

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 19, 2018

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Lee, Senators Hagedorn, Lakey, Anthon, Foreman, Potts, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lodge** convened the meeting of the Senate Judiciary and Rules Committee (Committee) at 1:04 P.M.

H 554 **Relating to Safety Restraints.** This bill was presented by Barbara Jorden, Executive Director, Idaho Trial Lawyers Association (ITLA). **Ms. Jorden** described how this legislation would alleviate plaintiff's burden in a lawsuit to excuse them from hiring costly experts that identify and examine evidence for injuries arising out of failure to wear seatbelts.

TESTIMONY: **Ross Johnson**, ITLA spoke briefly in support of bill **H 554**.

Woody Richards, Farm Bureau Mutual Insurance Company of Idaho (FBMIC), spoke in opposition of the legislation. He noted the discussions surrounding this legislation did not prove successful. He provided data from the National Highway Traffic Safety Administration (NHTSA) which established that seatbelts save lives by 45 percent for those who wear them in an event of motor vehicle accident. He spoke of data collected in 2015 in fatal crashes. He also provided analysis of medical expenses arising out of those accidents, in which individuals did not wear seatbelts. He spoke in support of amendments to the legislation. (Attachment 1)

Individuals who spoke in opposition to bill **H 554** included:

- Tom Lyons, General Counsel for FBMIC (Attachment 2)
- Mike Kane, on behalf of American Casualty Association (Attachment 3)
- Mike Brassey, on behalf of State Farm Insurance

DISCUSSION: **Senator Hagedorn** commented on the increased need for use of seatbelts. **Senator Anthon** inquired regarding contributory negligence and asked if that was part of the damages calculation in a lawsuit.

Lengthy discussion ensued regarding the following topics:

- the legislative impact on motor vehicle insurance premiums;
- seatbelt evidence regarding recovery of damages;
- continued collaboration between trial lawyers and the insurance industry;
- contributory negligence;
- individual responsibility awareness;

- evidentiary issues respecting information withheld in lawsuits; and
- relevance of duty element in current statute;

MOTION: **Senator Potts** moved to send **H 554** to the floor with a do pass recommendation. **Senator Anthon** seconded.

DISCUSSION: **Senator Anthon** expressed support of the legislation.

Senator Nye disclosed a potential conflict of interest pursuant to Senate Rule 39(H).

SUBSTITUTE MOTION: **Senator Nye** moved for a motion without recommendation. The motion failed for lack of second.

Senator Lakey expressed concern with the bill as proposed. He noted support for the original motion.

SECOND SUBSTITUTE MOTION: **Senator Hagedorn** moved to hold **H 554** in Committee. Motion failed for lack of second.

Vice Chairman Lee expressed support for the original motion.

Chairman Lodge noted concern that the legislation might give impression that wearing seatbelts was unimportant and proposed that the parties work toward further efforts to collaborate.

VOICE VOTE: The original motion passed by **voice vote**.

H 581 **Relating to Controlled Substances To Revise Provisions Regarding Sentencing** - Informational Hearing Only.

PRESENTATION: This legislation was presented by Representative Perry and Representative Rubel. **Representative Perry** explained the current lack of judicial discretion when sentencing drug offenders. She noted that, in particular, the sentencing for drug trafficking in cases of first time offenders was impacted by mandatory sentencing. She stated that mandatory minimum sentencing was created decades ago as a deterrence, however over the course of decades has proven otherwise.

Representative Perry spoke of various statistics collected by the United States Department of Justice. She remarked that Idaho has a high number of trafficking incarcerations, and of that population, there is a percentage of low-level offenders that need treatment more than incarceration. She explained that mandatory sentencing transfers power from the judiciary to the prosecutors. She concluded by yielding time to Representative Rubel.

Representative Rubel elaborated on the transfer of discretionary power. She explained how Odyssey already provides judges with proper sentencing recommendations. She noted that despite mandatory minimums sentencing rates convictions have increased. She provided comparative data sheets noting that other states having eliminated mandatory sentencing did not see an influx of trafficking. She remarked on collection of judge's statements (redacted) who favored discretion when sentencing a drug offender. (Attachment 4)

Bryan Taylor, Canyon County Prosecutor's Office, put forth a slide presentation in rebuttal to Representative Perry and Rubel's proposed bill. He noted the infectious nature of drug trafficking affecting families and communities. He remarked on the mandatory minimums effectiveness for crime control. He remarked on the overhaul lower crime rates in Idaho as compared to other states nationally. (Attachment 5)

Jan Bennetts, Ada County Prosecutor's Office, explained the knowledge and awareness of drug dealers and traffickers as to Idaho's sentencing. She noted traffickers often go outside of state lines to avoid getting caught in Idaho. She explained the ripple effect drugs have on communities. She elaborated in depth on the reality of drug traffickers cases and attempts to circumvent the justice system. She added that felony crimes increased by 40 percent in the recent years. (Attachment 6)

Grant Loebs, Twin Falls County Prosecutor's Office, explained the statistical chart from the presentation (Attachment 6 - pg. 11) which dealt with violent crimes committed nationwide. He explained that the low-level offenders in Idaho may constitute a very small percentage. He praised Idaho for the state that it is and not the state that it should become following in other state's footsteps regarding this legislation. He attested that states which eliminated mandatory minimums as referenced by Representative Rubel earlier were greatly affected and had high crime rates, unlike Idaho. He affirmed that removal of mandatory minimums may be a gateway to drug trafficking.

TESTIMONY:

The following individuals spoke in support of the legislation:

- **Kira Merritt** spoke of what she believed to be unfair sentencing of her boyfriend, Jordan Pickett.
- **Susan Ingman** spoke of unfair sentencing and was present to support her grandson, Jordan Pickett. (Attachment 7)
- **Kay Hess** testified in support of the legislation on behalf of her incarcerated son.
- **Leanne Clark** testified in support of the legislation and the unfair sentencing of her teenage son presently incarcerated for trafficking; she noted he was recently transferred to Texas as a result of the overcrowding of Idaho's prisons. (Attachment 8)

**PAGE
GRADUATION**

Chairman Lodge praised Committee's page, Isaac Meyer. She proposed due to timing constraints closing remarks be made by page in the next Committee's meeting.

**INTERN
GRADUATION**

Chairman Lodge recognized intern, Chloe McClintick, for all her legal insight this legislative session.

Chairman Lodge noted that the remaining items on the agenda will be addressed at the next Committee's meeting.

ADJOURNED:

There being no further business, **Chairman Lodge** adjourned the meeting at 3:35 P.M.

Senator Lodge
Chair

Anna Wroblewski-Jones
Secretary