

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Monday, February 19, 2018
- TIME:** 1:30 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 (Hale)
- ABSENT/
EXCUSED:** None
- GUESTS:** The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.
- Chairman Luker** called the meeting to order at 1:32 p.m.
- H 531:** **Rep. Troy** informed the committee the sunset clause in **H 531** is removed. Passed in 2016, **H 531** provides limited immunity for Minor Consumption or Minor in Possession of Alcohol charges for someone who needs emergency medical help or whose friend needs it. To receive immunity, the minor must remain on the scene and cooperate with emergency medical personnel and law enforcement. Protection from other criminal charges such as Driving Under the Influence is not provided.
- Clayton King**, Associated Students with the University of Idaho, spoke **in support** of **H 531** saying students on campus have taken steps to educate students on alcohol awareness, and using this legislation has helped in that education. Mr. King shared various campus activities they have done to support alcohol awareness.
- MOTION:** **Rep. Amador** made a motion to send **H 531** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Troy** will sponsor the bill on the floor.
- H 588:** **Rep. McDonald** explained **H 588** updates Idaho Code §18-3302I to take into account electronic threats. The bill provides a misdemeanor charge to willful threats of violence and escalates punishment as the threat escalates. **H 588** does not require that a threat take place on the school grounds but does pertain to school buses and other school activity venues. There is a felony clause if a person is found to be in possession of a deadly dangerous weapon in furtherance of such a threat.
- Stu Hobson** Police Officer and School Resource Officer, Nampa Police Department; **Stephen Gasser**, Police Officer and School Resource Officer, Twin Falls Police Department; **David Gomez**, Police Officer and School Resource Officer, Meridian Police Department; **Ryan Rhodes**, Idaho State Fraternal Order of Police spoke **in support** of **H 588** because it extends Idaho Code §18-3302I to criminalization threats to do violence at a school that are made at any time or through electronic social media platforms where young people express themselves. The officers said it is through social media they are most likely to become aware of a threat while violence can still be prevented, and the added language in **H 588** enables them to prevent, rather than just respond to tragedies. A threat does not have to come from a student. **Officer Gasser** told of a threat from the father of a daughter to kill administrators that put a school in lock down, but they were unable to charge the father because Idaho Code §18-3302I, without the amendments this bill makes, only affects threats made on school grounds. **Officer Gomez** explained that a school in Missouri made a threat against MHS on Snapchat, and every MHS

in the country, including Meridian High School, had to go on alert, and since the threat was not made on school grounds, no charges could be brought. This has happened multiple times. **H 588** would change it so charges could be brought in these instances.

Rep. Horman, spoke in support of **H 588** informing the committee the bill is a result of the Law Enforcement Advisory Committee, that serves through the Office of School Safety and Security, for whom she serves as Chair of their Advisory Board, and it has been well vetted.

In response to committee concerns about the effect **H 588** would have on a young student bringing a pocket knife to school, **Officer Hobson** replied Idaho uses the federal statute saying the blade has to be 2 1/2 inches long to be subject to a criminal code violation, and school resource officers have discretion to look at the circumstances. Committee members discussed whether under **H 588** a threat also needed to be linked to the student with the pocket knife. **Officer Hobson** stated language about damage to school property was included in the bill to address bomb threats.

In response to committee concerns about §(b) of Idaho Code 18-3302I allowing students to be charged with a felony for possessing dangerous weapons based upon law enforcement discretion, and although the bill language says the possession of the weapon must be in the furtherance of carrying out a threat made by word or electronically, it also provides in §(c) that the prosecution is not required to prove the student intended to carry out the threat, **Officer Rhodes** replied prosecutorial proof of intent is for the social media threat sections of the bill and does not act on whether the student intended to carry out the threat on the felony portion of the statute where probable cause must be shown.

Holly Koole Rebholtz, Idaho Prosecuting Attorneys Association, was called upon to answer questions from the committee regarding conflicting intent of the language in §b and §c lines 28-29 of **H 588**. She explained she thinks it is proper. Committee concerns were raised about the bill limiting free speech under the First Amendment because it extended punishment from a threat in a limited public forum where free speech can legally be limited to an open public forum. In response to committee questions on whether threatening to use a firearm or a dangerous weapon against a person at an educational institution would be protected free speech, she responded she was not the proper person to answer the question.

MOTION: **Rep. Chaney** made a motion to send **H 588** to General Orders. **Motion carried by voice vote. Rep. McDonald** will sponsor the bill on the floor.

H 534: **Michael Kane** Idaho Sheriffs Association, explained under **H 534** a bail enforcement agent cannot be a child, a fugitive, adjudicated mentally ill, or an illegal alien. A bounty hunter in pursuit must be empowered by a bail officer/agent, have an affidavit approved by the Idaho Supreme Court, have the name, last known address, and a photograph of the individual sought, have the name and principle address of the surety, and have a valid driver's license or photographic identification, as well as an identifying jacket, shirt or vest with the words "bail enforcement agent" visible on the front. When planning an apprehension, a bail enforcement agent must notify the sheriff located within the boundaries of the apprehension area. They cannot pretend to be law enforcement, give a false name, or carry a weapon unless it is legal to do so.

Nate Fisher, spoke in support of **H 534**.

MOTION: **Rep. Perry** made a motion to send **H 534** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. McDonald** will sponsor the bill on the floor.

H 533:

Michael Kane said twenty years ago, Idaho counties were paid \$35 a day for housing state prisoners in their jails, and the expense of housing state prisoners rose every year with state reimbursement increasing only once in 2000 to \$45 a day. Currently, the daily cost per prisoner to the counties to house them is \$81, so the counties bear about fifty percent of the cost, which the counties are recovering through property taxes. There are approximately 1,100 state prisoners being held in county jails for about two to three months. There is an Idaho Supreme Court case saying state prisoners must be taken out of county jails as soon as possible, or within seven days. **H 533** provides the Idaho Department of Correction (IDOC) the incentive to move state prisoners within the first seven days by requiring a daily payment per day per prisoner of \$55 which goes up to \$75 a day after the seven day period. Daily prisoner costs are still not completely covered at \$75 but it is much closer than \$45.

In support of H 533, Kieran Donahue, Sheriff of Canyon County and President of the Idaho Sheriff's Association, advised he has 30 county prisoners a day he has to locate outside his county in six locations to find room for state prisoners. He cannot send his county prisoners out of county to stay because they are not sentenced and have constitutional rights. **Stephen Bartlett**, Ada County Sheriff, emphasized they have 255 IDOC inmates in custody, and Ada County is paying \$24,000 to house them and being reimbursed \$11,000 from IDOC. but it is a large sum the county tax payers are taking on. A lot of prison parolees around the state are released out of Ada County.

In response to committee questions, **Sheriff Donahue** replied the current fiscal note of \$3,650,000 is figured on 1,000 prisoners for 365 days for an extra \$10 a day. If it is figured at 1,000 prisoners for 365 days at \$75 a day, the fiscal impact would be \$11 million; however, that does not consider the seven lower cost days or that, as a result of the considerable work done by the Idaho Sheriff's Association and others, IDOC will be working to get state prisoners out within seven days, including, 250 in a very short period of time, and 1,000 prisoners will be sent out of state.

Chairman Luker directed **Mike Kane** to update the fiscal note.

MOTION:

Rep. Gannon made a motion to send **H 533** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

H 448

Rep. Amador presented **H 448** stating it is not a women's right issue but a family issue. It encourages a healthy bond between mother and child. He shared information on the nutritional and emotional benefits of breast feeding. The feeding of a child should not be confused with exhibitionism or indecency but promotes the health and welfare of children.

MOTION:

Rep. Cheatham made a motion to send **H 448** to the floor with a **DO PASS** recommendation.

Speaking **in support of H 448** were **Sandy Mudge**, M.D.; **Kathy Griesmyer**, Policy Director, ACLU; **Adrian Cavener**, contractor with Treasure Valley United Way, who informed the committee of many of the emotional, mental and economic benefits of breast feeding and citing the many health groups that support it, stating it is good for women's health, reproductive health, children's health and dad's and all sorts of family partners' health.

Speaking **in opposition to H 448, Fairy Hitchcock** informed the committee she nursed one of her children 3 years, one 4 years, tandem nursed children and is a long-time member of La Leche League. She stated when babies are nursed, they should be covered up for their own safety to protect them from the sun and cold. This bill is about exhibitionism and babies do not need to be uncovered as an encouragement to nurse.

**VOTE ON
MOTION:**

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

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 4:00 p.m.

Representative Luker
Chair

Wendy Carver-Herbert
Secretary