

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, March 05, 2020
TIME: 1:30 pm or Upon Adjournment of House Floor Session
PLACE: Room EW42
MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Melinda Merrill, NW Grocery Association; Paul Riggins, IACDL; Ashley Dowell, COPP; Holly Koole Ribholtz, IPAA; Barry Wood, ISC; Josh Tewalt, IDOC; Marcia Yiapon

Chairman Chaney called the meeting to order at 1:31 p.m.

H 582: **Chairman Chaney** returned the bill to the Committee for consideration. **H 582** defines the term "willful or reckless misconduct" due to the Idaho Supreme Court's recent notice of the absence of a definition, which caused uncertainty in Idaho liability laws.

MOTION: **Rep. Monks** made a motion to send **H 582** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Chairman Chaney** will sponsor the bill on the floor.

H 583: **Chairman Chaney** returned the bill to the Committee for consideration. **H 583** provides a cap on non-economic damages, amending Idaho Code 6-2104.

MOTION: **Rep. Troy** made a motion to send **H 583** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Kerby** made a substitute motion to send **H 583** to General Orders.

Speaking to the substitute motion, **Rep. Kerby** stated he likes a lot of things about the bill, but has issues with the language. He believes there should be a serious consequence for agencies if whistle-blowers are required to call out agency issues. Industry leaders need heavy consequences so whistle-blower issues do not happen.

Speaking **in opposition** to the substitute motion, **Reps. Marshall and Troy** agreed with **Rep. Kerby** about the need for training and team encouragement at the agency level, but they believed this bill's action would be enough.

Speaking **in support** of the substitute motion, **Reps. Wintrow, Scott, and Gannon** hoped the flaws in the bill could be changed or amended. The main flaw they spoke about would be to make sure the whistle-blower had the financial backing needed to incentivize them to speak out, both for the whistle-blower and the state's sake.

Chairman Chaney reminded the committee this bill represents a compromise; the bill is designed to fall short of what everyone wanted on purpose. He recognizes a deep responsibility to both state employees and taxpayers.

VOTE ON SUBSTITUTE MOTION: **Chairman Chaney** called for a roll-call vote on the substitute motion to send **H 583** to General Orders. **Motion failed by a vote of 5 AYE and 12 NAY, with 1 ABSENT/EXCUSED.** Voting in favor of the substitute motion: **Reps. Kerby, Scott, Gannon, McCrostie and Wintrow.** Voting in opposition to the substitute motion: **Chairman Chaney, Reps. Monks, Amador, Zito, Zollinger, Ehardt, Goesling, Hartgen, Marshall, Troy, Young, and Davis.** Absent/Excused: **Rep. Ricks.**

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for a roll-call vote on the original motion to send **H 583** to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 14 AYE and 3 NAY, with 1 ABSENT/EXCUSED.** Voting in favor of the original motion: **Chairman Chaney, Reps. Monks, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Troy, Young, McCrostie and Davis.** Voting in opposition to the original motion: **Reps. Kerby, Gannon, and Wintrow.** Absent/Excused: **Rep. Ricks.** **Chairman Chaney** will sponsor the bill on the floor.

S 1232: **Chairman Chaney** returned the bill to the Committee for consideration. **S 1232** will establish a mandatory reentry savings account for all individuals incarcerated in an IDOC facility. The savings will be provided to the individual, upon release from IDOC, to help aid in the transition to the community.

MOTION: **Rep. Troy** made a motion to send **S 1232** to the floor with a **DO PASS** recommendation.

VOTE ON MOTION: **Chairman Chaney** called for a roll-call vote. **Motion failed by a vote of 8 AYE and 8 NAY.** Voting in favor of the motion: **Chairman Chaney, Reps. Amador, Goesling, Hartgen, Marshall, Troy, Wintrow, Davis.** Voting in opposition to the motion: **Reps. Monks, Zito, Zollinger, Ehardt, Scott, Young, Gannon, McCrostie.** Absent/Excused: **Reps. Kerby, Ricks.**

S 1339: **Chairman Chaney** returned the bill to the Committee for consideration. **S 1339** will add a clerk to the magistrate commission from the clerks' judicial district.

MOTION: **Rep. McCrostie** made a motion to send **S 1339** to the floor with a **DO PASS** recommendation.

The Committee commented they support the bill, but would like to see it again in the future to fix the county angle.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Troy** will sponsor the bill on the floor.

S 1284: **Chairman Chaney** returned the bill to the Committee for consideration. **S 1284** ensures the confidentiality of indigent defendants' attorney work product and attorney-client privileged information by making this information exempt from disclosure under the Public Records Act.

MOTION: **Rep. Gannon** made a motion to send **S 1284** to the floor with a **DO PASS** recommendation.

Rep. Wintrow summarized the impact of the bill, stating this bill is to protect confidential information sent by a defendant via mail.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Wintrow** will sponsor the bill on the floor.

S 1340: **Rep. Zollinger** presented **S 1340** stating the bill carried the senate unanimously. The bill amends statute giving judges sentencing guidelines and cleans up statute language.

Paul Riggins of the Idaho Association of Criminal Defense Lawyers testified **in support** of **S 1340**. He reminded the committee this bill has been two years in the making, and is a step forward for long-overdue individualized justice in Idaho. The intent is to reduce recidivism through treatment instead of incarceration and promotes fiscal responsibility. In response to committee questions, Mr. Riggins stated judges will rely on pre-sentencing reports by the probation department to help understand the issue.

Chairman Chaney stated without objection the bill will be held in committee until rescheduled.

S 1342: **Rep. Zollinger** presented **S 1342**, stating it is an important and simple bill changing commercial burglary of under \$300 from a felony to petty theft so we are not catching people with a larger fine and jail sentence they do not need.

Holly Koole Rebholtz of the Idaho Prosecuting Attorneys Association testified **in support** of the bill.

Chairman Chaney stated without objection the bill will be held for future consideration. There was no objection.

S 1336: **Rep. Troy** introduced **S 1336** and turned the time over to **Lochlan Frederick**.

Lochlan Frederick testified **in support** of the bill, stating the amendment will add the Commission on Pardons and Parole to the list of the protected, due to multiple threats made by individuals who disagree with decisions made by the commission.

Ashley Dowell, Executive Director of the Commission on Pardons and Parole, testified **in support** of the bill. In response to Committee questions, she stated she doesn't have a number of threats they receive in the commission, but they have had to involve law enforcement multiple times and had multiple safety incidences since the start of 2020.

Rep. Troy concluded in response to Committee question although we believe in equal protection under the law, some roles come with more risk and therefore deserve extra safety support.

Rep. Gannon stated he would like to see bills like this come through for constituencies which don't have such easy access to the legislature, like night managers in convenience stores, who are in high risk safety situations.

Chairman Chaney stated without objection the bill will be held for future consideration. There was no objection.

S 1356: **Rep. Amador** presented **S 1356** stating it simply changes the numerals in the statute outlining the number of judges in Idaho. This bill is in response to an appropriations bill which already approved two new judges in response to growth and need in northern Idaho, specifically Bonner County. There is no money attached to this bill since it accompanies a bill from JFAC.

Jason Spillman of the Administrative Office of the Courts testified **in support** of the bill, and in answer to Committee questions, stated some costs will fall upon the county, but Bonner County Commissioners have written a letter supporting this request.

Chairman Chaney stated without objection the bill will be held for future consideration. There was no objection.

Chairman Chaney turned the gavel over to **Rep. Monks**.

S 1357: **Rep. Chaney** presented **S 1357** to increase judges' salaries in accordance to the CEC recommendation of a 2% increase. The Committee debated about the merits and weaknesses of this process, philosophical criticism of how the legislature is awarding CEC during a 2% reduction on the GF, and the separation of powers.

Chairman Monks stated without objection the bill will be held for future consideration. There was no objection.

Chairman Monks returned the gavel to **Rep. Chaney**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:38 p.m.

Representative Chaney
Chair

Emilee Bell
Secretary