

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 23, 2022

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Ricks, Senators Lodge, Lee, Anthon, Thayn, Zito, Burgoyne, and Wintrow

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 Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the minutes of February 2, 2022. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

Chairman Lakey announced Senate page, Aurelia Anderson, would be leaving and returning to finish her senior year in high school. **Chairman Lakey** thanked her for her outstanding work during her time here and asked her to share one thing she learned while serving. **Aurelia** stated she had learned that it was okay to change your opinions. She had previously thought that once an opinion was formed it was not okay to change it. During her time at the Senate, she realized that new information sometimes made it necessary to change your opinion. **Senators Wintrow and Burgoyne** both commented how successful she would be in her future endeavors. **Chairman Lakey** added how much he had appreciated her.

S 1332 **Senator Melissa Wintrow**, briefly explained the purpose of **S 1332**. This legislation aligned state and federal law to address a loophole in confidential communications with victims and survivors of sexual domestic violence when they participate in a state program. **S 1332** gave the same confidentiality about the people who seek such services as those in similar programs. Victims came to these shelters at great personal risk and safety and they deserved to be protected. **Senator Wintrow** said she consulted stakeholders to make sure the language in this legislation was correct and posed no threat to the courts. There had been no opposition to the bill.

TESTIMONY: **Annie Hightower, representing the Idaho Coalition Against Sexual and Domestic Violence**, stated her organization was in support of **S 1332**. **Ms. Hightower** explained the most common question she received from organizations designed to help these people was how to answer requests for demands for records or advocate testimony regarding the services an individual had received. Federal funding was required to keep the majority of these organizations open. When programs received requests for information that was not covered by one of a very limited number of federal exemptions, court costs were incurred to pay for related legal services. The result was needed funding was used in areas other than ensuring funds went directly to services for the community. **Ms. Hightower** added that passage of **S 1332** would help those needing services to feel safe asking for help. **Senator Burgoyne** questioned what kind of agencies were looking for the information. **Ms. Hightower** responded it was agencies similar to worker's compensation and crime victim's compensation.

TESTIMONY: **Beatrice Black, CEO, Women's and Children's Alliance (WCA)**, testified that the only recourse she had when issued a subpoena for client records was the Idaho statutes. It often became necessary to hire an attorney to fight the federal regulations. **S 1332** prevented the subpoenas from being served and the state law protected counselors as well as all volunteers and employees. **Ms. Black** continued an even greater benefit was it provided peace of mind for staff and for clients. This change provided them with the assurance that what was disclosed to any of the WCA staff or volunteers was protected communication in accordance with Idaho law.

TESTIMONY: **David Claybourne, Attorney, Sawtooth Law Offices**, stated he supported **S 1332**. **Mr. Claybourne** explained that occasionally he gets subpoenas (see Attachment 1) and they were very broad and intrusive. His opinion was that evidentiary protection which **S 1332** provided, deterred these requests and would make requests align with federal law. **Senator Burgoyne** asked how this legislation worked when criminal prosecution was involved. **Mr. Claybourne** responded that he was not sure about all of the federal statutes relating to confidentiality. He stated he assumed once the victim waived the confidentiality rights then the agency could provide the information. **Senator Wintrow** added in the Violence Against Women Act through the Department of Justice, the federal law was clear on a signed, written consent from the victim to waive their confidentiality.

MOTION: **Senator Lee** moved to send **S 1332** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed by **voice vote**.

S 1321 **Senator Jim Woodward**, introduced **S 1321** and stated the Legislature had concluded people working in the public interest, particularly in dangerous conditions or situations that make them vulnerable to assault or battery, require a higher level of protection. To achieve the higher level of protection, a higher level of punishment was placed on those protected personnel. **Senator Woodward** explained that there were increasing incidents of public workers being attacked and it was happening in many states, Idaho included. The increasing prevalence of incidents brought the utility workers together to make the requests included in **S 1321**. **Vice Chairman Ricks** asked if there was a number of employees who would be included in the protected group. **Senator Woodward** stated there was a printed section of code that defined public utility workers included in their packets (see Attachment 2). **Senator Anthon** asked if there was any limitation on the timing that an assault might happen. **Senator Woodward** said it was his understanding that the enhanced penalties apply when that person is acting as a utility worker.

TESTIMONY: **Jason Hudson, representing the Idaho AFL-CIO**, stated the utility worker incidents being reported were increasing in frequency, happening in all types of utilities and they were occurring all across Idaho. In the last five years incidents seemed to be accelerating and becoming more of a pronounced problem. **Mr. Hudson** mentioned several reasons utility workers were included in this legislation. Those included the workers were under the jurisdiction of the Public Utilities Commission, and they did not have a choice about whether to respond to the calls or not. Their jobs were a function of public service and public safety. Employees were sent into those circumstances at the direction of a governmental entity and often served the role of first responders. Another reason to be included was that prosecution was easy to determine if the incidents were related to that work.

DISCUSSION: **Senator Wintrow** asked if there was any anecdotal evidence to show passage of these laws decreased the number of incidents. **Mr. Hudson** responded there was not data showing exactly how the passage of similar laws had contributed. He explained that when public education was paired with legislative action the results were more pronounced. The public needed to be made aware of the penalties incurred and hopefully that would provide a deterrent effect.

Chairman Lakey explained that due to time constraints not everyone would be allowed to testify. Kyle Beierle from Coeur d'Alene yielded to Eric York to explain the incident he experienced. Mr. Beierle was in favor of passage of **S 1321**.

TESTIMONY: **Eric York, Grangeville** testified in favor of passing **S 1321**. He explained one incident when a shotgun was shoved in his face and held to his head until he gave the keys to the company vehicle to his assailant. He hit Mr. York hard enough with the barrel of the shotgun to cause bleeding down his face.

TESTIMONY: **Mike Brown, representing IBEW Local 77**, stated he represented all types of workers related to public utility companies and they requested passage of **S 1321**. His job required him to meet with employers after an employee reported an incident and address the assaults. **Mr. Brown** indicated he had started working with employers to find ways to educate the public about these situations. He admitted there was more work to be done, but he was adamant that it needed to be effective in helping resolve these issues.

TESTIMONY: **Will Hart, representing the Idaho Consumer-Owned Utilities Association**, testified in favor of passing **S 1321** (see Attachment 3).

MOTION: **Senator Anthon** moved to send **S 1321** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Senator Anthon** stated under Rule 39 (H) that he works for an electric utility company and had represented others in his practice. He commented that there were people who were angry about their utilities being turned off and there should be protection for those workers who are required to do that. **Senator Zito** suggested the battery laws could be strengthened so that even if a person was not a member of a union, as long as they performed some sort of public service, they could be protected.

S 1325 **Ashley Dowell, Chair, Idaho Criminal Justice Commission (ICJC), Sex Offense Subcommittee**, introduced John Dinger to answer previously asked questions relating to **S 1325**. **Mr. Dinger** explained that it was rare to charge incest and there were other statutes that fit the molestation of a child from its parent. A question was asked concerning consanguinity. **Mr. Dinger** listed the four degrees: the first was parents and children; the second was grandparent, brother, sister, grandchild; the third was aunt, uncle, niece or nephew and the fourth degree was first cousins. Idaho Code prohibits marriages in the first three degrees; it would not prohibit first cousins. The current penalty for crimes of incest was life in prison. Questions were also asked relating to juveniles and crimes of incest. The Juvenile Corrections Act stated that a child, if sentenced, could only be held until they were 19 and only in the most extreme circumstances would the sentence be extended to 21.

MOTION: **Senator Lee** moved to send **S 1325** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 536 **Jason Spillman, Legal Counsel, Administrative Office of the Courts**, explained **H 536** was legislation pertaining to jurisdiction in divorce proceedings and applying the powers and jurisdiction of district judges to such proceedings. This statute incorrectly stated that a district judge's powers were granted by "section 1-901." Idaho Code § 1-901 was repealed in 1975. The inaccurate reference was removed.

MOTION: **Senator Anthon** moved to send **H 536** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

- H 537** **Jason Spillman, Legal Counsel, Administrative Office of the Courts**, stated **H 537** permitted administrative district judges to delegate their Uniform Jury Selection and Service Act duties and responsibilities to other judges in their districts. The Act also authorized "duly appointed" magistrates the same duties and responsibilities. In order to clarify that jury act duties may be delegated to magistrates so retained, the unnecessary limiting term "duly appointed" should be removed from Idaho Code § 2-219.
- MOTION:** **Senator Thayne** moved to send **H 537** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.
- H 538** **Jason Spillman, Legal Counsel, Administrative Office of the Courts**, said **H 538** clarifies certain reports relating to criminal defendants' mental fitness. The current statute required filing three copies of the reports in order to proceed with their court cases. The original requirement was intended to relieve court clerks work with making copies of the reports to be served upon the parties. Those competency reports are now electronically managed through Odyssey, Idaho's case management system, making the copies unnecessary. This legislation requested removal of the requirement to file "in triplicate" as found in the statute since it was handled electronically.
- MOTION:** **Senator Wintrow** moved to send **H 538** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.
- H 542** **Emily McClure, representing the Idaho Association of County Recorders and Clerks**, asked the Committee to support **H 542**. County clerks were required to collect court fees and send them to the state treasurer. At the end of each month the fees were required to be reconciled between the Odyssey case manager and the county clerk's accounts. The deadline to send payments to the state treasurer was the 5th of every month. This legislation asked to have that date moved to the 15th of each month which aligned with other fees required.
- MOTION:** **Senator Thayne** moved to send **H 542** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.
- RS 29584** **Senator Ricks** stated **RS 29584** would place a maximum charge for patients to get a copy of their health care records. Idaho was currently the only state that did not have guidelines in place. Some institutions had put considerable resources into getting the records in a PDF format. That format was useful for someone to get his records transferred. This legislation would give Idaho guidelines for setting up the needed system. **Senator Ricks** added that he would claim a 39 H declaration since his son does some work related to medical records.
- DISCUSSION:** **Senator Wintrow** asked how one would arrive at a reasonable list of fees that would not prohibit physicians from getting the amount of money it actually costs. **Senator Ricks** responded he had a detailed list of what other states charged. He stated that money had been made available to providers to upgrade their services. **RS 29584** would provide a uniform way and a process to get the records.
- MOTION:** **Senator Lee** moved to send **RS 29584** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:36 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary