

MINUTES  
**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**

**DATE:** Thursday, February 15, 2018

**TIME:** 1:30 P.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Luker, Vice Chairman Malek, Representatives Perry, Dayley, McDonald, Cheatham, Kerby, Nate, Chaney, Amador, Hanks, Zito, Zollinger, Ehardt, Gannon, McCrostie, Wintrow

**ABSENT/  
EXCUSED:** None

**GUESTS:** Carrie Maulin, HOR; Lori Burell, Mary Mosley, Nirmalia Sandhu, Joy McKinnon, NOW; Julie Custer, David Scott, Linda Simmons, Gayle Wilde, Linda Beebe, AAUW; Fred Birnbaum, Idaho Freedom Foundation; Nick Landry, Kristi Abel, Nick Stout, Tom Limbaugh, Idaho Industrial Commission; Kathy Griesmyer, ACLU; Carly Ward; Tom Arkoosh, Lauren Arkoosh, Arkoosh Law; Mike Kane, ISA; Annie Pelletier, Idaho Coalition Against Sexual & Domestic Violence; Toni Lawson, Idaho Hospital Association, Tracy Olson, Jessica Nebeker

**Chairman Luker** called the meeting to order at 1:33 p.m.

**MOTION:** **Rep. Wintrow** made a motion to approve the minutes of the January 31, 2018 meeting. **Motion carried by voice vote.**

**MOTION:** **Rep. Wintrow** made a motion to approve the minutes of the February 5, 2018 meeting. **Motion carried by voice vote.**

**HCR 40:** **Carrie Maulin**, Chief Clerk of the House of Representatives presented **HCR 40**, which amends Joint Rule 16 of the Idaho Senate and Idaho House of Representatives. It deletes the specific times that the Senate and House Chambers must be open. Amending this rule allows flexibility to change the times to comport with the same hours the Capitol is open.

**MOTION:** **Rep. McDonald** made a motion to send **HCR 40** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Malek** will sponsor the bill on the floor.

**HR 5:** **Carrie Maulin**, Chief Clerk of the House of Representatives presented **HR 5**, which amends Rule 58 of the Idaho House of Representatives to clarify the process for using the House Chambers and removes the specific times the House Chambers are open.

**Rep. Malek** made a motion to send **HR 5** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Malek** will sponsor the bill on the floor.

**H 447:**

**Rep. Rubel** presented **H 447**, a bill addressing civil asset forfeitures. This legislation is very similar to what was introduced last year and passed both Houses, but was vetoed by the Governor. Since that time, a lot of work has been done to meet with all of the original stakeholders, the Idaho State Police, and other law enforcement agencies and it is believed all opposition has been removed. This legislation provides for the forfeiture of a vehicle, but only when in connection with actual trafficking of drugs, not when it, or other property, is in proximity of controlled substances. The presence of U.S. currency without any evidence of wrong doing is not subject to seizure. It also creates a right of repleven of property when there is a need for the property while a judicial proceeding is pending. Courts must determine whether the property forfeiture is proportionate to the crime alleged. Innocent owners are absolved from paying the fees and State's cost related to property seizure and storage. Law enforcement can still retain property with judicial approval. It institutes reporting requirements, which now addresses the issues brought forward by law enforcement.

**Rep. Harris**, co-sponsor of **H 447** stated the bill's reporting requirements are a major improvement from last year's version. He thanked all who worked together over this summer to bring this forward.

**Fred Birnbaum**, Idaho Freedom Foundation spoke **in support** of **H 447** and stated a lot of work went into the bill and moves it forward in the right direction as a bi-partisan effort.

**Kathy Griesmyer**, Policy Director, ACLU of Idaho spoke **in support** of **H 447**, particularly the section dealing with reporting requirements. The ACLU sent out a series of public records requests to the counties to better understand how asset forfeitures are being handled. It was a large project that entailed 300 to 400 hours of work. The reporting requirements in this bill will make it more transparent for members of the public to better understand how the counties are using this policy.

**Carly Ward**, Student at Concordia University School of Law worked with the ACLU the past 18 months researching the state of civil asset forfeiture practices in Idaho. It was a very time consuming and difficult process, which highlights the need for the reporting requirements in the bill. Public records requests were sent to all 44 county sheriffs' departments requesting information on seizures commenced from 2014 to 2016. Information about the cases, the corresponding criminal charges, department procedures for disposal of assets and department funding received as a result of the seizures was collected. Fourteen counties reported no forfeitures in this time frame. Less than a handful of counties keep any sort of log on forfeitures. Many counties reported they knew there were civil asset forfeitures, but the time and cost to go back through every case to pull the information was not practical. No county with a forfeiture was able to provide the information required in this bill and most do not know how much money is collected as a result of these actions. It took 2.5 months of 40 hour work weeks to collect and analyze this information. Ms. Ward stated, holding officials accountable should be an achievable goal for Idaho citizens and the current system makes that difficult. Following questions from the committee, Ms. Ward stated that nearly \$500,000 in money has been seized in the last year, but the value of other types of property is not known because no one is tracking that information. Assets go through a civil proceeding and any unclaimed property is redistributed to the county prosecutor and sheriff.

**Tom Arkoosh**, Arkoosh Law Offices, representing the Idaho Association of Criminal Defense Council spoke **in support of H 447** and stated the Statement of Purpose is one of the most accurate SOPs he has seen. It provides important transparency. In response to questions from the committee, Mr. Arkoosh stated the record keeping required in this bill will show how much money is going into the system, and the annual budgetary process for the county sheriffs' and Idaho State Police should report out how the money is spent. Accountability is enhanced because law enforcement must get court approval to keep certain assets. Otherwise, the asset must be liquidated and reported using a form that will be developed by Idaho State Police.

**Sen. Burgoyne**, co-sponsor of **H 447** testified this bill has been fully vetted by all people who have a stake in this legislation. It is a good example of collaboration and compromise.

**MOTION:** **Rep. Malek** made a motion to send **H 447** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Rubel and Rep. Harris** will sponsor the bill on the floor.

**H 474:** **Lisa Mason**, Administrator Legislative and Executive Affairs, Idaho Secretary of State Office presented **H 474**. In 2015, the legislature moved the responsibility to print, publish and distribute the session laws from the Secretary of State to the joint publishing committees of the legislature. However, the responsibilities outlined in this legislation were not removed from the section of Idaho Code specific to the Secretary of State (I.C. § 9.67). The bill moves the applicable code sections out of Chapter 9 and puts them in Chapter 5, relating to the duties of the legislature.

**MOTION:** **Rep. Cheatham** made a motion to send **H 474** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Gannon** will sponsor the bill on the floor.

**H 535:** **Michael Kane**, representing Idaho Sheriffs' Association presented **H 535**, which will bring Idaho law up-to-date with regard to how sheriffs' departments can dispose of debtor and creditor assets. In an effort to gain the maximum financial benefit, the proposed law will allow the use of online auctions. In response to questions from the committee, Mr. Kane clarified that large assets such as property will still be sold in person at on-site auctions.

**MOTION:** **Rep. Kerby**, made a motion to send **H 535** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Kerby** will sponsor the bill on the floor.

**H 429:** **Rep. Wintrow** presented **H 429**. Under today's system, if a sexual assault victim goes to a justice center, emergency room or medical center to get a forensic exam after being assaulted, their private health insurance is billed first, then any remaining amount due is billed to Idaho's Crime Victims Compensation Program (CVCP). Sexual assault is the only crime in Idaho where a victim's insurance is billed for forensic evidence collection. It is burdensome and is preventing people from reporting. This bill takes the billing of third party insurance out of the process for victims over age 18 and directs CVCP to cover the costs. The process doesn't change for minors as the issues of privacy are different, and there are mandatory reporting requirements in place. This legislation is not intended to harm the CVCP, so the fiscal note was developed by a State budget analyst and by working with the CVCP over several months. Current law requires tracking the number of collections kits that are distributed and processed through the crime lab. Therefore, the numbers in the fiscal note are realistic. In the past, the CVCP has paid between \$50,000 to \$60,000 for kit collection. Under this legislation, the CVCP could access the \$300,000 identified in the fiscal note once the \$50,000 threshold has been reached. The goal is to ensure that no victim ever faces a denied claim, or has to face the possibility of being financially responsible for their assault. In response to

questions from the committee, Rep. Wintrow explained it is the preference to have forensic collections done by officially trained medical staff through country justice centers, but not all districts have them, so private medical facilities do work with victims for kit collection. There currently isn't a set price for what private entities can charge, but information from the hospital association says the range is \$400 to \$1200. If this legislation is passed, work can be done to standardize a fee structure for private entities. Currently, the CVCP is funded from fines, fees and Federal dollars.

**Annie Pelletier**, Director of Law & Policy, Idaho Coalition Against Sexual & Domestic Violence testified **in support of H 429**. She has worked for more than 11 years with young, adult sexual assault victims and many times young people are reluctant to report within the 120 hour time frame needed to collect viable evidence. Therefore, it is important to remove the barriers to undergoing a sexual assault forensic examination. If a victim receives an exam, the kit can be stored until he or she is prepared to report to law enforcement or anyone else they choose to inform. According to Ms. Pelletier, a majority of victims ask how the cost of a forensic exam is covered and when they learn it is covered by private health insurance, most are concerned about privacy. If they are covered under a parent's health insurance plan they fear their parents finding out about the assault via the explanation of benefits. Sexual assault is the kind of crime that carries a significant amount of self-blame, stigma and embarrassment. The release of private medical information following an assault can cause additional challenges for victims because it takes away a victim's agency to control his or her information.

**Jessica Nebeker**, Nurse at St. Lukes and a member of the SANE team read the statement of **Cindy Cooke**, the SAFE Coordinator for the community who couldn't be present due to schedule changes. See attached testimony **in support of H 429**. (Attachment 1)

**Joy McKinnon**, Southwest Idaho National Organization for Women spoke **in support of H 429** and stated when a woman is sexually assaulted, her body becomes a crime scene and the collection of forensic evidence should be treated like all other crimes in Idaho with regard to covering all costs associated with sexual assault kit collection.

**Julie Custer**, Co-president, American Association of University Women spoke **in support of H 429** and shared information stated in previous testimony, but emphasized current billing practices demonstrates bias against victims of rape and sexual assault, which are predominantly women and girls. She implored the Committee to not let their decisions be driven by dollars and cents, but to do what is right for the victims.

**Carmel Crock** testified **in support of H 429** and said she testified about the same issue, before the same committee in the 1980s when the bill did not pass the House. It is her hope the time is right to do what is right for victims now. She suggested the State should be able to find the dollars to support this program.

**MOTION:**

**Rep. McCrostie** made a motion to send **H 429** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.

**Chairman Luker** recognized the Committee Page, **Trent Kuykendoll**, and thanked him for his work in the Committee.

**ADJOURN:** There being no further business to come before the Committee, the meeting adjourned at 2:34 p.m.

---

Representative Luker  
Chair

---

Wendy Carver-Herbert  
Secretary