

STATEMENT OF PURPOSE

RS24662

The purpose of this legislation is to address shortcomings in Idaho's current criminal code involving offenses of a sexual nature. A recent decision of the Idaho Supreme Court raised questions about Idaho's rape Statute, Idaho Code § 18-6101. In *State v. Jones*, 154 Idaho 412 (2013), the Idaho Supreme Court recognized, "Approximately thirty-two states, the Model Penal Code, the District of Columbia Code, and the Uniform Code of Military Justice have done away with the resistance requirement completely, allowing prosecutors to establish a rape without any resistance present." However, Idaho's statute still required some form of resistance from the victim. This legislation seeks to amend the current statute to provide that a victim of rape need not offer resistance where the victim has a well-founded belief that resistance would be futile or that resistance would result in the use of force or violence. The legislation also amends Idaho Code § 18-6101 to replace the current female pronouns used for a victim with gender-neutral language. This recognizes the reality that not all rape victims are female, and renders Idaho's rape law the same for both men and women. In light of the proposed changes, related statutes will also need to be updated. Idaho's rape of spouse statute, Idaho Code § 18-6107 will need to be updated to refer to the proper subsections. With the gender references changed in Idaho Code § 18-6101, Idaho's male rape statute, Idaho Code § 18-6108, and the statute outlining the punishment for male rape, Idaho Code § 18-6109 can be repealed.

FISCAL NOTE

The alterations to Idaho's rape statute are not expected to have a fiscal impact.

Contact:

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