



**Idaho
Coalition**

Against Sexual &
Domestic Violence

March 14, 2016

Chair Chair Richard Wills and Committee Members
Idaho House Judiciary, Rules and Administration Committee
Room EW42, Idaho Statehouse
Boise, Idaho

Re: Support of House Bill 580

Dear Chair Wills and Committee Members:

The Idaho Coalition Against Sexual & Domestic Violence is a statewide nonprofit membership organization comprised of Idaho's twenty-three community and tribal domestic and sexual violence programs and an additional fifty-eight organizations providing victim services including criminal justice agencies, social service and health care providers, and culturally-specific organizations.

The Idaho Coalition Against Sexual & Domestic Violence strongly supports House Bill 580 amending the sexual assault statute. The Idaho Coalition was one of several key stakeholders who have collaborated together address gaps and shortcomings in Idaho's current criminal code involving offenses of a sexual nature.

According to the Centers for Disease Control and Prevention (CDC), sexual violence is a widespread public health issue that affects men, women, and children every day. Sexual violence can have a lasting impact on a person's physical, mental, and emotional well-being and may affect people throughout their lives. The CDC reports that 1 in 5 (18.3%) women has been the victim of an attempted or completed rape in her lifetime.¹ More than three-quarters of female victims of completed rape (79.6%) were first raped before their 25th birthday; 29.9% experienced their first completed rape before the age of 18. During their lives, 1 in 71 men have experienced an attempted or completed rape; 27.8% occurred before the men were 10 years or younger.²

Amendments to the Rape Statute

We urge passage of House Bill 580 which amends the current rape 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.

In a recent example of the failure of Idaho's current rape statute to afford justice to survivors and accountability of offenders, an individual who is blind was being transported to a medical appointment by a driver from a Medicaid transportation company. During the transport, the driver parked the van, physically blocked the passenger from exiting, took their keys, and proceeded to rape the individual. Having no knowledge of the location or the exit routes from the van, the safest option available to them based on the knowledge they had was to undergo the rape. "As a result of being blind it was safer to stay in a vehicle with the perpetrator than risk further injury by running without useful mobility aid," said the survivor. Rape should never have to be the safer choice. In furthering the injustice, the prosecutor was unable to charge the perpetrator with rape as the individual did not resist to the point that the resistance was overcome by force.

¹ Black et. al. (2011)

² Ibid

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It is exactly this power difference that the amendment to the statute is addressing - an opportunity for the prosecutor to examine the entirety of the circumstances, which are especially important when the offender is in a position of power over the person who is raped (i.e. a supervisor who rapes an employee).

House Bill 580 also takes into account what we know from trauma research. It is not unusual for someone who is traumatically impacted by the rape to freeze in response to the trauma. Freezing occurs when the amygdala – a crucial structure in the brain’s fear circuitry – detects an attack and signals the brainstem to inhibit movement. It happens in a flash, automatically and beyond conscious control. Many survivors recall sensations of dissociation or becoming rigid. These are brains reaction to terror. Under House Bill 580, the criminal justice system will be able to assess if a “victim is prevented from resistance due to an objectively reasonable belief that resistance would be futile or that resistance would result in force or violence beyond that necessary to accomplish the prohibited contact.”

While this critical amendment to Idaho’s sexual assault statute cannot provide justice for the individual who was blind and raped by a driver for a Medicaid transport company, it can provide justice for survivors in the future and accountability for anyone who chooses to commit the crime of rape.

Conclusion

In conclusion, Idaho’s laws need to reflect our values of what is right and wrong. We urge this committee to pass House Bill 580. What we do and say about crimes of sexual violence matters. By passing House Bill 580, we can more effectively respond to survivors and enhance community safety. We can minimize the shame, fear, humiliation, and, ultimately, silence that is disproportionately experienced by girls and women and people who are gender nonconforming.

If you have any questions, please do not hesitate to contact me at kelly@engagingvoices.org or 208-84-0419, ext. 306.

Sincerely,

Kelly Miller
Executive Director

Jennifer Landhuis
Director of Social Change

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