

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Monday, February 25, 2019
TIME: 1:30 P.M.
PLACE: Room EW42
MEMBERS: Chairman Dayley, Vice Chairman Chaney, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Rep. Kirby

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 Dayley called the meeting to order at 1:33 p.m.

Chairman Dayley reviewed committee and testifying protocol. Testimonies will be limited to three minutes to include everyone who wants to testify.

H 138: **Chairman Dayley** returned **H 138** to the committee for consideration, which was held for time certain from the meeting of February 21, 2019.

Alniah Selene expressed concern with **H 138**, as finding affordable housing is very difficult, and it took sixty-six days to find an apartment that was accessible and affordable. Shortening the time frame may take away abilities and freedoms of those with disabilities.

Josh Tayler, attorney, Concordia University Housing Clinic School of Law, testified **in opposition** to the bill. Boise has a hearing every Tuesday and Thursday with tenants and landlords. Many tenants are unaware of their rights and are not represented. Most of Idaho's over 100 thousand tenants are fine, though the industry has changed, leaving a property management company, who makes money from charges to tenants. Late fees happen too fast, with no due process.

In response to committee questions, **Mr. Tayler** explained people aren't aware they have a late fee, and when the next rent payment is made, the late fee is paid first, and the rest is applied to rent. Another late fee is added, and then tenants are evicted for not paying rent. This fee goes to the property management company. Sometimes landlords, rather than property management companies, will work with the tenant and let them pay the late fee in payments. The majority of law suits are from a property management company rather than the owner. Tenants get three days to pay the rent, on day four they are evicted. Many tenants are on fixed incomes, and late fees are difficult to pay.

Some committee members expressed concern that while portions of the bill may be good, as a whole the bill would not be good for tenants. Affordable housing will make it more difficult to move someone out of a unit. The three day eviction process has been in place for a long time. This legislation may mean fewer landlords put up houses for rent. The committee expressed concern about increasing rent. When there is supply and demand, rent prices go up. If someone hasn't paid rent, the judges in Ada County will ask that person to move on. From this bill there is no change in the process to evict someone who hasn't paid their rent. Commercial leases are included in **H 138**. A renter cannot hold a landlord hostage on rent for doing repairs. Rent cannot be withheld without good cause. A tenant will risk eviction by making a repair and a deduction from rent. A tenant has the ability to terminate the lease if repairs are not made. Tenants would need to choose between getting repairs or getting damages. Landlords can ask for both at the same time.

Robin Crisler ACLU, spoke **in opposition** to the bill with concerns for multi-national citizens, and used to dis-empower and dis-enfranchise people of color.

Anthony Yeason, Boise Renters United, and **Jim Baugh**, Executive Director, Disability Rights of Idaho, spoke **in opposition** to the bill. Mr. Baugh expressed concern with the notice, due process, and short time frame. This bill allows for forcible removal by the constable, and Idaho has no constables, and gives the courts the ability to decide guilt of an unlawful detainer. Expedited eviction is only related to rent and drugs, and applies only to the plaintiff, not to the defendant.

Summer Hazen, Senior Community Manager, Greystar, and **Len Galus**, Regional Manager, Greystar, Global Property Management Company, oversee a portfolio of six properties, and spoke **in support** of this bill. It will help residents and the landlords. It is difficult for the landlords to take care of people who don't want to follow policies and this bill will protect both parties. In response to committee questions, Mr. Galus has only one or two cases per month go to court.

Annie Hightower, Idaho Coalition for Against Sexual and Domestic Violence, spoke **in opposition** to this bill because survivors of sexual and domestic violence are often seen as problem tenants, and do not have the capability to respond to an expedited eviction. Violation of their provisions would have an adverse effect on these survivors.

Justice Jim Jones was called by the Committee to answer questions in response to his written testimony. (Attachment) Justice Jones, said expedited eviction with damages gives one a right to a jury trial, and this legislation doesn't give time to get their case together. Damage claims are often inaccurate and an expedited process may deprive the right to a jury trial.

Kathy Griesmyer, American Civil Liberties Union (ACLU), spoke **in opposition** to the bill, and differed to **Richard Eppink**, Legal Director, ACLU. Mr. Eppink said this bill sits on the precipice of unconstitutionality, and believes it will be struck down in court due to problems with due process.

MOTION:

Rep. Zollinger made a motion to send **H 138** to the floor with a **DO PASS** recommendation.

Speaking to the motion, **Rep. Gannon** said the bill needs a lot of work and is not necessary.

SUBSTITUTE MOTION:

Rep. Wintrow made a substitute motion to **HOLD H 138** in committee.

Rep. Chaney spoke **in support** of the substitute motion.

Rep. Zollinger is sympathetic to both sides, expressing that it is not the governments role to interpret these contracts, and spoke **in support** of the original motion.

**ROLL CALL
VOTE ON
SUBSTITUTE
MOTION:**

Roll call vote was requested. **Motion failed by a vote of 7 AYE, 10 NAY, 1 Absent/Excused.** Voting in favor of the motion: **Reps. Chaney, Goesling, Marshall, Gannon, Nash, Wintrow, Davis.** Voting in opposition to the motion: **Reps. Amador, Zito, Zollinger, Ehardt, Scott, Hartgen, Ricks, Troy, Young, Dayley.** Rep. Kerby was Absent/Excused.

**ROLL CALL
VOTE ON
ORIGINAL
MOTION:**

A roll call vote was requested on the original motion to send **H 138** to the floor with a **DO PASS** recommendation . **Motion carried by a vote of 11 AYE, 6 NAY, 1 Absent/Excused.** Voting in favor of the motion: **Reps. Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Ricks, Troy, Young, Dayley.** Voting in opposition to the motion: **Reps. Chaney, Marshall, Gannon, Nash, Wintrow, Davis.** Rep. Kerby was Absent/Excused. Rep. Troy will sponsor the bill on the floor.

H 70:

Rep. Wintrow presented **H 70**, an amendment seeking to add Sexual Battery of a Minor Child Sixteen or Seventeen Years of Age to Idaho Code, which lists all felony crimes that disqualify a convicted felon from owning a firearm. Other similar felony crimes such as Sexual Abuse of a Child under Sixteen, Sexual Exploitation of a Child, and Lewd Conduct with a Minor Child under Sixteen, are all listed as prohibitions to possession. It appears that Sexual Battery of a Minor Child Sixteen or Seventeen Years of Age was inadvertently left off the list of qualifying felony crimes in previous amendments that included other sexual battery felonies. Legislative research does not reveal any reason that previous sessions of the legislature would have failed to add it to the law. Given its serious nature, which includes registration on the Sex Offender Registry, and should be included among other similar codes to prevent a person with this felony conviction from possessing a firearm in Idaho.

Terry Dearden, Sheriff, Ada County Sheriff's Office, said this bill will add this to the provision of felon and would be included in those felons to not be able to get a concealed weapons permit. It was an oversight, and asked that it be corrected.

MOTION:

Rep. Goesling made a motion to send **H 70** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Zollinger, Scott, and Zito** requested to be recorded as voting **NAY.** **Rep. Wintrow** will sponsor the bill on the floor.

H 139:

Rep. Ehardt presented **H 139**, legislation protecting authors, journalists and speakers in Idaho from being dragged into foreign courts over frivolous libel charges in jurisdictions that do not respect, value and protect freedom of speech, and the press, as in the United States. It will provide protection from the practice of "Libel Tourism," in which plaintiffs choose to file lawsuits in jurisdictions not providing the same protections of free speech as the U.S. Constitution.

Speaking **in support** of this bill, **Steve Shirer**, attorney, said this law will greatly decrease cases in foreign courts. In response to committee questions, Mr. Shirer explained how a foreign judgment can be filed with the state of Idaho. No judgements have been brought before an Idaho citizen yet.

Rep. Ehardt said sometimes policy is not clearly given, and this will make clear what Idaho wants done in this case. Idaho laws and values should be enforced in the courts.

MOTION:

Rep. Chaney made a motion to send **H 139** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Marshall** requested to be recorded as voting **NAY.** **Rep. Ehardt** will sponsor the bill on the floor.

H 99: **Rep. Zollinger** presented **H 99**, legislation changing current code pertaining to mandatory minimum sentencing provisions for trafficking in controlled substances. It provides for judicial discretion sentencing in instances where the prescribed minimum sentence would result in a manifest injustice, and where the prescribed minimum sentence is not deemed necessary for the protection of the public.

Speaking **in support** of **H 99**, **Soni Starr, Kathleen Klar, Karen Lansing, David Hi, John Lynn, Kay Hass, Phil Tate, and Mary Ann Kojis**, each shared a personal story about their sons who have become addicted to drugs, and received a prison sentence under the mandatory minimum sentencing.

Karen Lansing spoke **in support** of **H 99**. Ms. Lansing served on the Idaho Court of Appeals, and reviewed sentences of those who appealed, and the comments of the judges, and believes a judge is often prevented from doing what he/ she feels is the right thing because of the mandatory minimum sentencing.

Elisa Massoth, attorney, spoke **in support** of **H 99**, said the high-end trafficker would still receive the same sentencing under this bill. Research has concluded that stiffer prison sentences do not detour behavior.

Mary Ann Kojis started Starry Link, a program which takes books to inmates so they can record stories for their children, supports rehabilitation rather than mandatory minimum sentencing.

Michael Kane, Idaho Sheriff's Association, spoke **in opposition** to the bill. As a former drug and murder prosecutor, he heard many cases of addiction, organized crime, money over human life, to enrich themselves and harm others. Mandatory minimum laws are for traffickers, not addicts. The court can commute the sentence if needed, and put the person in county jail for a period of time. Pardon and parole can also commute sentences, if deemed necessary. It would be better to move the line and increase the amounts of drugs.

MOTION: **Rep. Nash** made a motion to send **H 99** to the floor with a **DO PASS** recommendation.

MOTION: **Rep. Scott** made a motion to call for the previous question.

Rep. Ricks said he would like to hear more testimony and have time to debate this issue.

ADJOURN: The meeting adjourned at 5:24 p.m.

Representative Dayley
Chair

Jayne Feik
Secretary