

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Tuesday, March 03, 2020
- TIME:** Upon Adjournment of House Floor Session
- 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:** Representative Monks
- GUESTS:** The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of session, the sign-in sheet with your minutes will be filed with the minutes in the Legislative Services Library.
Chairman Chaney called the meeting to order at 2:30 p.m.
- MOTION:** **Rep. McCrostie** made a motion to approve the minutes of the February 7, 2020 meeting. **Motion carried by voice vote.**
- H 584:** **Chairman Chaney** brought the bill to Committee for consideration. He explained it was a replacement bill for **H 546**, which creates a financial penalty for patrons of prostitution. The bill addresses the amendments discussed during the public hearing to direct 50 percent of funds raised from the penalty to domestic violence programs.
- MOTION:** **Rep. Kerby** made a motion to send **H 584** to floor with a **DO PASS** recommendation.
Rep. McCrostie spoke in support of the bill and commended **Rep. Crane** for tackling this issue.
- VOTE ON
MOTION:** **Chairman Chaney** called for a vote on the motion to send **H 584** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.
- S 1227:** **Chairman Chaney** returned the bill to Committee for consideration. The bill addresses defects in the law regarding procedural time frames in adoption proceedings.
- MOTION:** **Rep. Davis** made a motion to send **S 1227** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.
- S 1219:** **Chairman Chaney** returned the bill to Committee for consideration. The bill corrects language in the appointment of guardians and conservators law as it relates to persons with developmental disabilities.
- MOTION:** **Rep. Hartgen** made a motion to send **S 1219** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Hartgen** will sponsor the bill on the floor.
- S 1220:** **Chairman Chaney** returned the bill to Committee for consideration. The bill addresses procedural time periods for temporary appointments in conservatorship and guardianship cases.
- MOTION:** **Rep. McCrostie** made a motion to send **S 1220** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.

- S 1256:** **Chairman Chaney** returned the bill to Committee for consideration. This is a cleanup bill relating to bail enforcement agents and assignment of affidavits.
- MOTION:** **Rep. Wintrow** made a motion to send **S 1256** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Marshall** will sponsor the bill on the floor.
- S 1337:** **Chairman Chaney** returned the bill to Committee for consideration. The bill clarifies statute regarding prioritization of payments applied to criminal cases and infractions.
- MOTION:** **Rep. Hartgen** made a motion to send **S 1337** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Zollinger** will sponsor the bill on the floor.
- H 593:** **Chairman Chaney** brought the bill to Committee. He explained it was a replacement bill for **H 468**. The bill addresses the amendments discussed during the public hearing including removal of the section on expungement and changes to address concerns from the courts.
- MOTION:** **Rep. Zollinger** made a motion to send **H 593** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Chaney** will sponsor the bill on the floor.
- H 594:** **Chairman Chaney** brought the bill to Committee. He explained it was a replacement bill for **H 459**, which addresses fair notice for rent increases of 10 percent or more.
- Rep. Zollinger** spoke **in support** of the bill. He stated the bill sponsors had made good faith efforts to amend the bill to the satisfaction of the landlord association.
- MOTION:** **Rep. Zollinger** made a motion to send **H 594** to the floor with a **DO PASS** recommendation.
- In answer to Committee questions, **Rep. Wintrow** stated the amendment changed the length of notice from 45 days to 30 days.
- VOTE ON MOTION:** **Rep. Chaney** called for a vote on the motion to send **H 594** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** requested to be recorded as voting **NAY.** **Reps. Rubel and Wagoner** will sponsor the bill on the floor.
- H 595:** **Chairman Chaney** brought the bill to Committee. He explained it was a replacement bill for **H 462**, which provides for a landlord/tenant walk through and itemized receipt if all of a deposit is not returned.
- Rep. Wintrow** explained an amendment was made to clarify that a landlord can move forward if the tenant does not show up for a walk through.
- MOTION:** **Rep. McCrostie** made a motion to send **H 595** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.
- S 1332:** **Rep. Ricks** presented the bill to establish mandatory savings accounts for inmates to save for expenses once released from custody. He yielded his time to **Josh Tewalt**.

Josh Tewalt, Director, Idaho Department of Correction (IDOC), explained 25 percent of what an inmate saves would be directed to their reentry account, up to a maximum of \$1,500. The funds would be used for reentry services and support, such as rent and deposits. He stated inmates are not released unless they have a place to live, so there are state funds available that inmates can apply for if they are indigent. The savings program, under this bill, would support inmates saving for their own reentry expenses and prevent them from spending down their accounts prior to release in order to take ill advantage of the indigent reentry funds. Director Tewalt also explained a council would be formed to establish rules and a process for managing the accounts.

In answer to questions from the Committee, **Director Tewalt** explained inmate account funds are kept in two IDOC master accounts at the bank. Therefore, applying interest across the thousands of inmate accounts is administratively challenging. He stated financial education is part of their release readiness programming.

Discussion among Committee members included incentivizing inmates to save through a matching program and concern about the non-interest bearing accounts.

Chairman Chaney stated without objection, **S 1332** will be held for future consideration. There was no objection.

S 1339: **Rep. Troy** presented the bill that will allow appointment of one clerk to the magistrate commission for each judicial district.

Phil McGrane, Ada County Clerk, spoke **in support** of the bill stating, county clerks can provide valued input into the magistrate selection process because they have the most day-to-day interaction with judges and attorneys in their districts.

It was suggested by the Committee that it would be good to identify a process for an alternative clerk.

Chairman Chaney stated without objection, **S 1339** will be held for future consideration. There was no objection.

S 1284: **Rep. Wintrow** presented the bill. She explained the Public Defense Commission receives inmate letters sharing information about their cases, and possibly misunderstanding the role of the PDC. They have an expectation their letters are confidential. However, the PDC is subject to public information requests, so this bill will uphold their confidentiality rights. She yielded her time to **Kathleen Elliott**.

Kathleen Elliott, Director, Public Defense Commission, answered Committee questions. She explained examples of the types of letters or information that would fall under this exemption. She also explained the importance of protecting information gathered on attorneys listed on the PDCs capitol counsel roster.

Chairman Chaney stated without objection, **S 1284** will be held for future consideration. There was no objection.

Chairman Chaney called for a recess at 3:31 p.m.

Rep. Kerby reconvened the meeting at 3:48 p.m.

H 582: **Chairman Chaney** presented the bill and declared Rule 80 because he practices law. This bill defines the term "willful or reckless misconduct". He explained clarity of the definition is important because it would be handed to juries to help determine damages in civil court actions and it would establish uniformity across the state of Idaho. He stated the bill replaces **H 428** and now has the support of stakeholders.

In answer to questions from the Committee, **Chairman Chaney** explained this definition has existed in case law and suggested jury instruction. He explained the importance of having the definition when seeking non-economic damages above the statutory cap.

Ken McClure, Idaho Liability Reform Coalition, responded to Committee questions. This bill is the result of a Supreme Court Case which the court noted the Legislature had not provided a definition of willful or reckless misconduct, nor had the jury instruction been patterned on such definition. He explained the bill's definition is close to the law school definition and is a good balance for plaintiffs and defendants. He concurred that the phrase willful "or" reckless misconduct is a term of art.

Jeremy Chou, stated in light of the previous testimony, he didn't need to testify.

H 583:

Chairman Chaney presented the bill and declared Rule 80 because he practices employment law. He explained the bill provides a good balance between protecting whistle-blowers who report wrongdoing, while also protecting Idaho taxpayers by setting a cap for non-economic damages. This bill brings the cap on non-economic damages in line with the limitation set under Idaho tort law, which is currently \$372,000, but will be adjusted each July 1st. The Whistle-blower Act is a special section of code to protect employees from retaliation, and while non-economic damages would be capped under this bill, the amount of economic damages, including attorney's fees, would not be capped.

Gloria Lejarti; Pamela Lowe; Tedd McDonald, American Federation of Teachers; **Emma Nowocki**; and **Howard Belodoff**, spoke **in opposition** to **H 583**. They expressed concern about limiting the amount a public employee could be awarded because it may not reflect the true damage experienced. Some stated concern that fewer employees would be willing to speak out, and the protections for people who report violations outside the definitions of waste, law, rule and regulation are not addressed.

Barbara Jordan, Idaho Trial Lawyers Association, testified **in opposition** to the bill by stating the association had submitted six bill amendments, but only one was included. She requested the bill be sent to General Orders to include language that would not limit damages when a jury finds an employer's conduct was malicious, oppressive or in reckless disregard of the employee's rights.

Mike Kane, Idaho Counties Risk Management; **Susan Buxton**, Administrator for Idaho Division of Human Resources; **Jeremy Chou**, Givens Pursley for Idaho Association of Counties; **Karen Echeverria**, Idaho School Board Association; and **Stephen Adams**, Gjording Fouser, spoke **in support** of **H 583**. They stated the legislation limits public policy intent and provides ample protection for government employees.

Rep. Kerby turned the gavel over to **Chairman Chaney**.

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 5:58 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary