

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 03, 2021
TIME: 9:00 A.M.
PLACE: Room EW40
MEMBERS: Chairman Crane, Vice Chairman Armstrong, Representatives Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Furniss, Hanks, Skaug, Gannon, Mathias
**ABSENT/
EXCUSED:** None
GUESTS: Quinn Perry, Idaho School Board Association; Brody Aston, Westerberg & Assoc.

Chairman Crane called the meeting to order at 8:59 a.m.

RS 28375C1: **Rep. Moyle** presented **RS 28375C1**, addressing the issue of ballot harvesting. Many people who convey ballots are political activists who harvest absentee or mail-in ballots from voters and then deliver them to election officials for processing and counting. The proposed legislation would prohibit this practice by limiting ballot handling to those authorized to do so, pursuant to Idaho law. This proposed legislation limits an individual's ability to turn in no more than two ballots for an election.

In answer to questions, **Rep. Moyle** explained there is a family exemption to allow voting for individuals who are hospitalized or living in care facilities. A family member may help them vote or an absentee ballot may be requested. If someone is caught with more than two ballots they would be prosecuted.

MOTION: **Rep. Palmer** made a motion to introduce **RS 28375C1**.

During discussion it was recommended that "immediate" be added to family, in regard to who may help an individual admitted to inpatient care, vote. The committee also requested definitive information about confiscated ballots.

**VOTE ON
MOTION:** **Motion carried by voice vote.**

RS 28251: **Rep. Chaney** presented **RS 28251**, proposing a constitutional amendment to expressly authorize law enforcement officers to make warrantless misdemeanor arrests when the officer did not observe the crime. This would be limited to specific offences, as authorized by the legislature, and only when the probable cause shows there is an ongoing threat to health and safety.

In 2019, in the case of State v. Clarke, the Idaho Supreme Court ruled warrantless misdemeanor arrests are unconstitutional unless the alleged crime is witnessed by a law enforcement officer. The amendment would once again allow warrantless misdemeanor arrests based upon probable cause when an alleged offense is committed outside the presence of a law enforcement officer. If introduced, there will be no hearing for this bill. This proposed legislation is meant to keep the conversation going on the topic.

In answer to questions, **Rep. Chaney** said examples of warrantless arrests would be for crimes of violence such as domestic battery or a bomb threat at a school. He said last year the Senate proposed legislation to authorize all misdemeanor arrests. Post Clarke, an arrest warrant has to be issued before an arrest can be made for domestic battery, even when it is obvious that someone has been injured. In putting parameters to the legislation, the Legislature must find the offense a crime of violence, not in the presence of law enforcement.

MOTION: Rep. Palmer made a motion to introduce **RS 28251**.

ROLL CALL VOTE: Rep. Scott requested a roll call vote on **RS 28251**. Motion carried by a vote of **8 AYE and 6 NAY**. Voting in favor of the motion: **Reps. Crane, Palmer, Holtzclaw, Monks, Andrus, Furniss, Gannon, and Mathias**. Voting in opposition of the motion: **Reps. Armstrong, Barbieri, Scott, Young, Hanks, and Skaug**.

During discussion there was a level of discomfort expressed because of outstanding questions. Committee members expressed concern over eroding the constitution and suggested there should be a statute put in place, first. Rep. Chaney stated if there is a constitutional change, it should be the smallest change possible.

H 65 AND RS 28399: Rep. Okuniewicz presented **RS 28399** and **H 65** simultaneously. Both protect certain historic monuments and memorials. No monuments or memorials erected on State property may be relocated, removed, disturbed, or altered without approval of the Idaho Legislature by way of a Concurrent Resolution. The legislation also preserves the names of historic figures and historic events memorialized in or dedicated to public schools, streets, bridges, structures, parks, preserves, or other public areas of the State or any of its political subdivisions that were in place prior to July 1, 2021.

H 65 states the legislature would need to vote before certain memorials or monuments could be removed or decommissioned. **RS 28399** is now inclusive of all historical monuments and memorials. The legislature would only be involved if decommission or removal is desired. The proposed legislation is designed to address the cancel-culture mentality. It also allows for removal or relocation to accommodate, construction, repair or improvements to the monuments or memorials or public property surrounding them. If they are moved, it has to be to a location of similar prominence.

Lauren Bramwell, lobbyist for the ACLU testified remotely, **in opposition to H 65**. She stated this legislation takes away local decision-making authority and permits removal of statues and memorials only through Concurrent Resolution. She said this is a time of racial reckoning, an unpacking of history, looking to expand public discourse about less than perfect history that has been made less visible. For example, looking at how monuments may glorify white supremacy. She also stated that the Heritage Act of South Carolina, upon which this legislation has been modeled, has caused prohibition or delays in removing monuments.

Quinn Perry, Policy and Government advisor for the Idaho School Board Association testified **in opposition of H 65**. She stated the legislature would restrict School Board members in making decisions for their constituents. She made a request to hold **H 65** in Committee. Ms. Perry also said schools infrequently change their names.

In closing, **Rep. Okuniewicz** said that **RS 28399** is much more inclusive than the Heritage Act. The Idaho Legislature would need a simple majority to approve a change. He encouraged new statues and monuments to be constructed to celebrate modern-day heroes. It was noted this legislation does not apply to changing school mascots.

MOTION: Rep. Palmer made a motion to send **H 65** to the floor with a **DO PASS** recommendation.

MOTION WITHDRAWN: Rep. Palmer asked unanimous consent to withdraw his motion. There being no objection the request was granted.

MOTION: Rep. Palmer made a motion to **HOLD H 65** in committee. Motion carried by voice vote.

MOTION: **Rep. Palmer** made a motion to introduce **RS 28399** and recommended it be sent directly to the second reading calendar.

During discussion the desire was expressed for cities and counties to take the process slowly. It could be toxic to have discussions about who is worthy of being memorialized. It was also said this is an inspiring bill for pioneers. Make new history but do not dishonor our Idaho ancestors.

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

RS 28274C1: **Rep. Christensen** presented **RS 28274C1** which allows K-12 school district employees, with an enhanced concealed weapons license, to carry a concealed weapon on school property.

Law enforcement response time is four to eight minutes. With the goal to protect Idaho's school children, this proposed legislation would allow an immediate response in an emergency. Some school boards already have the ability for school staff to carry a concealed weapon.

In response to questions, **Rep. Christensen** explained the requirements for an enhanced concealed weapons permit. An individual must be 21 and receive instruction in the classroom and at the gun range. If a school employee travels to another district they would be able to carry their concealed weapon.

Committee members were concerned with the broad language in section eight, Page 3 line 49. They asked to change the language to include accountability for reckless behavior.

Chairman Crane put the committee as ease at 10:13 a.m.

Chairman Crane reconvened the meeting at 10:25 a.m.

MOTION: **Rep. Skaug** made a motion to introduce **RS 28274C1** with the following amendment on page 3 line 49, adding, No action but for reckless, willful, and wanton behavior, shall. **Motion carried by voice vote. Rep. Mathias** requested to be recorded as voting **NAY**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:26 a.m.

Representative Crane
Chair

Kelly Staskey
Secretary