

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 13, 2020

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chair Souza, Senators Heider, Lee, Harris, Burtenshaw, Bayer, Jordan, and Nelson

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 Martin** called to order the Senate Health and Welfare Committee (Committee) at 2:59 p.m.

PASSED THE GAVEL: Chairman Martin passed the gavel to Vice Chair Souza.

PRESENTATION: **Child Protective Services (CPS) Process.** **Judge Bryan Murray**, Magistrate Judge, Bannock County, Chair of CPS Committee, explained the process of reuniting children with parents/guardians. See attachment 1. **Judge Murray** said his duties consist of finding out who a child's guardians are and creating custody orders. Idaho has a mandatory reporting act with the majority of referrals coming from law enforcement. He said 40 percent of children in care are Native Americans. He explained that a termination trial is very serious but many parents do not show up for this hearing. These cases are appealed directly to the Supreme Court. Records are closed and hearings are closed. He explained the Family First Act of 2018.

Senator Lee asked Judge Murray how they could help create a specialty court. **Judge Murray** said that the Yes Plan and Medicaid expansion will help. In response to Senator Harris, **Judge Murray** said they experienced an increase in cases due to opioid use. **Chairman Martin, Senator Harris** and **Vice Chair Souza** praised Judge Murray for his efforts.

PASSED THE GAVEL: Vice Chair Souza passed the gavel to Chairman Martin.

PRESENTATION: **Family and Community Services (FACS), Annual Report.**

Chairman Martin asked for unanimous consent to hold the presentation of FACSs Annual Report for a later date. There were no objections.

H 317 **Relating to Optometrists.** **Kelly Packer**, Executive Director of Occupational Licenses, presented **H 317**, which seeks to organize the Optometric Physician Act and regulate the profession. The legislation will add an inactive license status, clarify that the sale of reading glasses does not apply to the act, and add exemptions from licensure for federal employees in the scope of their employment and optometrists licensed in other states. She said it would establish the State Board of Optometry (SBO), provide powers to the SBO to grant licenses, endorsements, and to establish disciplinary actions and prohibited acts. This legislation also expands the scope of practice, allowing optometrists to perform certain laser surgical procedures and set exam and experience requirements for such procedures. She explained that after conversations with the Idaho Bureau

of Occupational Licenses (IBOL), they came to a conclusion that optometrists do receive the education to perform certain laser surgical procedures. She said they have no problem mirroring the ophthalmologist minimum number of supervised procedures and planned to do so. The community standard of care will be the standard for optometrists. She made a point that there are over 1.8 million people in Idaho but only 92 ophthalmologists and 603 optometrists. This legislation would help to increase the accessibility of care.

Kris Ellis said she represented the Idaho Optometric Physicians and agreed that there is a problem with access to care. She quoted an ophthalmology laser center located in Eagle, Idaho, Eagle Eye Center, stating that the laser procedures have no systemic side effects and are safe procedures that may be performed in an office space setting. She quoted officials at the Department of Veteran's Affairs (VA) that there were no adverse outcomes performed by VA optometrists. She argued that increased consumer protection and increased competition occur at the same time.

DISCUSSION:

In response to Vice Chair Souza, **Ms. Ellis** said that VA optometrists do not perform outside their legal scope of work. They do not perform the duties this bill would grant optometrists. **Senator Nelson** queried if the Eagle Eye Center endorsed **H 317**. **Ms. Ellis** said she was not aware of their stance.

In response to Chairman Martin, **Ms. Packer** said they would present the language to the stakeholders during the negotiated rulemaking process in order to facilitate a temporary rule in place by July 1, 2020, to be active at the same time the bill would be in effect, so that the side boards and safety nets are in place. The two main concerns expressed by opponents are that they are unclear whether the five proctored procedures are for each surgical procedure. In rule, they mirrored the ophthalmologist residency. This is what they would present in the negotiated rulemaking. The next concern is supervisor qualifications. They propose a rule that allows optometrists to obtain training from an ophthalmologist and eventually opens up the ability of optometrists to facilitate their own supervision of the training qualifications.

Senator Jordan asked why this was proposed as a commitment to a rule and not as an amendment to the legislation. **Ms. Packer** said they proposed the rule instead of the amendment in order not to lose momentum this legislative session.

TESTIMONY:

Several spoke in support of **H 317** and expressed common themes that **H 317** saves their patients' time and allows them to return to work faster. They believe the training is sufficient, that it is a dispute over loss in patients, and that it is an opportunity to expand their field. Several spoke against **H 317** and expressed common themes that **H 317** is inadequate in its training requirements, oversight of procedures, that children are not excluded from the practice, and shared a general fear of malpractice.

Senator Grow, District 14, said he supports this bill, as it increases access to medical care, reduces the cost of that care, and he feels confident that a Board of Optometry will do what they are asked to do from the Governor. He asked that the Committee vote to send this bill to the Senate floor for full consideration.

MOTION:

Senator Heider moved that **H 317** be held in Committee. **Senator Jordan** seconded the motion.

SUBSTITUTE MOTION:

Senator Bayer moved to send **H 317** to the floor **without** recommendation. **Senator Harris** seconded the motion.

DISCUSSION: Committee discussion focused on the following concerns: whether **H 317** should leave the committee; the unpredictability of the human body and seriousness of operating on the eyes; concern that they are asked to make a decision on procedures that are not listed in **H 317**; a lack of clear language in the statute which would hinder the rulemaking process; the potential to increase access to care; and, unintended consequences of access.

Senators Bayer and **Harris** said they were in favor of the substitute motion, feeling that the Senate had enough information to make a decision.

Senators Heider, Jordan, Nelson, Lee, and **Vice Chair Souza** spoke in opposition to the substitute motion. Their concerns were those listed in the discussion.

ROLL CALL VOTE: **Chairman Martin** called for a roll call vote on the substitute motion. **Senators Harris, Bayer,** and **Chairman Martin** voted aye. **Vice Chair Souza, Senators Heider, Lee, Burtenshaw, Jordan,** and **Nelson** voted nay. The motion failed.

ROLL CALL VOTE: **Chairman Martin** called for a roll call vote on the original motion. **Vice Chair Souza, Senators Heider, Lee, Burtenshaw, Jordan,** and **Nelson** voted aye. **Senators Harris, Bayer,** and **Chairman Martin** voted nay.. The motion carried.

PAGE FAREWELL: **Brenna Bolinder,** Senate page, said she is grateful to be welcomed by the Senate and that the experience taught her more than her government classes. She stated that she wants to pursue an education in pre-medical and work in the field of psychiatry.

Senator Harris thanked Ms. Bolinder for her work. **Vice Chair Souza** wished her well and hoped that she would study conflict resolution while in school in light of the recent debate and testimony.

ADJOURNED: There being no further business at this time, **Chairman Martin** adjourned the meeting at 5:19 p.m.

Senator Martin
Chair

Margo Miller
Secretary

Bryce DeLay
Assistant to the Secretary