MINUTES

SENATE JUDICIARY & RULES COMMITTEE

DATE:	Monday, February 24, 2025
TIME:	1:30 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, Wintrow, and Ruchti
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 Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.
RS 32371C1	**Relating to 2025 Rules Reviewed by the Senate Health and Welfare Committee. Chairman Lakey** stated **RS 32371C1** was a request from Senator Van Orden to print the resolution for her committee rules.
MOTION:	**Senator Wintrow** moved to send **RS 32371C1** to print. **Senator Ricks** seconded the motion. The motion carried by **voice vote.**
RS 32481	**Relating to legislation which ensures citizens have recourse if a government entity violates their rights enumerated in Section 9, Article I (Freedom of Speech) or Section 4, Article I Relating to legislation which ensures citizens have recourse if a government entity violates (Guaranty of Religious Liberty) of the Idaho Constitution. Senator Toews** stated the legislation expanded the Tort Claims Act to cover freedom of speech and religion and allowed individuals to seek recourse for violations of these rights at the state level, in addition to federal protections already provided by the Constitution.
DISCUSSION:	**Senator Lenney** asked what the motivation for this legislation was. **Senator Toews** stated the Pacific Justice Institute, whom he had been working with to create the legislation, stated their clients whose freedom of speech or religion had been violated required federal court involvement. The cases also required an attorney who could work at the federal level. **RS 32481** allowed enforcement at the state level through state courts and increased the number of attorneys willing to take on these cases, including those who worked in state courts.
DISCUSSION:	**Senator Wintrow** asked why only cases that involved religion and speech were referenced when the First Amendment also protected issues of race, etc. **Senator Toews** stated this legislation addressed only freedom of speech and religion that aimed to restore state-level protections. While other issues like race could warrant similar measures, this bill was strictly about these two rights and was framed as a bipartisan effort to safeguard those rights. **Senator Wintrow** expressed this legislation in general was about all civil rights and would have allowed all civil right cases to be heard at the state level. **Senator Toews** stated the legislation was only related to the freedom of speech and religion.
MOTION:	**Senator Foreman** moved to send **RS 32481** to print. **Senator Lenney** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Senator Wintrow** commented that 42 US Code covered more than just freedom of religion and speech and she would be reluctant to leave out all civil rights but voted to send **RS 32481** to print.

S 1099 **MANSLAUGHTER - Senator Bernt** explained the legislation amended existing law to revise a provision regarding a penalty for vehicular manslaughter and provided that the court shall inform a defendant of certain information related to sentencing.

DISCUSSION: **Senator Lenney** asked if prescription drugs were included as driving under the influence. **Senator Bernt** stated yes. If a person was driving under the influence (DUI), regardless of what it was and was charged with a DUI, they could be convicted.

Senator Ricks asked if the change to this legislation only happened in the event of someone's death. **Senator Bernt** stated the mandatory minimum in this bill applied only in cases that involved a death, such as when someone is charged with vehicular manslaughter. **Senator Ricks** asked if there was a statute that existed at the time that dealt with this situation. **Senator Bernt** stated the current statute gave the judge the discretion of up to 15 years. **Senator Ricks** clarified the previous statute gave judges the discretion to sentence, where the new change would have imposed a mandatory minimum based on the offense.

Senator Wintrow asked if the person would have had to previously been charged with a DUI and, this time, caused a death. **Senator Bernt** stated that was correct and restated that for a first DUI without vehicular manslaughter, there was a warning. After a second DUI with vehicular manslaughter, a mandatory minimum was imposed and required a prior offense for the minimum to be applied.

Senator Shippy asked for clarification of how the process worked when someone was charged with a DUI. The judge warned the defendant that if, in the future, they killed someone while driving under the influence, they faced a mandatory minimum of five years. **Senator Shippy** asked how the perpetrator was made aware of the ruling by the judge. **Senator Bernt** stated during sentencing after the trial, the judge issued a warning that if the individual was charged with another DUI involving vehicular manslaughter, mandatory minimums would be applied. If the judge failed to give this warning, it wouldn't affect the individual's future sentencing.

Senator Ruchti asked if there was a limitation on the years between the first and second DUI convictions. **Senator Bernt** stated there was no specific time frame, but the graduation in mandatory minimums was implemented for cases like that. The mandatory minimums were adjusted to allow for leniency, but accountability was required if someone died. **Senator Ruchti** asked if the Legislature couldn't leave the complex decisions to the judges to determine. **Senator Bernt** indicated he believed that was what the legislation would provide. **Senator Ruchti** stated a mandatory minimum removed the judge's discretion to consider the facts and determine the sentence, and it required the judge to impose a set minimum. **Senator Bernt** expressed the bill was reasonable and responsible, especially when dealing with multiple offenses and death, as it showed accountability.

TESTIMONY: **Chief Tracy Basterrechea**, Idaho Chiefs of Police, spoke in favor of the bill. **Chief Basterrechea** stated in 2023, Idaho had 1,708 impaired driving crashes, with 246 critical injuries and 105 deaths. The bill served DUI victims, held offenders accountable, and defined consequences for repeat offenses. **S 1099** promoted justice, deterrence, education, and judicial guidance, setting a standard for other criminal justice bills. **Chief Basterrechea** also addressed a question from Senator Lenney and stated other intoxicating circumstances occurred when people utilized paint in order to get high, known as "zippers," which contained gas. These were not covered under the code.

DISCUSSION: **Senator Ruchti** asked Chief Basterrechea to explain his stance on mandatory minimums and if there were specific crimes he thought a mandatory minimum would be applied to and how often it would occur. **Chief Basterrechea** stated he was a strong supporter of mandatory minimums for drug crimes and crimes involving victims, especially when they resulted in death. **Senator Ruchti** commented part of their responsibility in the Legislature was to balance issues. Law enforcement may have wanted mandatory minimums, which increased prison populations and raised costs, while potentially limiting funds for education, courts, or law enforcement. **Chief Basterrechea** voiced he never argued or worried about paying more to imprison people who belonged there. **Senator Ruchti** commented that mandatory minimums removed the judge's ability to evaluate all the details related to each individual case and to make an informed, fair decision. **Chief Basterrechea** stated in this bill, for DUI manslaughter cases, judges were given full freedom to sentence as they saw fit, even with mandatory minimums. The defendant still had the right to a trial, where they were found either innocent, not guilty, or guilty. **Chief Basterrechea** said it was at the sentencing stage where things changed.

TESTIMONY: **Robby Bleazard,** Idaho Prosecuting Attorney's Association, spoke in favor of the bill. **Mr. Bleazard** stated he had worked on many cases like these, and they were some of the toughest as a prosecutor. They were difficult for law enforcement when part of the challenge was the uncertainty victims faced, enduring repeated court hearings and public exposure. **Mr. Bleazard** stated a bill like this would offer victims some certainty by guaranteeing an outcome when specific circumstances were met.

TESTIMONY: **Deborah Carney,** representing herself, spoke in favor of the bill. **Ms. Carney** shared her story of her son-in-law who had a third DUI, caused an accident, and killed the other driver. The judge gave him a life sentence, saying "three strikes, you're out." Both families were in disarray. Later, his sentence was reduced after a parole hearing, and they struggled to plan their lives. **Ms. Carney** believed mandatory minimums provided a starting point for judges without restricting them.

Senator Bernt concluded with a reminder that prevention came through education, enforcement, and accountability. When the previously mentioned man was arrested, they initially offered him three years. This legislation provided for the sliding scale needed. **Senator Bernt** believed it was responsible, reasonable, and truly held people accountable for causing a death while driving under the influence.

DISCUSSION: **Senator Ricks** asked if a similar bill was passed in the Senate, but was stalled in the house. **Senator Bernt** said the bill passed overwhelmingly in the Senate, but the House Judiciary had issues, and after discussions changes were made to address the concerns. **Senator Ricks** asked what those changes were. **Senator Bernt** stated the first change made added a judge's warning after the first DUI conviction. Instead of setting a 10 year sentence for multiple DUIs and vehicular manslaughter, it graduated from 5 to 10 years to help those who had lived responsibly, but made a mistake later and lowered the threshold to 5 years to support them.

Senator Foreman commented the mandatory minimums issue was societal, asking if the crime fit the punishment. He stated laws should protect without exacting too harsh a penalty. **Senator Foreman** stated this bill was tough but balanced. He appreciated the concerns about letting the court function, and this bill offered enough flexibility to address the concerns.

Senator Shippy pointed out that, although the bill completely removed judge's discretion, the Legislature was still exercising discretion. **Senator Shippy** stated concerns about the original 10 year mandatory minimum for a second offense. He felt it took too much discretion away from the judge. **Senator Shippy** stated he appreciated the bill sponsor's revised approach with the graduated scale. He said he still had some reservations, but he felt the bill was a reasonable approach overall.

Senator Ruchti expressed that while he agreed the behavior should be punished, it was not a choice between passing the bill or no punishment—judges already used discretion. **Senator Ruchti** stated mandatory maximums constrain government, but mandatory minimums do the opposite, empowering the State to enforce fixed punishments which shifted negotiation power to prosecutors, limiting the defendants' options. **Senator Ruchti** emphasized the need to consider the long-term effect of mandatory minimums, as they hindered rehabilitation and increased prison costs, impacting other areas of the state.

Senator Ricks commented that they were not talking about DUIs that did not result in death, but in cases of manslaughter, the punishment was fitting. As a State, Idaho shouldn't be viewed as lenient on DUIs, particularly when a life was lost. **Senator Ricks** stated the most effective way to address this, aside from education and prevention, was to ensure the punishment matched the severity of the crime.

Senator Wintrow commented the difference was that if someone had already been convicted of a DUI and then killed someone, it justified taking discretion away with a minimum of five years. **Senator Wintrow** stated this was the only mandatory minimum she supported because a life was lost.

Chairman Lakey stated that the Legislature had the discretion to set both minimum and maximum punishments to balance various factors in the process. It was the Legislature's responsibility to define the scope of judicial discretion in individual cases. **Chairman Lakey** expressed that over his 13 sessions, few mandatory minimum bills had passed compared to the total number of criminal offenses. He believed the use of mandatory minimums was appropriate when multiple DUI offenders posed a significant risk to society. **Chairman Lakey** stated he supported the bill last year and supported it again, as it represented a measured and proper use of mandatory minimum sentencing.

MOTION: **Senator Foreman** moved to send **S 1099** to the floor with a **do pass** recommendation. **Senator Keyser** seconded the motion. The motion carried by **voice vote. Senator Ruchti** requested to be recorded as voting nay.

S 1120 **CRISIS RESPONSE FOR PERSONS WITH A NEUROCOGNITIVE DISORDER Referral to the Office of the Secretary of the Senate for Re-referral to the Health and Welfare Committee. Senator Lakey** stated this bill was sent back to the committee, and needed a motion to refer it back to the Secretary of the Senate for re-referral to the Health and Welfare Committee.

MOTION: **Senator Ricks** moved to send **S 1120** to the Secretary of the Senate to be returned to the Health and Welfare Committee. **Senator Wintrow** seconded the motion. The motion carried by **voice vote.**

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:20 p.m.

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Senator Lakey
Chair

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Sharon Pennington
Secretary

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Alicia Fowler-Rynearson
Asst. Secretary