

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Thursday, February 17, 2022

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti (Roberts), Nash

**ABSENT/
EXCUSED:** Representative(s) Ehardt, Erickson

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

Chairman Chaney provided instructions for remote testimony and turned the gavel over to **Vice Chairman Hartgen**.

H 658: **Chairman Chaney** presented **H 658**, which would keep certain information about the performance of the death penalty private. He reviewed what states have the death penalty and those states that have adopted different means to carry out an execution. If **H 658** is rejected a different method of execution will be required going forward in Idaho.

Brian Kane, Deputy with the AG's Office, assured the committee that proper review of death penalty cases occurs and that these amendments are necessary for the State to carry out executions. He said if this legislation isn't accepted then the method of execution is going to have to change because the State will be unable to perform executions.

Josh Tewalt, Director of the Department of Correction (DOC), spoke about the importance of agency transparency especially in conducting executions. The question is whether certain details involved in the process have the right to be protected or not. He explained the instructions in the Administrative Rules outlining the state's ability and process for performing executions and that the Board of Correction specifically reviewed this and made changes to allow for more transparency where possible and yet to protect the integrity of the process. As of today, capital punishment is the law in Idaho and unless the protections in **H 658** are put in place the DOC does not have the ability to carry out an execution according to law.

The committee asked questions about the 2012 execution and the news story. **Mr. Tewalt** responded that the news story was an alleged piece, and he verified the parts of those executions that were public information.

The committee questioned this legislation's necessity if the execution process is already supported in Administrative Rules. **Chairman Chaney** answered that the suppliers of the drugs needed to conduct an execution are not confident that the current Rules will protect their identity. The committee had questions about how many executions have occurred in more recent State history and how executions may have been prevented. Chairman Chaney responded two executions have been carried out over 30 years and none have been prevented.

MOTION: **Rep. Skuag** made a motion to send **H 658** to the floor with a **DO PASS** recommendation.

Ken Burgess representing the Idaho Press Club, spoke **in opposition** of the bill saying that everything pertaining to a public execution should be public including the drug information.

Lauren Bramwell representing the American Civil Liberties Union (ACLU) spoke **in opposition** of the bill. Secrecy will not make the drugs more available it will make the process longer, the public has the right to know where the drug is obtained and the drug's ingredients. The committee questioned whether the ACLU has an official position on the death penalty. Ms. Bramwell stated, the ACLU opposes the death penalty but stated that the issue with this legislation is its restricted access to information and that there is a better solution.

Chairman Chaney clarified that H 658 is intended to protect the identities of the drug suppliers and administrators and not the name of the drug used. **Director Tewalt** responded to more committee questions regarding options, and he explained that according to Idaho Constitution the only other execution alternative is a firing squad and he does not want to ask his staff to perform that method. Several drug companies have asked to be excluded from public disclosure and the Department of Correction does not have another way to obtain the necessary drug chemicals. The committee questioned whether **H 658** would create a problem with Eighth Amendment violations and Chairman Chaney responded it would not.

MOTION: **Rep. Marshall** made a motion to send **H 658** to the floor with a **DO PASS** recommendation.

Speaking to the motion, **Rep. Marshall** stated that it has never been accepted in this country that the citizens have the right to know every detail of what the government does. This is why there are different branches of government, to give citizens assurance that important things are carried out with the right balance of what can be disclosed. There was further discussion by the committee on the efficacy of this motion and the circumstances by which it has come about.

ROLL CALL VOTE: A roll call vote was requested. **The motion carried** by a vote of: **9 AYE and 5 NAY**. **Voting in favor** of the motion: **Reps. Chaney, Hartgen, Amador, Scott, Marshall, Young, Nate, Erickson, and Skaug**. **Voting in opposition** to the motion: **Reps. Cannon, Gannon, McCrostie, Roberts, and Nash**. **Reps. Ehardt and Erickson were absent/excused**. **Chairman Chaney** will sponsor the bill on the house floor.

H 597: **Rep. McCrostie** presented **H 597** amending existing law for the reinstatement of a driver's license under certain circumstances – upon proof of penalty payment and to provide for the suspension of a driver's license upon a failure to pay an infraction penalty. A different bill went through last year that caused an unintended problem, and this bill restores some language that was inadvertently removed.

Michael Kane representing AAA, spoke **in support** of the bill and explained how the discrepancy was discovered. The committee asked clarifying questions on the changes to the language regarding a conflict with ITD around the suspension of the license for 90-days.

Chairman Chaney answered a committee question about the emergency clause and why it is not listed as a true emergency. The courts said it was difficult to put all the changes back into the system so there needs to be some education among law enforcement and retrofitting among courts to accommodate this legislation.

Matthew Conde representing AAA spoke **in support** of the bill saying it has some elements of mercy and yet holds people accountable.

- MOTION:** **Rep. Cannon** made a motion to send **H 597** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.
- Chairman Chaney** turned the gavel over to **Vice Chairman Hartgen**.
- H 622:** **Chairman Chaney** presented **H 622**; this bill amends existing law to allow judges to use more information to better determine the division of property in divorce cases where 50/50 split of property is not appropriate, like in the case of marital infidelity, abuse, cruelty, willful neglect, and abandonment. The bill allows judges to factor in the reasons for divorce when deciding the division of property.
- Chairman Chaney** and **Rep. Cannon** declared a rule of 80.
- The committee questioned the "mudslinging" this bill might open up. **Chairman Chaney** responded by saying there is some existing case law that would limit or prevent that. Very specific legal questions were involved.
- MOTION:** **Rep. Skaug** made a motion to send **H 622** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Chaney** will sponsor the bill on the house floor.
- Vice Chairman Hartgen** turned the gavel back over to **Chairman Chaney**.
- HJM 4:** **Rep. Furniss** presented **HJM 4** explaining this bill is intended to prevent rural counties with large federal installations from negatively being affected by core-based statistical area designations.
- MOTION:** **Rep. Young** made a motion to send **HJM 4** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Furniss** will sponsor the bill on the floor.
- HCR 35:** **Rep. Troy** presented **HCR 35** honoring **Louise McClure** for her contribution to Idaho during her lifetime.
- MOTION:** **Rep. Amador** made a motion to send **HCR 35** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Troy** will sponsor the bill on the floor.
- ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:17 p.m.

Representative Chaney
Chair

Andrea Blades
Secretary