

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, March 13, 2024

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Foreman, Senators Lee, Anthon, Ricks, Hart, Hartgen, Wintrow, 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.

**RS 31560** **Relating to a Concurrent Resolution Approving IDAPA 36.01.01 for the Idaho Board of Tax Appeal Rules. Chairman Lakey** asked for a motion to print **RS 31560**.

**MOTION:** **Senator Foreman** moved to send **RS 31560** to print. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

**RS 31616** **Relating to a Concurrent Resolution, Pending Rules of the Division of Occupational and Professional Licenses Reviewed by the Senate Health and Welfare Committee and the House Environment, Energy, and Technology Committee. Chairman Lakey** asked for a motion to print the RS.

**MOTION:** **Senator Foreman** moved to send **RS 31616** to print. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

**H 544** **ADOPTIONS - Amends existing law to revise adoptee access to adoption records after a certain age. Representative Young** explained that **H 544** used the existing adoption registry to allow for adoptees and birth parents to register to match. She continued that if a match was made then a request for contact or no contact could be made by the birth parent. **Representative Young** noted in cases that no contact was requested, the legislation was prejudiced in favor of transparency and getting the adoptee access to necessary medical records.

**DISCUSSION:** **Senator Wintrow** asked if children put up for adoption prior to the legislation's specified date would still be put on the adoption registry. **Representative Young** answered if that person was over the age of 40 they could put themselves on the registry. If no match was made, then the State was prejudiced toward access to their own records.

**Senator Wintrow** asked if a birth parent did not want to be found would **H 544** affect them. **Representative Young** responded that many birth parents were being found through websites, so this legislation would not change that opportunity. She continued that this legislation did allow for adoptees to gain access to important records. **Representative Young** shared a story from a constituent in which she carried a baby to term after she became pregnant from rape. The constituent then put the child up for adoption where she was never able to find information on the child due to Idaho Code and no retroactive laws in relation to adoption information being passed.

**Senator Wintrow** shared her difficulty with the legislation in regard to a parent not wanting to be found. **Representative Young** clarified that if a birth parent did not register, the records might still be released to the adoptee. She noted that the 40-year wait period gave people plenty of maturity time to make a decision that

was best for them.

**Senator Lee** raised concerns about promises made during the crafting of the first legislation two years ago. **Representative Young** responded that she did not believe that any promises were being broken. She continued by pointing to a culture of secrecy and silence in relation to adoption that she hoped would start to be changed to openness and acceptance by this legislation.

**Senator Hart** asked where the 40-year language came from and if there were examples from other states. **Representative Young** explained that the number did not have any specific reason other than during stakeholder meetings it was a generally agreed-upon number. She continued that other states had opened their records completely to all adoptees aged 18 or older and a group of other states, like Idaho, had an adoption registry that was opted into. **Senator Hart** asked if there had been consideration for judicial proceedings to receive records. **Representative Young** answered that she was intrigued by the idea but wanted to have legislation that quelled the concerns of the body so it was not part of the consideration. **Senator Hart** commented that if a birth parent were to put a child up for adoption in their 40s, the child might not get the opportunity to find their birth parent due to them passing during the 40-year window.

**Senator Lee** commented that she was struggling with this legislation due to the previous legislation's debate and promises made.

**MOTION:**

**Senator Foreman** moved to send **H 544** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion.

**ROLL CALL  
VOTE:**

**Chairman Lakey** called for a roll call vote on the motion to send **H 544** to the floor with a **do pass** recommendation. **Chairman Lakey, Vice Chairman Foreman, Senators Anthon and Ricks** voted aye. **Senators Lee, Hart, Hartgen, Wintrow, and Ruchti** vote nay. The motion failed.

**H 465**

**Representative Skaug** explained that this legislation amended Idaho code on child pornography to include the use of artificial intelligence (AI) to create such materials. He continued that current code allowed for offenders to require prosecutors to prove the authenticity of the material. **Representative Skaug** believed the legislation would fix this. He noted that exceptions had been added to the bill which allowed for prosecutors and investigators to possess said materials for investigations and not be prosecuted. **Representative Skaug** stated that the bill had unanimously passed the House and had been called for by the Bipartisan Association of Attorney Generals.

**TESTIMONY:**

**Grace Howat**, Idaho Human Policy Center, testified in support of **H 465**. She stated that the United States Supreme Court (SCOTUS) had specifically noted that preventing the production of child pornography was a government objective of surpassing importance. She continued that the rise of AI had seen an influx of new child pornography material and this legislation would help close loopholes in prosecuting those crimes. **Ms. Howat** finished by stating that this legislation would close loopholes and pass constitutionality, and urged the committee to pass the legislation.

**Jared Mendenhall** Attorney Generals Internet Crimes Against Children Task Force (ICAC), testified in support of **H 465**. He noted that AI images of children created brand new victims as well as predators. **Detective Mendenhall** continued that while there had been computer generated material in the past, AI had created the ability for the material to be almost photorealistic which had limited the ability to track and investigate child pornography material.

**Senator Ruchti** asked what the affirmative defenses to the charges were and how they worked. **Detective Mendenhall** explained that there would be times that someone had received child pornography material and reported it to law enforcement, the subsection allowed for them to not be prosecuted for attempting to help police.

**Senator Hart** asked the process law enforcement followed when the source of material was found. **Detective Mendenhall** answered that when the department found materials, they used all of the tools available including search warrants, IP addresses, accounts, and more to find the child in the image. **Senator Hart** asked if law enforcement collaborated with federal agencies. **Detective Mendenhall** stated the Attorney General's office worked closely with the Federal Bureau of Intelligence (FBI) and Homeland Security. He continued that child pornography material almost always crossed state lines and Idaho material had been found in New York, North Carolina, Southern California, and Australia.

**Jeff Nye**, Chief, Criminal Law Division of the Idaho Attorney General's office, testified in support of **H 465**. **Mr. Nye** explained that current Idaho code does not have editing child sexual abuse material as a crime. **H 465** would prohibit and criminalize the act. He continued that the legislation included an obscenity test to stay within the scope of the First Amendment for a case in which it was argued that images of not real children would fall under the First Amendment. **Mr. Nye** explained that the legislation also included a provision to protect detectives who may possess child abuse material during an investigation, which was standard for many other crimes like drugs and battery in which officers also had immunity.

**MOTION:** **Senator Anthon** moved to send **H 465** to the floor with a **do pass** recommendation. **Senator Ruchti** seconded the motion. The motion passed by **voice vote**.

**H 387** **Representative Skaug** explained that **H 387** was recommended to him by a magistrate judge in his district relating to potential sentencing for domestic violence situations. The judge had seen a case in which an offender had kicked in a door and physically abused his girlfriend. In this case, the kicking in of the door was a potential one year sentence while the abuse of his partner was a six month sentence. **Representative Skaug** agreed with the judge that the sentence for domestic violence should at least be in line with the damage to property. This legislation attempted to rectify the scenario.

**MOTION:** **Senator Wintrow** moved to send **H 387** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion passed by **voice vote**.

**H 485** **Representative Handy** explained that this bill came from a recommendation by the Director of Juvenile Corrections. It related to a bill from the previous session where criminal records for juveniles had been expunged, and it had seen success. He continued that this bill created a standard for districts on how to handle eligible cases and allowed for parents of the juveniles to pursue expungement without requiring an attorney.

**MOTION:** **Senator Anthon** moved to send **H 485** to the floor with a **do pass** recommendation. **Senator Hartgen** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 1:47 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary

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Griffin Zue  
Substitute Secretary