

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Tuesday, March 21, 2017

TIME: 8:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Loertscher, Vice Chairman Monks, Representatives Luker, Crane, Palmer, Barbieri, Holtzclaw, Harris, Armstrong, Giddings, Manwaring, Zito, Scott, Smith, Jordan (Ringo)

**ABSENT/
EXCUSED:** None

GUESTS: Jan Bennetts, Ada County Prosecutors; Holly Koole-Rebholtz, Idaho Prosecuting Attorneys Association; Tammara Tarvin; Idaho Victim Witness Association; Paul Jagosh, Fraternal Order of Police; Teresa Baker, Idaho Association of Counties; Patrick Hodges, State Controller; Dan Goicoechea, State Controller; Sara Westbrook, self; Jason Arrington, self; Michael Bartlett, self; Skip Smyser, Marcy's Law LLC.

Chairman Loertscher called the meeting to order at 8:03 a.m.

SJR 103: Continuation of the meeting of March 20, 2017.

Holly Koole-Rebholtz, Idaho Prosecuting Attorneys Association, was called upon to give testimony but deferred her time to **Jan Bennetts**, Ada County Prosecutors, who spoke **in support** of **SJR 103**. She stated the resolution expands the rights of victims which is much needed. She stated the larger counties, like Ada County, are already offering services to crime victims but the resolution would make sure all counties throughout the State are doing the same.

In response to committee questions, **Ms. Bennetts** stated some counties have Victim Witness Coordinators who work directly with crime victims to be sure they get the services they need. She stated the prosecutor has to prove restitution and the judge decides on an order, which can include timely-set payment schedules. She also stated investigators work with crime victims in the early stages of criminal cases before charges are filed, while the prosecutor's job is to protect the community and seek justice. Victim Witness Coordinators work with victims during the criminal proceedings and act as a liaison between law enforcement and prosecutors. She stated crime victims should be allowed to attend post-conviction proceedings. She stated currently some crime victims hire legal counsel to represent them and it is never a cost of the State, most are pro-bono attorneys. The new language to expand the definition of crime victim is needed because there is a wide range of victims.

Teresa Baker, Idaho Association of Counties, spoke **in support** of **SJR 103**. **Tammara Tarvin**, Idaho Victim Witness Association, spoke **in support** of **SJR 103** and stated the new language is already current practice in Ada County where they provide services for crime victims. She stated it is important to provide protection for victims during the criminal justice process.

Michael Bartlett, representing himself, spoke **in opposition** to **SJR 103** and stated there are unintended consequences with the new language and if the legislature wants to expand services to crime victims, they should put more funding into current programs. He stated nothing in the resolution makes the victim whole. He stated the bill gives more rights to victims before guilt is established.

In response to committee questions, **Mr. Bartlett** stated the current practice works and there is no need to change it. He stated the rights of the accused has been established for years which means every one is presumed innocent until proven guilty and that should not change. Guilt should be determined by the court before rights to a victim are afforded.

Skip Smyser, Marcy's Law, LLC, spoke **in support** of **SJR 103** and stated he has a long history of working with victims through the criminal justice process. He stated when the original language of crime victim's rights was added to the Idaho Constitution in 1994, the defense attorneys brought the same opposition and the addition did no harm to the State or its citizens. He stated the resolution elevates the victim to the same level of rights and respect as the accused, and it's the legislature's job to protect those who need protecting.

Rep. Malek was called upon to give closing testimony. He stated victims always come last in the criminal justice system and just because one group is afforded rights does not mean it takes away from the rights of others. He stated the resolution protects the rights of people who have little to no voice. Adding the new language into the Constitution does not mean the language can't be changed at a later date. He stated the resolution is a good step in combatting against putting victims last.

MOTION:

Rep. Luker made a motion to **HOLD SJR 103** in committee. He spoke to the motion and stated victim's rights is already addressed in the Idaho Constitution and there could be too many unintended consequences with adding to the language. He stated he is not sure the new language is right and the issues could be addressed in statute.

SUBSTITUTE MOTION:

Rep. Palmer made a substitute motion to send **SJR 103** to the floor with a **DO PASS** recommendation. He spoke to the motion and stated the resolution gives opportunity to make the community better.

Rep. Crane spoke **in support** of the substitute motion and stated there has been testimony on the costs that might be associated with the resolution, but the victims pay a high cost and a price cannot be put on someone's life. He also stated victims should have equal rights in the Idaho Constitution.

Rep. Armstrong spoke **in support** of the substitute motion and stated there are unintended consequences for the accused having rights, as some are let free and not found guilty. He stated the victims are not at fault and there should be equal footing for their rights as well.

Rep. Zito spoke **in opposition** to the substitute motion and stated there are other ways to change victim's rights besides doing so in the State Constitution.

Rep. Smith spoke **in opposition** to the substitute motion and stated she is not comfortable with the new language as it relates to expanding definitions and it should be dealt with in statute.

ROLL CALL VOTE:

A Roll Call Vote was requested on the substitute motion to send **SJR 103** to the floor with a **DO PASS** recommendation. **Motion failed by a vote of 5 AYE, 10 NAY. Voting in favor** of the motion: **Reps. Monks, Crane, Palmer, Holtzclaw and Armstrong. Voting in opposition** to the motion: **Chairman Loertscher, Reps. Luker, Barbieri, Harris, Giddings, Manwaring, Zito, Scott, Smith and Ringo.**

ROLL CALL VOTE:

A Roll Call Vote was requested on the motion to **HOLD SJR 103** in committee. **Motion carried by a vote of 10 AYE, 5 NAY. Voting in favor** of the motion: **Chairman Loertscher, Reps. Luker, Barbieri, Harris, Giddings, Manwaring, Zito, Scott, Smith and Ringo. Voting in opposition** to the motion: **Reps. Monks, Crane, Palmer, Holtzclaw and Armstrong.**

S 1151: **Dan Goicoechea**, State Controller's Office, presented **S 1151** a bill that amends Idaho Code § 67-1022 to streamline the remedy process when warrants are lost. He stated the involved agency will be required to give notice only to the State Controller, rather than the State Controller and the State Treasurer. Proof of a loss of warrant would be given by a certification rather than an affidavit. The legislation also replaces the word "duplicate" with "replacement" warrant.

MOTION: **Rep. Monks** made a motion to send **S 1151** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.

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