

MINUTES

## HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

**DATE:** Monday, March 07, 2016  
**TIME:** 1:30 PM or Upon Adjournment  
**PLACE:** Room EW42  
**MEMBERS:** Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek (Chadderdon), Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow  
**ABSENT/  
EXCUSED:** None  
**GUESTS:** None.

**Vice Chairman Dayley** called the meeting to order at 3:01 PM.

**S 1277:** **Sara Thomas**, SAPD, presented **S 1277**. This bill is a product of the Idaho Criminal Justice Commission's review of Idaho's sexual crimes statutes. This review revealed a shortcoming in Idaho's statute which requires some form of resistance from the victim of a rape. Idaho is one of only a handful of States which has not updated its statute.

**Paul Panther**, Chief, Criminal Law Division, Attorney General's Office, testified **in support of S 1277**. He chaired the subcommittee which proposed these changes. Despite 33 other states removing resistance from their statutes, the Idaho Supreme Court is bound by the language in Idaho's Statute. 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. Idaho has a female rape and male rape statute which have some differences, this bill would adopt gender neutral language, specify both men and women can commit the act of rape and repeals the male rape statute. The rape of spouse statute has been updated to say no spouse can be convicted of raping their spouse unless the situation meets specific circumstances.

In response to a question from the committee, **Mr. Panther** explained the State would bear the burden of proving the victim had an objectively reasonable belief of harm. There are two provisions dealing with resistance, and evidence of rape is evidence of resistance. A portion of the bill does address a situation when the victim is not able to resist with the burden to prove this resting on the State. A situation where the victim is unable to resist due to consuming alcohol or drugs are also addressed. All circumstances would be taken into consideration, not just a single circumstance like a difference in stature.

**Vice Chairman Dayley** turned the gavel over to **Chairman Wills**.

**Sara Thomas**, stated questions have been raised about the sexual battery section, specifically the requirement to have an individual register as a sex offender, for what may be considered a minor offense, if it happened a third time. Concerns were also raised due to the way the sexual battery of an adult statute is written, even a forcible sexual battery could be considered a misdemeanor. Due to the questions and concerns raised, it has been requested **S 1277** be held in committee, for the purpose of bringing new legislation.

**MOTION:** **Rep. Trujillo** made a motion to **HOLD S 1277** in committee. **Motion carried by voice vote.**

**RS 24662:** **Sara Thomas**, Chair, Criminal Justice Commission, presented **RS 24662**. This legislation is the same as **S 1277**, with the exception of the sexual battery portion being removed.

**MOTION:** **Rep. Trujillo** made a motion to introduce **RS 24662** and recommend it be sent directly to the Second Reading Calendar.

**SUBSTITUTE MOTION:** **Rep. Nate** made a substitute motion to introduce **RS 24662**. Roll call vote was requested. **Motion carried by a vote of 9 AYE, 7 NAY, 1 EXCUSED. Voting in favor** of the motion: **Reps. Luker, McMillan, Sims, Malek, McDonald, Cheatham, Kerby, Nate, and Scott. Voting in opposition** to the motion: **Reps. Dayley, Trujillo, Gannon, McCrostie, Nye, Wintrow, and Chairman Wills. Rep. Perry was excused.**

**Sara Thomas**, presented a Idaho Criminal Justice Commission (ICJC) update. The goal is to reduce victimization and recidivism in the State of Idaho. The first objective is to establish evidence-based and best practices relating to accountability, prevention, education and recidivism reduction. The second objective is to strengthen the knowledge base in Idaho by enhancing data collection abilities and sharing capabilities. The Commission continues to address data sharing opportunities and data sharing projects. The Commission has agreed to supervise a group with a special emphasis project grant from the Bureau of Justice Statistics. In the past year, this group has focused on a data sharing project between the Idaho Department of Juvenile Corrections and the Idaho Web Infrastructure for Treatment Services (WITS). Because of this project clinicians are able to use the WITS program to determine if a child, referred to them by the courts for treatment or evaluation, has been in the Department of Juvenile Corrections and what programs they have participated in. This project has greatly reduced the amount of wait time for the information to be gathered.

Another part of the ICJC strategic plan is to provide policy makers and criminal justice decision makers with accurate information. The goal is to advance the delivery of justice through effective interventions by proposing balanced solutions, which are cost effective and based on best practices. Additionally the strategic plan includes promoting efficiency and effectiveness of the criminal justice system by promoting well-informed policy decisions. Subcommittees have focused on pre-trial justice, standardized recidivism definition, mental health, research alliance, and criminal fees and fines.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:53 PM.

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Representative Wills  
Chair

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Katie Butcher  
Secretary