

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Wednesday, January 29, 2020

TIME: Upon Adjournment of Joint Judiciary, Rules Mtg

PLACE: Room EW42

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

**ABSENT/
EXCUSED:** None

GUESTS: Kelli D. Brassfield, IAC; Annie Hightower, ICASDV; Eric Fredericksen, Eric Lefitinen, SAPD; Jaren Larsen, Governor's Office; Kevin Mickelson, ICI; Greg Hampikian, Idaho Innocence Project; Emilee Jackson-Edney, Kacee O'Connor, Alexandra Caval

Chairman Chaney called the meeting to order at 3:05 p.m.

MOTION: **Rep. Marshall** made a motion to approve the minutes of the January 9, 2020 and January 15, 2020 meetings. **Motion carried by voice vote.**

**DOCKET NO.
06-0000-1900:** **Chairman Chaney** returned the docket to the Committee for consideration.

MOTION: **Rep. Kerby** made a motion to approve **Docket No. 06-0000-1900.**

**SUBSTITUTE
MOTION:** **Rep. McCrostie** made a substitute motion to approve **Docket No. 06-0000-1900** with the exception of **06.01.01.135.05.b.iii.**

Speaking to the substitute motion, **Rep. McCrostie** stated the motion supports testimony previously provided. He also explained that in comparing the Omnibus rule to the redline comparison of the old rule, it looked as if this section was expanded and new language was added. This is contrary to the goal of the Red Tape Reduction Act.

Speaking **in support** of the original motion, **Rep. Monks** stated the redline version is not an official document and the Department of Correction had the ability to hold back that information previously. He also stated the rule explains that the department is only exempt from disclosing information if it jeopardizes the department's ability to carry out the execution, and he would expect if it does not meet this standard, information will be released.

Rep. Gannon spoke **in support** of the substitute motion. He stated Idaho has already lost a lawsuit related to this issue and although it is being appealed, he is concerned it will cost the state more in the long run and the best thing to do is to follow the court decision.

Rep. Wintrow stated this raises the question of whether it is time to review the state's position on the death penalty. She claimed it is not cost effective, and perhaps there needs to be more thorough conversations about it. If it is the public's desire to continue executions, then it raises the questions of whether they should have access to relative information and how that should be addressed.

VOTE ON SUBSTITUTE MOTION: **Rep. McCrostie** called for a roll-call vote on the substitute motion to approve **Docket No. 06-0000-1900** with the exception of **06.01.01.135.05.b.iii**. **Motion failed by a vote of 7 AYE and 11 NAY**. **Voting in favor** of the substitute motion: **Reps. Amador, Zito, Zollinger, Gannon, McCrostie, Wintrow, Davis**. **Voting in opposition** to the substitute motion: **Chairman Chaney, Reps. Monks, Kerby, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young**.

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for a vote on the original motion to approve **Docket No. 06-0000-19000**. **Motion carried by voice vote**.

DOCKET NO. 06-0202-1901: **Chairman Chaney** returned the docket to the Committee for consideration.

MOTION: **Rep. McCrostie** made a motion to approve **Docket No. 06-0202-1901**. **Motion carried by voice vote**.

H 348: **Chairman Chaney** returned the bill to the Committee for consideration.

MOTION: **Rep. Monks** made a motion to send **H 348** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote**. **Rep. Hartgen** will sponsor the bill on the floor.

H 319: **Rep. Wintrow** presented the bill from the State Appellate Public Defender (SAPD). She stated this bill enlarges the jurisdiction of the SAPD to handle second level misdemeanor and juvenile appeals cases for indigent defendants. This will lift some burden off the counties by turning over certain appeals to the SAPD. In speaking to the Fiscal Note, she explained the SAPD has budgeted for another attorney to handle the additional case load. She yielded her time to **Eric Frederickson**.

Eric Frederickson, State Appellate Public Defender, described how these cases flow through the courts. The SAPD already spends a lot of time consulting with the counties because its extensive appellate experience. He explained this move will also put these cases on more equal footing to the benefit of the defendants, since they are prosecuted by the Attorney General.

In answer to questions from the Committee, **Mr. Frederickson** explained about nine cases would be taken over by the SAPD. These cases will be handled with the addition of another attorney, which will actually result in a net reduction in current case load.

Kelly Brassfield, Idaho Association of Counties, spoke **in support of H 319**.

Chairman Chaney stated this bill will be placed on the agenda for consideration, February 3, 2020.

RS 27471C1: **Rep. Wintrow** presented **RS 27471C1**, which proposes to create a new law to protect victims of sexual assault by allowing them to seek a civil protection order. This proposed bill has gone through months of extensive vetting with input from a broad base of stakeholders. She described the purpose of this proposed legislation versus the Domestic Violence Act, which only covers victims of abuse from long-term, intimate partners.

In answer to questions from the Committee, **Rep. Wintrow** explained the plan was originally to add language into the existing domestic violence law because the rules and processes were already in place. However, concerns about the possible revocation of firearm rights, which is allowed under the Domestic Violence Act, prompted the creation of this RS as stand alone legislation. She stated the Attorney General has reviewed and issued an opinion that this proposed law will not invoke a firearm restriction, but will go a long way in providing protection for victims.

MOTION: **Rep. Davis** made a motion to introduce **RS 27471C1**.

In response to an additional question from the Committee, **Rep. Wintrow** described the process victims must go through to secure a protection order and how the due process rights of the accused are also addressed. She reiterated that the language in this proposed legislation mirrors much of the existing domestic violence law.

**VOTE ON
MOTION:**

Motion carried by voice vote.

RS 27493:

Rep. Ricks presented **RS 27493**, which would allow for financial compensation to the wrongfully convicted. Idaho is one of 15 states with no compensation mechanisms or resources for wrongfully convicted individuals to integrate back into society. He described the compensation structure, including a two-year window to make a claim, and it will be retroactive. There are mechanisms to prevent double dipping if their are civil awards. Six people have been wrongfully convicted in Idaho in past 30 years.

MOTION:

Rep. Kerby made a motion to introduce **RS 27493**. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 3:58 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary