

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, March 18, 2024

**TIME:** 1:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Foreman, Senators Anthon, Ricks, Hart, Hartgen, Wintrow, and Ruchti

**ABSENT/ EXCUSED:** Senator Lee

**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 1:02 p.m.

**GUBERNATORIAL APPOINTMENT:** **Chairman Lakey** stated Committee consideration of the Gubernatorial Appointment of Darin Burrell to the Sexual Offender Management Board of Idaho would move to later in the meeting as he was not available online.

**H 600** **ASSAULT AND BATTERY - Amends existing law to revise penalties for domestic violence and attempted strangulation. Representative Allgood** explained this legislation was intended to close a gap in Idaho's domestic violence statutes. In Idaho, when officers responded to a domestic violence call that included an incident of strangulation, they charged the offender with strangulation, which was a felony, rather than domestic violence, which was a misdemeanor. When they did this, the two charges were not linked. This legislation would link the two charges. This would assist with accurately identifying criminal charges for domestic violence and with honoring previous domestic violence convictions in other states.

**DISCUSSION:** **Senator Foreman** asked why the penalty for a second felony conviction for domestic violence went from a maximum of up to 10 years to up to 20 years under this legislation. **Representative Allgood** responded that they wanted to emphasize the seriousness of an offence that included strangulation combined with domestic violence.

**TESTIMONY:** **Holly Rebholtz**, Idaho Prosecuting Attorney's Association, **Detective Bridget Kernan**, Detective Bureau Corporal, Caldwell Police Department, and **Jennifer Beezer**, testified in favor of **H 600**.

**Ms. Rebholtz** explained that those who engage in acts of strangulation were far more dangerous than other domestic violence offenders. She stated this legislation recognized the seriousness and lethality of acts of strangulation, it added an enhanced penalty for acts of strangulation committed in the presence of a child, and she felt most importantly, it changed the law so that a repeated act of strangulation could be charged as felony domestic violence.

**Detective Kernan** explained these were the most dangerous calls for law enforcement and for domestic violence victims. She spoke about prevention measures in this legislation, including increased penalties and domestic violence classes for first offenders, and about protecting victims, the community, and the lives of law enforcement officers responding to domestic violence calls.

**Ms. Beezer** shared her personal story as a victim of domestic violence. This included her ex-husband trying to kill her by strangulation, which was witnessed by her two children. Her abuser eventually murdered his parents, who died by strangulation.

**DISCUSSION:** **Senator Ruchti** asked how they decided on the penalty increase to up to 20 years and not to exceed \$10,000. **Representative Allgood** responded this was the recommendation of the Canyon County prosecutor and Detective Kernan.

**MOTION:** **Senator Anthon** moved to send **H 600** to the floor with a **do pass** recommendation. **Senator Hartgen** seconded the motion.

**DISCUSSION:** **Senator Foreman** stated he was initially concerned about the penalty increase to 20 years, but having read the legislation, he would support it. **Senator Ruchti** stated he would support the motion, but he shared a concern that he was not always consistent in how he considered increasing sentences for those who commit crimes. **Senator Lakey** stated he would support the motion. He stated that the unique nature of the domestic violence situation, and the increased likelihood of lethality for both victims and police officers from offenders with a history of strangulation, had led him to support the higher possible sentence.

**VOICE VOTE:** The motion to send **H 600** to the floor with a **do pass** recommendation carried by **voice vote**.

**H 613** **ADVERTISING ILLEGAL PRODUCTS AND SERVICES - Amends and adds to existing law to prohibit the advertising of illegal products and services and to provide for the apportionment of fines.** **Senator Trakel** explained this legislation prohibited advertising of products and services that were illegal in Idaho and illegal according to the federal government. This included advertising for products and services that had been legalized or decriminalized in neighboring states.

**DISCUSSION:** **Senator Hartgen** asked what was being advertised. **Senator Trakel** provided an example of large billboards in his district for Hotbox, which was a marijuana dispensary.

**Senator Wintrow** asked how they would regulate advertising in any medium across the state when there could be advertising, such as radio, that originated where the product was legal, but was heard on a radio in Idaho. **Senator Trakel** responded that the key component was that the product had to also be federally illegal, so Nevada can advertise gambling in Idaho, because gambling was not federally illegal, but marijuana was federally illegal. He added that the Idaho Supreme Court ruled that commercial speech was not protected when it came to illegal materials. He was unsure about how television and radio broadcast stations regulated these things, but he was confident that this was possible. **Senator Wintrow** asked for clarification on the wording that said a person who willfully published any notice or advertisement, in any medium, within the state of Idaho for a product or service that was illegal, and what if the product or service was legal. **Senator Trakel** responded that in order to ban a product or service, it had to be illegal in the jurisdiction where it was promoted. **Chairman Lakey** stated that since marijuana was illegal under federal law, technically it was illegal under federal law in Oregon as well as Idaho.

**Senator Foreman** asked where the state should draw the line on dictating what people can or cannot say. **Senator Trakel** responded that federal courts recognized the distinction between commercial speech and other types of speech, and ruled that commercial speech was not constitutionally protected when directed at a commercial activity promoting or encouraging illegal conduct such as drug use. **Senator Foreman** asked what Senator Trakel hoped to accomplish with this legislation. **Senator Trakel** responded that allowing advertising to entice Idaho's citizens into breaking the law was inconsistent with the morals and values Idaho represented.

**Senator Hart** asked why penalties in this legislation started with a misdemeanor rather than an infraction. **Senator Trakel** responded that advertising was a long, complex process and the individuals that chose to advertise their illegal products in Idaho knew what they were doing was illegal. **Senator Foreman** asked if Senator Trakel would be amenable to sending this legislation to the 14th Order for amendment. **Senator Trakel** responded that he was not.

**Representative Boyle** presented to explain that she brought this legislation after she noticed the large amount of this type of advertising. She believed it sent a mixed message regarding drug use.

**TESTIMONY:** **Blaine Conzatti**, President, Idaho Family Policy Center testified in support of **H 613**. He believed it was important to recognize that advertisements promoting unlawful activity posed a threat to the rule of law and to public morality. He agreed that this legislation was supported by U.S. Supreme Court decisions regarding commercial speech concerning unlawful conduct.

**DISCUSSION:** **Senator Ruchti** asked if this legislation would apply if a marijuana shop just used its name in advertising, but did not advertise its product, but they knew that people would associate their name with their product. **Mr. Conzatti** responded that would be a question for prosecuting attorneys and the courts.

**TESTIMONY:** **Sheriff Kieran Donahue**, representing Canyon County and Idaho Sheriff Association, testified in support of **H 613**. He spoke about the growing problem of drugs and related crime coming from Oregon. He believed that law enforcement needed every tool possible to protect children and communities in Idaho.

**DISCUSSION:** **Senator Trakel** stated it was time to take a stand on this type of advertising in Idaho and a hard stance on keeping Idaho drug free. He pointed out that there were advertisers in Oregon that provided home delivery services into Idaho. **Senator Ruchti** asked if the Attorney General had opined on this legislation. **Senator Trakel** responded that he did not have an official opinion, but he had an e-mail from Phil Skinner at the Attorney General's office that spoke about court decisions limiting commercial speech.

**MOTION:** **Senator Anthon** moved to send **H 613** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion.

**DISCUSSION:** **Senator Foreman** stated he was concerned about the constitutionality of this legislation and he would support the motion, but he reserved the right to change his mind. **Senator Wintrow** stated she thought the language was too broad. **Senator Lakey** stated he would support the motion. He agreed that commercial speech was less protected than typical First Amendment speech, and he believed this activity eroded Idaho's communities and encouraged illegal activity. **Senator Hart** stated he would not support the motion. He thought the language was too broad and that citing advertisers for committing violations should be a two-step process.

**VOICE VOTE:** The motion to send **H 613** to the floor with a **do pass** recommendation carried by **voice vote**. **Senators Wintrow, Ruchti, and Hart** requested that they be recorded as voting nay.

**GUBERNATORIAL APPOINTMENT:** **Committee Consideration of the Gubernatorial Appointment of Darin Burrell of Rexburg, Idaho to the Sexual Offender Management Board of Idaho**, to serve a term commencing March 12, 2024 and expiring January 1, 2027. **Darin Burrell** shared some of his background working as a probation officer and why he wanted to serve on the Sexual Offender Management Board.

**DISCUSSION:** **Senator Hart** asked Mr. Burrell to describe this board for the committee and what their duties were. **Mr. Burrell** responded that the Sexual Offender Management Board of Idaho was responsible for setting standards for adult and juvenile psychosexual evaluations and sexual offender treatment programs, and for overseeing sexual offender polygraphs and setting minimum standards for polygraphers.

**ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 3:00 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary

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Shelly Johnson  
Assistant Secretary