

## STATEMENT OF PURPOSE

### RS24024C1

The purpose of this legislation is to address shortcomings in Idaho's current criminal code involving offenses of a sexual nature. Idaho currently does not treat a situation in which an adult victim may be groped or fondled against his or her will, for a sexual or degrading purpose, as a sex crime. The only statute such an offence could be charged under is simple battery, Idaho Code § 18-903. The punishment for battery is up to six months in jail and a fine of up to \$500. Idaho Code § 18-904. This legislation would create a new statute, Sexual Battery of an Adult, under which a person convicted of committing this offense could receive a sentence of up to one year in jail and a fine of up to \$1,000. If a person was convicted of Sexual Battery of an Adult more than two times in a ten-year period, the offense would be a felony, with a punishment of up to five years in prison and a fine of up to \$10,000. In addition, a person convicted of the felony crime would be required to register as a sex offender. Additionally, a recent decision of the Idaho Supreme Court raised questions about Idaho's rape Statute, Idaho Code § 18-6101. In *State v. Jones*, 154 Idaho 412 (2013), the Idaho Supreme Court recognized, "Approximately thirty-two states, the Model Penal Code, the District of Columbia Code, and the Uniform Code of Military Justice have done away with the resistance requirement completely, allowing prosecutors to establish a rape without any resistance present." However, Idaho's statute still required some form of resistance from the victim. This legislation seeks to amend the current statute to provide that a victim of rape need not offer resistance where the victim has a well-founded belief that resistance would be futile or that resistance would result in the use of force or violence. The legislation also amends Idaho Code § 18-6101 to replace the current female pronouns used for a victim with gender-neutral language. This recognizes the reality that not all rape victims are female, and renders Idaho's rape law the same for both men and women. In light of the proposed changes, related statutes will also need to be updated. Idaho's rape of spouse statute, Idaho Code § 18-6107 will need to be updated to refer to the proper subsections. With the gender references changed in Idaho Code § 18-6101, Idaho's male rape statute, Idaho Code § 18-6108, and the statute outlining the punishment for male rape, Idaho Code § 18-6109 can be repealed. Finally, this legislation amends Idaho Code § 18-8304 to reflect that a felony conviction of Sexual Battery of an Adult results in a requirement that the person register as a sex offender.

### FISCAL NOTE

The alterations to Idaho's rape statute will not have a fiscal impact. The addition of the crime of Sexual Battery of an Adult should result in convictions for that crime, which will have concomitant incarceration costs. However, it is not possible to accurately calculate those costs as it is not possible to determine how many convictions will occur.

#### Contact:

Sara Thomas  
State Appellate Public Defender  
(208) 334-2712