

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 28, 2018

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Lee, Senators Hagedorn, Lakey, Anthon, Foreman, Potts, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lodge** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:32 p.m. with a quorum present.

H 429 Relating to Crime Victims Compensation.

Representative Melissa Wintrow, District 19, stated **H 429** provides for the cost of collecting forensic evidence in rape cases to be paid by the Crime Victims Compensation Program (CVCP). She pointed out this cost is currently billed to the victim's insurance company, with the remaining amount covered by CVCP.

Representative Wintrow commented only in rape cases is the collection of forensic evidence paid by the victim. She discussed the burden this places on victims, and the barrier to crime reporting with respect to privacy. She noted no changes have been made regarding the procedures involving minors.

Representative Wintrow related CVCP's concerns regarding their federal grant, and their desire for some amending of the bill. She stated she would like to have **H 429** sent to the 14th Order for amendment.

TESTIMONY: **Annie Pelletier**, Director of Law and Policy, Idaho Coalition Against Sexual and Domestic Violence (ICASDV), testified in support of **H 429**. **Ms. Pelletier** advised she previously worked for Boise State University (BSU) where she was responsible for investigating and taking reports of all sexual assaults that occurred on campus. She shared experiences supporting the need for this bill. **Ms. Pelletier** commented on the following:

- the reluctance of victims to report sexual assault immediately;
- the need for the forensic exam to be completed within 120 hours;
- the victim's personal medical information being shared with family; and
- the costs of the exam.

Ms. Pelletier read written testimony from Cindee Cook, a registered nurse at St. Alphonsus Hospital, who provides forensic exams for victims of sexual and domestic violence (Attachment 1). **Ms. Cook**, in her letter, addressed the victim's need for confidentiality. She summarized by stating one's ability to pay or insurance requirements should not be the reason a victim does not receive needed exams.

Discussion ensued relating to reasons victims would not want to share knowledge of the assault with their parents, the percentage of victims who do not have insurance to cover the cost, and payment of the exams for minor victims.

Senator Keough reaffirmed her support of **H 429** citing the information presented as the basis for her concern.

MOTION: **Senator Anthon** moved to send **H 429** to the **14th Order**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 357 **Relating to Courts; to Revise Provisions When an Answer Must be Filed.**

Jason Spillman, Legal Counsel for the Administrative Office of the Idaho Supreme Court, stated **H 354** proposes to correct a defect in Idaho Code § 1-2303 by changing the time to file an answer in small claims cases from 20 days to 21 days. He explained all four House bills he will present propose to correct similar defects that have been vetted by the House Committee and passed the House unanimously.

MOTION: **Vice Chairman Lee** moved to send **H 357** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

DISCUSSION: **Senator Anthon** inquired if there is still a three-day mailing window with the new computer system. **Mr. Spillman** thought there was no window with electronic filing.

VOICE VOTE: The motion carried by **voice vote**.

H 358 **Relating to Suspension of Judgment and Sentence.**

Jason Spillman, Legal Counsel for the Administrative Office of the Idaho Supreme Court, related **H 358** proposes to amend Idaho Code § 19-2601 to change the word "shall" to "may" with reference to the court's retention of jurisdiction over a person convicted of a felony.

MOTION: **Senator Burgoyne** moved to send **H 358** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 359 **Relating to Action for Possession; To Revise a Provision of What Shall Be Stated in a Complaint.**

Jason Spillman, Legal Counsel for the Administrative Office of the Idaho Supreme Court, indicated **H 359** proposes to amend Idaho Code § 6-310 to say the complaint in a forcible detainer action against a squatter must state that demand for surrender of property was made and the defendant refused to surrender the property. **Mr. Spillman** pointed out in these actions no written notice is necessary, and this amendment would bring the pleading requirements in line with the proof requirements.

MOTION: **Senator Burgoyne** moved to send **H 359** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

DISCUSSION: **Senator Potts** asked if a similar bill currently circulating will coincide with **H 359**. **Mr. Spillman** was unaware of the other bill's current makeup, but in viewing earlier versions he saw nothing that would conflict with **H 359**.

VOICE VOTE: The motion carried by **voice vote**.

H 360 **Relating to Assault and Battery; To Revise a Provision Regarding Counseling.**

Jason Spillman, Legal Counsel for the Administrative Office of the Idaho Supreme Court, explained **H 360**:

- adds the requirement for evaluation, counseling, and other treatment to the crime of attempted strangulation;
- removes the term "aggression" from the "aggression counseling" requirement; and
- replaces "each judicial district" with "the supreme court."

Vice Chairman Lee asked why there is a reference in the fiscal note regarding the use of indigent defendant funds if that is current practice. **Mr. Spillman** explained persons convicted of attempted strangulation have not previously been required to have counseling, so adding them to the group receiving counseling may impact the indigent defense fund.

MOTION: **Senator Lakey** moved to send **H 360** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 533 **Relating to County Jails; To Revise a Provision Regarding Per Diem Rates.**

Michael Kane, Idaho Sheriffs Association (ISA) and the Idaho Association of Counties (IAC), stated **H 533** proposes to increase the daily rate for State-sentenced prisoners housed in county jails from \$45 per day to \$55 per day for the first seven days, followed by \$75 per day thereafter. He explained the State prisons are at capacity, so prisoners new to the system, currently about 1,100, are housed in county jails. **Mr. Kane** detailed:

- the costs incurred by the county property taxpayers;
- the duty of the Department of Corrections (DOC) to move prisoners out of the county jails within seven days;
- the possibility of moving prisoners out of state; and
- the collaboration of ISA, IAC, legislative leadership, and JFAC to create this bill.

Mr. Kane pointed out the fiscal note states the fiscal impact of this increase ranges from \$3.6 million to \$11 million. He advised the Committee the DOC informed him the cost is probably going to be in the \$6.2 million range. **Mr. Kane** proposed amending the fiscal note to reflect this information.

Vice Chairman Lee asked how many prisoners are housed in the county jails. **Mr. Kane** replied according to the DOC, there are 1,100. **Senator Anthon** inquired if the seven days start over when a prisoner is moved to another jail. **Mr. Kane** explained the seven days refers to days in custody, regardless of which jail the prisoner is in.

Senator Potts asked what the counties will do with the money that will be received. **Mr. Kane** answered the counties will use the money to make up the difference between what is being charged to the taxpayers and the money received from the State. That money will be used to fund jail operations, but it will move from the county property taxpayers, who have been subsidizing a State prison, to the General Fund.

MOTION: **Senator Foreman** moved to send **H 533** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 535 **Relating to Sales Under Execution.**

Michael Kane, Idaho Sheriffs Association, related **H 535** updates a 1919 law to include online auctions for sheriffs' sales.

Senator Anthon and **Senator Hagedorn** expressed concern with striking the hours requirement. **Mr. Kane** responded there are other statutes covering manipulation of auctions by the sheriffs.

MOTION: **Senator Hagedorn** moved to send **H 535** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Lodge** adjourned the meeting at 2:35 p.m.

Senator Patti Anne Lodge
Chair

Anna Wroblewski-Jones
Secretary

Carol Cornwall
Assistant Secretary