

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Friday, February 23, 2018

TIME: 1:00 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(17), McCrostie, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Cheatham, Zollinger

GUESTS: Holly Kool, Rebholt, IPAA; KJ Brant, First Judicial District CASA; Natasha Lattin, Idaho CASA Association; Kassandra Slaven, Ada County Prosecutor; Lynn Norris; John Dinger, Ada County Prosecutor; Sandee Mayer, IPAA; Jim Bangler, DRI

Chairman Luker called the meeting to order at 1:02 p.m.

MOTION: **Rep. Chaney** made a motion to approve the minutes of the February 7, 2018, 1:30 p.m. meeting. **Motion carried by voice vote.**

MOTION: **Rep. Chaney** made a motion to approve the minutes of the February 7, 2018, 2:45 p.m. meeting. **Motion carried by voice vote.**

H 500: **Rep. Amador** presented **H 500**. This legislation will bring into congruence the current public records law for reporting child abuse. Two differing child abuse reporting identity statutes exist for the Department of Health and Welfare (DHW) and the criminal code. This legislation adds a new subsection stipulating the maintenance of the confidentiality of an individual's identity when reporting child abuse to law enforcement or via 911 unless consent is given in writing or necessary for administrative or judicial proceedings. Reporting confidentiality is allowed when child abuse is reported to DHW.

Answering questions, **Rep. Amador**, said family, neighbors, or close friends may have suspicion, but not proof of abuse and be concerned about retribution. The victims of child abuse do not have the ability to report the crimes themselves. This does not provide reporting anonymity to law enforcement, only name redaction for public use, until needed for a judiciary proceeding. In court proceedings the individual's name would be disclosed during discovery.

K.J. Brandt, First Judicial District Court Appointed Special Advocate (CASA) Program, North Idaho, testified **in support of H 500**. Most people do not know they can call the DHW or 911. In her experience with over 1,000 child protection cases, someone knew about the child abuse and did not report it due to fear of their name being made public and retaliation or intimidation by the accused.

Natasha Lattin, Idaho State CASA Association, testified **in support of H 500**. This legislation helps persons step forward, report the abuse, and save the life of a child. Abuse is a cycle and bringing it to light helps stop the cycle.

MOTION: **Rep. Wintrow** made a motion to send **H 500** to the floor with a **DO PASS** recommendation.

In closing remarks, **Rep. Amador** said persons concerned about an abuse situation will pick up the phone and dial 911, not look up their options in code. This bill can alleviate a barrier to reporting.

VOTE ON MOTION:

Motion carried by voice vote. Rep. Amador will sponsor the bill on the floor.

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

H 587:

Rep. Luker presented **H 587**. The Idaho Tort Claims Act was developed to allow the state to be sued when an agent of the state causes an injury or accident. Persons receiving mental health services at a state mental health center, hospital, or similar facility are wards of the state and listed among the exclusions. This legislation would provide potential tort compensation to innocent third parties who suffer injury or property damage by patients in these facilities when there is a supervision failure. Responding to questions from the committee, Rep. Luker stated the Department of Administration handles most of the claims. This would not apply to state employees because of the Workers Compensation exclusive remedy feature. There is no liability if the supervision is according to reasonable standards and not controllable.

MOTION:

Rep. Kerby made a motion to send **H 587** to the floor with a **DO PASS** recommendation.

Lynn Norris testified in support of **H 587**. She shared the story of their car, which was vandalized by a patient at the Southwest Idaho Treatment Center (SWITC), the inability to prosecute, the denied claim, and subsequent insurance claim they had to file.

Lee Rice testified in support of **H 587** because the state needs to be held accountable.

VOTE ON MOTION:

Motion carried by voice vote. Rep. Luker will sponsor the bill on the floor.

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

H 584:

Rep. Malek presented **H 584**. The 2014 statute regarding video voyeurism deals with revenge pornography and has been used extensively by prosecutors.

Kassandra Slaven, Ada County Prosecutors Office, Vulnerable Victim's Unit, further presented **H 584**. The statute is important to combat a very real community problem where offenders use the internet as a tool and weapon to violate, harass, and humiliate victims, most of whom are female. Recent challenges have required the statute be more in line with constitutional principles. The changes add an intent element, a requirement of victim identifiably from the image or circumstances around the image, an exception for voluntary body parts exposure in commercial or public settings, and a legitimate public purposes exception. Although these additions increase what the state has to prove to show the conduct is illegal, it continues to hold persons accountable and creates a conduct deterrent.

MOTION:

Rep. McDonald made a motion to send **H 584** to the floor with a **DO PASS** recommendation.

Answering a question, **Ms. Slaven** said the effective July 1, 2018, date does not impact anything currently being litigated.

Rep. Malek further answered questions, stating an emergency clause was not necessary because there are no pending cases falling within the exceptions. Malicious postings are with the intent to annoy and offend, result in drastic consequences, and require the felony charge.

**VOTE ON
MOTION:**

Motion carried by voice vote. Rep. Malek will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 3:04 p.m.

Representative Luker
Chair

Wendy Carver-Herbert
Secretary