

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, February 01, 2018

TIME: 2:00 P.M.

PLACE: Room EW42

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

**ABSENT/
EXCUSED:** None

GUESTS: Eric Fredericksen, SAPD; Amy Hubach, Steve Nisula, Amanda Gigray, Grace Lutheran Church; Saleah Snelling; Bree Gager, Mike Maglish, Shaunna Olson, Makayla Shropshire, Bella Dolavicci, Amanda Forest, Dawn Maglish, Wayne Broding, Carla Shields, Karen Sorenson, Inside Out Cares; Tom Arkoosh, Arkoosh Law/IACDL; Natalie Needham, Blue Backpack Project; Joshua A Tuttle, We the People; Pam Riggins, IACDL; Phil Hunschild, IFF; Holly Kolle Nebholtz, IPAA; Niwe Fitzgerald, ODP; RaeAnn Manship; Mark C Snowball; Tiara Roper; Steven Roper

Chairman Luker called the meeting to order at 2:01 p.m.

RS 25907: **Rep. Gannon** presented this proposed legislation to amend the law for first-time offenders in possession of less than a 1/2 ounce of marijuana. It adds a new section that reduces the charge of misdemeanor to an infraction if the offender voluntarily completes four (4) hours of court approved drug/alcohol education and pays a fine of \$250 or completes eight (8) hours of court approved community service.

MOTION: **Rep. Cheatham** made a motion to introduce **RS 25907**.
Speaking to the motion, **Rep. Malek**, stated he will vote to introduce **RS 25907**, but will be vocal against it when it comes to Committee for hearing.

VOTE ON MOTION: **Chairman Luker** called for a vote on the motion to introduce **RS 25907**. **Motion carried by voice vote.**

H 376: **Rep. Crane** presented **H 376** by stating it is an important piece of legislation to combat human trafficking and more specifically sex trafficking in the state. This legislation makes a technical change to remove the letter "s" from the word persons, so if someone is trafficking one individual, they can be charged.

MOTION: **Rep. Malek** made a motion to send **H 376** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.

H 377: **Rep. Crane** presented **H 377** There's been a lot of news and discussion around this piece of legislation. It would be landmark policy to make it a felony for solicitation of a prostitute on the first offense, and Idaho would be the first state to do so if it passes. It sends a message that sex and human trafficking is not welcome here. In answer to questions from the Committee, Rep. Crane stated there is a clear connection with sex trafficking and solicitation. Often victims are abused, drugged, enslaved and forced into prostitution. Current policy and statute is not working because it punishes the prostitute, who is often a victim, and the pimp, but the law goes lightly on the buyer. In answer to questions from the Committee, he explained it is about addressing the demand for services and if that can be curtailed it is believed it will curtail sex and human trafficking. He explained what rights are lost when a person is charged with a felony which include possession of firearms

and voting. In answer to questions about unintended consequences, he said he would respect the wishes of the Committee if they move to amend the legislation to charging a felony on the second offense or other changes, but the bill does allow prosecutors and judges discretion in sentencing. While there are not other states with similar policy, similar law with even more stringent sentencing is in place in Scandinavia and has significantly reduced prostitution.

Daniel Truscott provided written testimony **in opposition** to **H 377**. (Attachment 1)

Saleah Snelling, with Underground Railroad, testified **in support** of **H 377**, stating sex trafficking is very real and happening in Idaho. It ranges from prostitution to kidnapping. She asked the committee to open their hearts and minds to this and explained that people who steal things get more serious penalties, and yet buyers of services from enslaved women, girls and boys is a serious crime and the punishment should be commensurate. In response to questions from the Committee, she said she didn't think you can change someone's behavior, but this is about ensuring there is punishment for a real crime while protecting the victims. Sex trafficking is the third largest industry in the world.

Mike Maglish, CEO, **Dawn Maglish**, Founder and **Bree Gager**, theraputic foster mom, Inside Out, testified **in support** of **H 377**. Their comments echoed much of what was shared by **Rep. Crane**, but Mr. Maglish provided additional background and statistics, including online ads for prostitution has increased 800%. Children are being found online and 68% of teen girls have been asked to send nude photos and adults are asking for them. The average age of a coerced, sex trafficked young person is 12 to 14. This is not an issue of two consenting adults engaging in an illicit act. It is a systemic reality directly tied to human trafficking. Shared Hope International, a national organization dedicated to this issue, has graded all states on their policies to address human trafficking. In 2014, Idaho received an F based on its policies. In answer to questions from the Committee, Mr. Maglish said progress has been made on addressing issues in Idaho and in 2016, Idaho received a C grade from Shared Hope International. Inside Out currently works with more than 40 minor aged girls who have been brought out of human sex trafficking. It is believed for every one girl who is found, there are 10 more out there. He said law enforcement is doing a good job with what they have to fight with, but he believes there are resource issues making it difficult to find the traffickers. He explained his organization has reached out to law enforcement and the Idaho Internet Crimes Against Children Coalition on a number of issues, but understanding of the issue of sex trafficking varies and there is a strong sense among victims that too little is done to address the purchasers. Coercion begins before a victim is 18-years old and regardless of whether they are no longer a minor, they are forced into slavery and servitude. This legislation sets a tone that, "we mean business," by going after the buyers.

Makayla Shropshire, **Bella Dolavicci**, **Amanda Forest**, and **Tiara Roper** spoke **in support** of **H 377**. They all shared their harrowing stories of being child sex trafficking victims and passionately reiterated that in order to stop sex trafficking, the demand must be stopped. Ms. Forest, shared a more detailed overview of what is being done in some Scandinavian countries where the charges and sentences for buyers are stringent. Sweden implemented a policy in 2015 that requires mandatory prison time for buyers and it has reduced sex trafficking by half.

Tom Arkoosh, representing Idaho Association of Criminal Defense Lawyers (IACDL) testified in opposition to **H 377**. He stated human trafficking for sex or labor is deplorable. However, the IACDL strongly disagrees with the premise that stemming demand will solve the problem. He explained Idaho already has laws in place to address all the concerns described in previous testimony including L & L and kidnap statutes. He said it is a felony to procure and a felony to run a house of prostitution and every story described by previous testifiers would have resulted in a life sentence if the buyers had been arrested and prosecuted, and yet the cycle continues. He described ideas he believes would work, including focusing on identifying victims sooner. He stated rather than focusing resources that would be spent on incarcerating offenders, it would be better to give more resources to police, schools and recovery programs. He proposed it would be better to allow the Idaho Criminal Justice Commission to continue working on this matter to determine what resources are needed and how best to direct them.

Rep. Crane concluded the testimony for **H 377** by stating sex trafficking is a \$1 billion business. In response to comments from the opposition, he stated there are laws to protect minors, however it doesn't protect those over age 18, who are often brought into prostitution while they are minors. In answer to questions from the Committee, Rep. Crane said even though this would be a felony on the first offense, he explained judges and prosecutors have the discretion in sentencing and he doesn't believe it would divert resources away from other crimes. It would give prosecutors another tool to address this matter.

**ORIGINAL
MOTION:**

Rep. Malek made a motion to send **H 377** to the floor with a **DO PASS** recommendation.

**SUBSTITUTE
MOTION:**

Rep. Chaney made a substitute motion to **HOLD H 377** in Committee, subject to the call of the Chair.

Rep. Perry spoke to the substitute motion, stating there are a number of things that should be considered including: the extremely broad definition of sexual contact; coordination with stakeholders; and the policy needs to ensure the right resources are in place.

Rep.(s) Malek, McDonald and Amador spoke **in opposition** to the substitute motion. They stated human trafficking is a not just a human rights issue, it is a civil rights issue that should be dealt with now. With respect to the process, this is a serious issue that deserves a vote on the House Floor.

Rep. Wintrow stated regardless of the outcome of the vote, she believes her colleagues and those who are now aware of this problem are compelled to make a difference on this issue.

Rep.(s) Ehardt, McCrostie, Gannon and Zollinger spoke **in support** of the substitute motion. They stated the impact on the prisons will need a money source. They questioned if there could be more prosecution information on buyers, including charges, numbers and evidence that charging buyers with felonies has a connection to eliminating prostitution and human trafficking. They also would like to make sure the language in the bill is correct to ensure there are no unintended consequences.

Rep. Kerby spoke **in support** of the original motion, stating he was compelled by the data from Scandinavia and believes buyers will be very aware of the consequences. **Rep. Cheatham** spoke **in support** of the bill and shared his own emotional story as a detective.

Rep. Malek said he was confounded by the debate, because it's likely that a first-time offender would face probation rather than prison, and the lack of room in the prisons is not a viable argument for not trying to keep traffickers out of the state.

Rep. Nate stated he feels uncomfortable voting to move the bill forward until there is more data from law enforcement and the courts, as well as accurately defining what constitutes sexual contact. He questioned whether there was time to get this information before moving the bill forward.

Chairman Luker explained the deadlines for legislation, and said it was uncertain if a delay would affect the passage of the bill. He said including input from the sponsor would be beneficial.

**ROLL CALL
VOTE:**

Rep. Perry requested a roll call vote on the substitute motion to **HOLD H 377** in Committee subject to call of the chair. **Motion carried by a vote of 11 AYE, 6 Nay. Voting in favor** of the motion: **Reps. Perry, Dayley, Nate, Chaney, Hanks, Zollinger, Ehardt, Gannon, McCrostie, Wintrow, Luker. Voting in opposition** to the motion: **Reps. Malek, McDonald, Cheatham, Kerby, Amador, Zito.**

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 4:36 p.m.

Representative Luker
Chair

Wendy Carver-Herbert
Secretary