

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Monday, March 09, 2015

TIME: 9:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Loertscher, Vice Chairman Batt, Representatives Andrus, Luker, Crane, Palmer, Sims, Barbieri, Holtzclaw, McMillan, Bateman, Cheatham, Nielsen, Smith, Jordan, McCrostie, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Jordan

GUESTS: Holly Koole Rebholtz, IPAA; Tyler Mallard, Risch Pisca; Jeff Anderson, Lottery Commission; Becky Schroeder, Lottery Commission; Jeremy Chou, Givens Pursley; Nick Stone, Eagle High School; Jacob Smith, Eagle High School; Kathryn Semple, Eagle High School; Conner Shultz, Eagle High School; Dan Blocksom, Idaho Association of Counties; Arjate J., Eagle High School; Faith Misrgar, Eagle High School; Hayden Clinkscale, Eagle High School; Colby Cameron, Sullivan and Reberger.

Chairman Loertscher called the meeting to order at 9:02 a.m.

MOTION: **Rep. Sims** made a motion to approve the minutes of the February 26, 2015 meeting. **Motion carried by voice vote.**

RS 23769: **Holly Koole Rebholtz** presented **RS 23769** proposed legislation that amends existing law to redesignate no conduct orders as orders prohibiting conduct, to revise a provision concerning the issuance of an order prohibiting conduct, to provide that the order shall define prohibited conduct and that the order shall be served on the defendant prior to enforcement, and to revise provisions concerning when a violation of an order prohibiting conduct is committed. She stated Idaho Criminal Rule 46.2 is a procedural rule that sets forth the minimum requirements for a valid no contact order and provides that a no contact order must contain "a distance restriction" and a warning that "a violation of the order may be prosecuted as a separate crime." She stated that in a recent decision, *State v. Herren*, the Idaho Supreme Court stated that "the act of remaining within 100 feet" is not "contact" as defined by the order. The Court further states, "the order states that 'defendant shall not contact or attempt to contact ... or knowingly remain within 100 feet of the protected person.' "

She stated the word "or" is disjunctive, meaning that it is a conjunction used to introduce an alternative. Thus the order unmistakably conveys that the meaning of "contact" and "knowingly remain" are distinct from one another. She said this legislation closes that loophole and provides protection for victims of crime. The amendment specifies that it is not "contact" that constitutes a violation of the order and thus a separate crime, rather it is the violation of the order itself that may be prosecuted as a separate crime. She stated in Idaho Code 18-920, Violation of No Contact Order, currently allows a judge to issue a no contact order in a criminal case prohibiting defendants from contacting their victims. Idaho Code 18-920 reads "the court may issue an order forbidding contact with another person." She stated the fiscal impact is difficult to determine with certainty, as it will depend on the increased number of offenders who are convicted, if any, under this statute. The potential impact to the General Fund would be equal to the cost of imprisoning the additional number of offenders charged, convicted, and sentenced as a result of this amendment.

- MOTION:** **Rep. Wintrow** made a motion to introduce **RS 23769**. **Motion carried by voice vote.**
- RS 23789:** **Tim Hurst**, Chief Deputy, Secretary of State, presented **RS 23789**, proposed legislation that clarifies the recount statute allowing any losing candidate in an election to request a recount with the appropriate filing officer (Attorney General or County Clerk) depending on whether the election is for federal, state, county, city or another taxing district office.
- MOTION:** **Rep. Sims** made a motion to introduce **RS 23789**.
- SUBSTITUTE MOTION:** **Rep. Batt** made a substitute motion to introduce **RS 23789** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Sims** will sponsor the bill on the floor.
- RS 23690C2:** **Rep. Boyle** presented **RS 23690C2**, proposed legislation that re-codifies existing law in a manner that provides Idaho residents and law-enforcement officials with clear guidance on the rights and restrictions contained in the provisions of Idaho Code regulating the carrying of concealed weapons.
- In response to committee questions, **Rep. Boyle** stated "elected officials" was taken out because it is fair that they go through the same process to get a concealed license permit as everyone else.
- MOTION:** **Rep. Palmer** made a motion to introduce **RS 23690C2**. **Motion carried by voice vote.** **Reps. Barbieri and McMillan** requested to be recorded as voting **NAY**.
- RE 23771:** **Chairman Loertscher** presented **RS 23771**, proposed legislation to increase the income from the Idaho State Lottery to reflect the national average of the amount retained by the state for programs benefitting from Lottery proceeds. He stated it also directs that a portion of that increase be distributed to the Racing Commission for live Idaho horse race meet purse enhancement. He stated there will be an increase of the amount available for the School District Building Account, the Permanent Building Account and the Bond Levy Equalization Fund. He said the amount of increase is difficult to enumerate.
- In response to committee questions, **Chairman Loertscher** stated the effective date would be 2019 because of the current distribution in law. He stated the Lottery Commission is not going away and the Horse Racing in Idaho has taken a hit.
- MOTION:** **Rep. Crane** made a motion to introduce **RS 23771**. **Motion carried by voice vote.** **Rep. Nielsen** requested to be recorded as voting **NAY**.
- ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 9:30 a.m.

Representative Loertscher
Chair

Kasey Winder
Secretary