Rep. McDonald** made a motion to send **S 1120** to the floor with a **DO PASS** recommendation. Motion carried by a voice vote. **Rep. Youngblood** will sponsor the bill on the floor.

**S 1125:** **Sen. Burgoyne**, presented **S 1125**, which permits the Idaho Supreme Court to seize state tax refunds to satisfy delinquent debts owed to the courts. Such debts include fines, court costs, surcharges, penalties, fees, restitution, the cost of indigent defense services and "other charges" (which could include costs of supervision for probationers and parolees) in a criminal or civil case judgment or payment agreement. This legislation amends the statute to require that payment agreements subject to tax refund seizures (i) be filed with the court and placed in its case file; (ii) be approved by the court; (iii) provide that all payments shall be made to the clerk of the court; and (iv) notify taxpayers of payment due dates, the statute's tax refund seizure remedy for enforcing payment and the statutory right to object to seizure. The legislation further amends the statute to make clear that those who skip some monthly payments after previously paying ahead, but whose aggregate payments still equal or exceed the total amount of required payments,

will no longer be regarded as "delinquent." The legislation includes other changes to promote consistent and appropriate administration, removes the reference to civil cases as tax refund seizures are not used for them, and makes clarifying and technical changes in terminology.

**MOTION:** **Rep. Zollinger** made a motion to send **S 1125** to the floor with a **DO PASS** recommendation. Motion carried by a voice vote. **Rep. Zollinger** will sponsor the bill on the floor.

**S 1105:** **Sen. Burgoyne**, presented **S 1105**, which provides that the willful or intentional failure to return a rented vehicle within 48 hours of the time set for return in a written rental agreement constitutes theft. This legislation broadens that provision to state that the willful or intentional failure to return rented equipment within 48 hours of the time set for return in a written rental agreement also constitutes theft.

**MOTION:** **Rep. Trujillo** made a motion to send **S 1105** to the floor with a **DO PASS** recommendation. **Rep. Wintrow** will sponsor the bill on the floor.

**S 1109:** **Sen. Burgoyne**, presented **S 1109**, which would allow the commissioners to review applications for parole, pardon, commutation, or firearm restoration in executive session for the limited purpose of deciding whether a hearing will be held. If the commission decided to grant a hearing for the applicant it would be scheduled during the regular hearing session and would be subject to the open meeting laws. This amendment would also allow the commission to deliberate and make a decision in executive session to grant or deny a firearm restoration application. The commission receives restoration of firearm applications in addition to pardon and parole applications. This created additional staff hours to efficiently process and prepare applications for review and hearings.

In response to questions, **Sandy Jones**, Director Idaho Parole Commission, said the actions will be carried out by a full board of members.

**MOTION:** **Rep. Trujillo** made a motion to send **S 1109** to the floor with a **DO PASS** recommendation. Motion carried by a voice vote. **Rep. Trujillo** will sponsor the bill on the floor.

**S 1088:** **Major Charlie Spencer**, Idaho State Police, presented **S 1088**, which would require an estimated 300 individuals each year that move to Idaho who have been convicted of a sex crime to register as a sex offender, have DNA testing as well as register as. Sex offenders moving to Idaho are not currently required to submit a DNA sample in Idaho under the DNA Database Act, section 19-5506, Idaho Code. This legislation would amend Idaho's DNA Database Act, section 19-5506, Idaho Code, to require DNA collection from any person required to register pursuant to the Sexual Offender Registration Act, sections 18-8304 and 18-8410, Idaho Code. There are also currently 1,535 sex offenders on the Idaho Sex Offender Registry that have not had DNA collected. This amendment provides for a verification process to section 19-5507(9), Idaho Code, to ensure that the DNA has been collected in Idaho. Further, a collection facility will not be required to collect a DNA sample if one already exists in the Idaho DNA database. This verification will eliminate costly duplicate sample collection and ensure that a sample is collected from each individual on the Idaho Sex Offender Registry.

In response to questions, **Major Spencer** said this will be available to a nation wide database.

**MOTION:** **Rep. McDonald** made a motion to send **S 1088** to the floor with a **DO PASS** recommendation. Motion carried by a voice vote.**Rep. McDonald** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:30 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or Upon Adjournment**  
**Room EW42**  
**Tuesday, March 21, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>S 1154</u></a>	POST Council	Victor McCraw, POST Division Administrator
<a href="#"><u>S 1119</u></a>	Public records, pub defense commission	Rep. Perry and Kimberly Simmons, Executive Director
<a href="#"><u>S 1093</u></a>	Criminal offenses, unlawful entry	Sen. Rice
<a href="#"><u>H 202 aaS</u></a>	Civil Forfeitures	Rep. Harris and Rubel
<a href="#"><u>SCR 122</u></a>	Interim committee, administrative hearing officer	Chairman Luker

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham	Rep Zito
Vice Chairman Malek	Rep Kerby	Rep Zollinger
Rep Perry	Rep Nate	Rep Gannon
Rep Dayley	Rep Chaney	Rep McCrostie
Rep Trujillo	Rep Amador	Rep Wintrow
Rep McDonald	Rep Hanks	

COMMITTEE SECRETARY

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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

**AMENDED AGENDA #1**  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
**1:30 pm or Upon Adjournment**  
**Room EW42**  
**Thursday, March 23, 2017**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>S 1202</u></a>	Garnishments	John Watts, Veritas Advisors
<a href="#"><u>HR 3</u></a>	House Rule 78	Sen. Davis, Rep. Crane
<a href="#"><u>SCR 124</u></a>	Joint Rule 22, Contest of Election	Sen. Davis, Rep. Crane
<a href="#"><u>S 1190</u></a>	Election Contests, Offenses	Sen. Davis, Rep. Crane
<a href="#"><u>SCR 123</u></a>	Session Laws	Rep. Luker

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham	Rep Zito
Vice Chairman Malek	Rep Kerby	Rep Zollinger
Rep Perry	Rep Nate	Rep Gannon
Rep Dayley	Rep Chaney	Rep McCrostie
Rep Trujillo	Rep Amador	Rep Wintrow
Rep McDonald	Rep Hanks	

COMMITTEE SECRETARY

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

- DATE:** Thursday, March 23, 2017
- TIME:** 1:30 pm or Upon Adjournment
- 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:** Dan Welch, self; Pat McGourty, self
- Chairman Luker** called the meeting to order at 4:23 P.M.
- MOTION:** **Rep. Kerby** made a motion to approve the minutes of March 9, 2017, March 13, 2017, and March 15, 2017. **Motion carried by voice vote.**
- MOTION:** **Rep. Chaney** made a motion to approve the minutes of March 17, 2017, and March 21, 2017. **Motion carried by voice vote.**
- SCR 124:** **Sen. Davis** presented **SCR 124**, this legislation amends the Joint Rules of the Senate and the House of Representatives to provide for the inclusion of a new rule, Rule 22. Rule 22 will govern the procedures to be followed by the Senate and the House of Representatives in the event of an election contest of one of the offices of the executive branch in the State of Idaho. Rule 22 is to be read in conjunction with the state statute governing election contests, Chapter 21, Title 34, Idaho Code.
- MOTION:** **Rep. Kerby** made a motion to send **SCR 124** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.
- S 1190:** **Sen. Davis**, presented **S 1190**, which repeals existing statutes governing contests of elections for legislative seats and executive department officials. The repealed sections are replaced with a new chapter that governs contests of elections. This legislation builds on the framework of the current statutes, but clarifies and streamlines the approach in light of what was learned during the 2017 Senate contest of election. Provisions included in this legislation (and not found in the current statutory framework) include defining terms, clarifying jurisdiction over the contests, clarifying the grounds upon which an election contest may be filed, specifically providing for legislative rules to supplement the statutory approach, clarifying notice requirements and providing for an early (summary) dismissal of a contest in certain instances. Also, the awarding of costs and attorney's fees are specifically provided for in certain instances and at the legislature's discretion. Further, this legislation modernizes archaic language and provisions, some of which date from the late 19th Century. Finally, the legislation revises a provision of the criminal code governing certain election offenses.
- MOTION:** **Rep. Malek** made a motion to send **S 1190** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.
- HR 3:** **Rep. Crane**, presented **HR 3**, this legislation adds a new Rule 78 to the House Rules, to provide a procedure for contested elections.

**MOTION:** **Rep. McCrostie** made a motion to send **HR 3** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.

**S 1202:** **John Watts**, Veritas Advisors, on behalf of Idaho Collectors Alliance, presented **S 1202**, which proposes to amend existing law regarding wage garnishment and associated court, service, collection and enforcement procedures. It consolidates existing statutory titles and chapters governing civil suits regarding wage garnishments into a single title 7 new chapter 11. The bill empowers the Idaho Supreme Court to establish consistent forms for interrogatories and claims of exemption from wage garnishment. It requires financial institutions to review funds in accounts to avoid disturbing federal or state protected funds of an account holder. Clarifies the process for debtors to file claims of exemption protecting certain assets against wage garnishment. Requires county commissioners to adopt a fee for the delivery of a wage garnishment court order and writ by a county sheriff, and to post the sheriff fee's methodology on the county website and submit it to the Supreme Court for posting on the state website.

In response to questions, **Mr. Watts** said they are trying to do what is best for employees and helping the debtor. The employer gets nothing for garnishing wages from the employee. The many parties all have given up something to make this a compromise piece of legislation that improves the system.

**Rep. Gannon and McDonald** said **S 1202** was presented recently to them and they have had no opportunity to review it in depth to be able to make a proper decision.

**MOTION:** **Rep. Perry** made a motion to send **S 1202** to the floor with a **DO PASS** recommendation.

**Chairman Luker** felt the committee needed more information to properly vote on the motion. In response to a question from the committee, **Mr. Watts** explained the process and how they reached a consensus.

**Dan Welch** and **Pat McGourty**, representing themselves spoke on **S 1202** and gave their personal experiences. They expressed their desire to protect their assets and pay from immediate wage garnishment and fines for delinquencies on debts.

**Mr. Watts** turned the time over to **Senator Bart Davis** to further expand on the bill and his work experience and involvement in bankruptcy concerns. In response to committee questions, Mr. Watts walked through the protection of financial sources that should not be used to garnish wages. Some examples of these sources are alimony and disability. The goal is to have detailed protections for the debtor.

**Rep. Zollinger** declared Rule 38 stating a possible conflict of interest but he would be voting on the bill.

**MOTION:** **Rep. Gannon** called for the question. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

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

**SCR 123:** **Rep. Luker** presented **SCR 123**, this legislation limits the amount of the Idaho Session Laws that are printed each year.

**MOTION:** **Rep. McCrostie** made a motion to send **SCR 123** 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 7:14 P.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary

AGENDA  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**  
Upon Recess of the House  
Room EW42  
Friday, March 24, 2017

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Approval of Minutes	

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Luker	Rep Cheatham
Vice Chairman Malek	Rep Kerby
Rep Perry	Rep Nate
Rep Dayley	Rep Chaney
Rep Trujillo	Rep Amador
Rep McDonald	Rep Hanks

COMMITTEE SECRETARY

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

**DATE:** Friday, March 24, 2017

**TIME:** Upon Recess of the House

**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:** None.

**Chairman Luker** called the meeting to order at 11:50 A.M.

**MOTION:** **Rep. Kerby** made a motion to approve the minutes of the March 23, 2017, meeting, with the following corrections: On page 1, paragraph 1, Rep. Kerby made the motion to approve the minutes of the March 9, 13, and 15, 2017 meetings, not **Rep. Gannon**. The same paragraph should also include the approval of the March 15, 2017 meeting minutes. **Motion carried by voice vote.**

**Chairman Luker** thanked the committee members for their work. He also thanked Committee Page **Kayla Martin** and Secretary **Heidi McKay** for their work this session.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 11:55 A.M.

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Representative Luker  
Chair

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Heidi McKay  
Secretary