

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 05, 2024

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Toews, 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 Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:00 a.m.

WELCOME: **Chairman Guthrie** welcomed all to the Committee meeting.

NOTE: **Senator Guthrie** stated that **S 1253** and the **Gubernatorial Reappointment** would be taken out of order to respect the presenters' time.

GUBERNATORIAL REAPPOINTMENT: **The Gubernatorial Reappointment of Hyrum Erickson to the Commission on Human Rights** to serve a term commencing July 1, 2023 and expiring July 1, 2026. Mr. Erickson introduced himself and stated that he was an attorney from Rexburg, Idaho. He specialized in water law. He remarked that he served on the Commission on Human Rights for three years.

DISCUSSION: **Senator Wintrow** asked what characteristics were important for service on the Commission on Human Rights (Commission), and how his skills aligned with those characteristics. **Mr. Erickson** replied he possessed a belief that the work the Commission did was important. He remarked that his experience reviewing draft decisions as an attorney was beneficial.

Senator Lee asked how he handled situations in which he disagreed with staff reports. **Mr. Erickson** stated that decisions were set aside until appropriate information was gathered, but that the commissioners were ultimately responsible for the decisions. **Senator Lee** inquired what the Commission needed to reach a timely decision. **Mr. Erickson** stated delays occurred due to internal staff processes.

Chairman Guthrie stated that he intended to allow for discussion after the Committee meeting and a vote would be conducted at the next meeting.

S 1253 **CHILD SAFETY - Adds to existing law to establish provisions requiring certain internet filters on computer devices used by children.** **Senator Cook** stated **S 1253** protected children from exposure to harmful material online and from being groomed by sex traffickers. He worked with industry, law enforcement, special interest groups, youth groups, and legislators to gain insight and address concerns. The industry provided filtering software that parents could enable to block access to pornography.

S 1253 stated that upon activation of a mobile device for a minor within the state of Idaho, parental filtering software was enabled. He stated this did not affect the retailers or cell phone providers; only the manufacturers were

affected. The software only affected internet browsers from smart phones. He stated that this bill limited access to pornography by minors. From 2006 to 2013, there were 230 documented cases of child exploitation through pornography. The Human Trafficking Hotline identified pornography as the top industry for sex trafficking. **Senator Cook** stated **S 1253** did not replace the role of parents.

DISCUSSION:

Senator Toews asked if there were examples of similar legislation in other states. **Senator Cook** replied that there were similar bills working through other states, including Arizona. **Senator Toews** asked if Senator Cook had talked with the Attorney General's office in Idaho to determine if the bill would withstand First Amendment scrutiny. **Senator Cook** replied that he talked to the Attorney General's office and they believed it would withstand scrutiny, but noted it had not been tried in the courts. The Supreme Court ruled that filters on the receiving end, not filters at the source, did not violate the First Amendment.

Senator Toews asked how other devices were covered, such as laptops and gaming systems. **Senator Cook** replied that **S 1253** was narrow in scope, but he supported addressing other devices in the future.

Senator Wintrow stated she appreciated the in-depth research regarding this bill and asked why it was so important to Senator Cook. **Senator Cook** replied he worked with young people who got exposed to pornography at a young age and adults were doing nothing to help them. He remarked that 75 percent of victims who survived sex trafficking pointed to the internet as to what began their involvement.

Senator Wintrow asked what the reasons were for opposition to the bill. **Senator Cook** answered those lobbying against the bill were concerned that the Attorney General determined what pornography was and when to prosecute it.

TESTIMONY:

The following people electronically registered in support of **S 1253**: Dr. Craig Cobia, G. Scott Shirley, Charles Dunn, Marliyn Nygard, David Nygard, Matthew Smith, Steven Adams, Jerry Merrill, Paul Stark, Adam Olson, Trent Clark, Chris McKenna, Peter Gentala, Alexis Morgan, and Mike Guymon. The following people registered in opposition to **S 1253**: Amy Boss, Christopher Klink, Rachel Martin, Heather Andrews, Carmen Broesder, Tanner Gronowski, Caleb Williamson, Amy Dundon, Khara Boender, Michael Blank, and Dr. Edward Longe.

Appended are written comments submitted regarding **S 1253** Attachment 1 contains copies of written testimony. Attachment 2 contains a letter from Dr. Edward Longe. Attachment 3 contains a letter from CTIA. Attachment 4 contains the written testimony of Mr. Trent Clark.

Dr. Craig Cobia, co-founder of Citizens for Decency in Idaho, relayed a story about a woman whose husband became addicted to pornography at a young age. Rather than harm his wife, he took his own life. The surviving spouse encouraged Dr. Cobia to create an organization to protect families. He advocated the passage of **S 1253** for the protection of children.

Amy Boss, Director, Netchoice, opposed **S 1253** because it represented a government incursion into the traditional role of the family. She stated that parents were the best wards of their children, not the state. She remarked that parental control options would be limited as a result of the bill. She remarked that other states introduced bills requiring websites to verify age. **Senator Winder** asked if Ms. Boss had watched the congressional hearings.

He stated that he hoped it was a wake-up call to her industry to develop ways to protect children from crimes committed on the internet. **Ms. Boss** replied that law enforcement needed more resources.

Senator Wintrow commented that the parental filter is already on the phone. Technologically, no additional content would be required. The process just needed to be reversed. **Ms. Boss** replied that once the states mandated the filters, access to information would be limited to all.

Senator Anthon asked what harm existed for the company to turn the filter on? **Ms. Boss** replied the harm was the government mandate. **Senator Anthon** asked her to clarify that there was no harm to the company except that there was a government intervention. He stated that the reason the government was acting was that technology companies had not responded, and mental health was a growing concern. **Ms. Boss** stated that more parental education was needed.

Scott Shirley testified in support of **S 1253**. He stated he had been an addiction recovery missionary and an elementary school principal. He remarked that **S 1253** protected children at no additional cost. He stated that pornography was more harmful than drugs and destroyed families.

Marilyn Nygard stated she supported **S 1253**. Her grandchild was exposed to pornography at a young age. Her grandchild's mother attempted to turn on the cell phone filters and was unable to do it herself or get help from the cell phone provider. She remarked it was very complicated. She included that pornography was readily available throughout the internet.

Matthew Smith, founder of Operation Shield, supported **S 1253** as a tool to protect children. He remarked that most traffickers accessed their victims on the internet or social media. He stated that early access to pornography was a core factor that led to predatory behavior. He believed parents needed tools to protect their children.

Heather Andrews, Director, Americans for Prosperity, testified in opposition to **S 1253**. She stated that parents, not technology companies or the government, were in the best position to make decisions regarding what their children had access to. She remarked that there were existing options available free of charge. She believed filters gave families a false sense of security. She remarked that **S 1253** forced families to share personally identifiable information.

Senator Lee stated that **S 1253** related to filters already on the cell phones. She remarked that no personal identifiers were shared. **Ms. Andrews** responded that she still had concerns with the bill. **Senator Lee** asked if Ms. Andrews had other opportunities in Idaho to assert her position that parents were best suited to protect their children from pornography, or was she mainly concerned with protecting technology. **Ms. Andrews** replied that she understood the concerns and that First Amendment rights took precedence. **Senator Anthon** asked how enabling a filter on a phone harmed parental rights. **Ms. Andrews** replied that the First Amendment was her priority. **Senator Anthon** asked Ms. Andrews to explain the First Amendment right to make pornography available to children. **Ms. Andrews** replied that technology filters were not a catch-all.

David Nygard stated that he was an addiction recovery missionary for six years. He had met with people who were addicted to pornography very young, and had no hope. He remarked there were good and bad parents. He supported **S 1253**.

Steven Adams, Mayor of Sugar City, stated he was a parent and grandparent. He understood and supported individual rights. He remarked that he strongly supported **S 1253**. He supported efforts that protected children, and did not perceive this as an attack on parental rights. **Senator Anthon** thanked Mayor Adams for taking the time to present his testimony.

Paul Stark, Executive Director, Idaho Education Association, stated that he promoted the mental health of minors and supported **S 1253**. He remarked that the government had intervened in the safety of minors in the past, for example regarding cigarettes and motorcycle helmets. The Supreme Court had ruled that in order to impinge on a fundamental right, there must be a competing state interest, it must be narrowly tailored, and it must be the least restrictive means. He remarked that when adults were involved, the children experienced better outcomes.

Caleb Williamson represented ACT, The App Association. He opposed **S 1253** due to feasibility and enforceability. He questioned the difficulty of turning on filters for existing phones, moving phones to other states, and notifying parents of functionality.

Jerry Merrill, Mayor of Rexburg, stated that parents could override the filters if they chose. He remarked that his son was an attorney who shared that the viewing of pornography played a role in criminal behavior. He stated that minors were exposed to pornography via their cell phones more than the library. He remarked that online access to pornography acted like a gateway drug.

Trent Clark, Idaho Families Inc., stated that his organization represented a mailing list of 20,000 families. He remarked that his board of directors unanimously supported **S 1253**. He supported individual rights, but stated that this should not supplant parental rights.

Khara Boender, State Policy Director, Computer and Communications Industry Association, testified in opposition to **S 1253**. She was concerned about state-specific filter requirements. In addition, she remarked that **S 1253** did not address other methods of access to pornography. She stated that access to information could be restricted. She recommended that the filter settings remain optional.

Chris McKenna, CEO, Protect Young Eyes, stated that he worked with schools, churches, and non-profits across the country, and he was a technical expert of smart phones and tablets. He stated that software was flexible and knew your age and location. Filters compliant with **S 1253** already existed in the phones. He stated that making the change later was difficult for consumers. He remarked that manufacturers could do this. He supported **S 1253**.

Senator Wintrow asked about the language related to age on the filters. She inquired if age information was linked to accounts used to activate phones. **Mr. McKenna** replied that every device knows your age. He recommended that the filters be turned on automatically as a result.

Adam Olson was the father of six children. He commented that it was easier to turn on the filters automatically than to turn them off later. He supported **S 1253**.

Michael Blank represented CTIA, the wireless trade association. He was opposed to **S 1253**. He stated that CTIA believed the bill was unnecessary and unworkable. **S 1253** added complexity for businesses and created confusion for end users. He remarked that operating systems were not designed on a state-by-state basis. Providers gave parents tools. He remarked that education was key. CTIA partnered with industry and created a website to educate parents.

Peter Gentala, National Center on Sexual Exploitation, supported **S 1253**. He remarked that filters that were applied at the receiving end of speech was a good first step. He stated that he was familiar with the legal and technical issues surrounding this bill. He remarked that the best way to accomplish filtering was to enable filters at the receiving end of the speech. He remarked that **S 1253** was constitutional and exhibited good common sense. Every parent could enable or remove these filters.

Alexis Morgan, President, Idaho Congress of Parents and Teachers (Idaho PTA), stated that she was a parent and was concerned about making digital access safer. She supported **S 1253** and remarked that it was adaptable to each parent's choice. She remarked that companies' educational campaigns existed, but were not enough. She was a mother that had dealt with harmful materials from the internet in her home. **S 1253** would have helped her navigate this.

Chairman Guthrie asked if there was anyone present or online that still wanted the opportunity to testify. There were none.

DISCUSSION:

Senator Cook stated that he understood the concerns raised by those who testified against **S 1253**. He remarked that funding law enforcement at a higher level happened after the fact. He stated that the bill did not give a false sense of security. He related device protection to driving, and remarked that we still took every precaution to prevent traffic accidents. He recommended that the legislature do everything it could to protect children. **Senator Cook** stated that the Idaho Sheriffs' Association and the Idaho Superintendent supported **S 1253**. He remarked that the bill did not infringe on freedom of speech or parental rights. **S 1253** was not overbearing to business or costly.

Senator Ruchti recognized the complexities of **S 1253**, in particular parental duties and responsibilities, and the overregulation of industry. He remarked that there could be some infringement of First Amendment rights, and this merited further examination. He stated that we were a pluralistic society, and a balance of arguments should be considered.

Senator Wintrow appreciated the research on **S 1253** and stated she appreciated Mr. Stark's comments regarding mental health and sexual education. She stated that an open atmosphere to seek out education and support should be promoted. She remarked that pornography encouraged objectification.

Senator Toews stated that he felt 2025 was not soon enough for **S 1253**, and **S 1253** did not go far enough in protecting our children. He remarked that he expected court challenges to this legislation, but thanked Senator Cook for the heart behind **S 1253**

Senator Guthrie thanked those who provided testimony for taking the time and driving the distance to attend.

MOTION: **Senator Harris** moved to send **S 1253** to the floor with a do pass recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:48 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary