

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Friday, February 21, 2020

TIME: 12:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Representatives Goesling, Marshall

GUESTS: Françoise Cleveland, AARP Idaho; Carmen Bulovsky, IFHC; Lori Burelle, SW ID NOW; Brandon Morgan, Morgan PM; Annie Hightower ICASDV; Nicole Fitzgerald, Council on Domestic Violence & Victim Assistance

Chairman Chaney called the meeting to order at 12:32 p.m.

H 460: **Chairman Chaney** returned the bill to Committee for consideration. This bill allows for a creditor's attorney to serve garnishments on an employer or bank. The sponsor requested the bill be sent to General Orders.

MOTION: **Rep. Scott** made a motion to send **H 460** to General Orders. Speaking to the motion, Rep. Scott stated she supported the bill, but was sending it to General Orders at the sponsor's request.

Rep. Monks stated he was absent for the bill hearings and would support the Committee's vote on the bills being considered, but reserved his ability to vote differently when the bills come up for a floor vote.

VOTE ON MOTION: **Chairman Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Reps. McCrostie** and **Wintrow** requested they be recorded as voting **NAY**. **Rep. Barbiari** will sponsor the bill on the floor.

H 464: **Chairman Chaney** returned the bill to Committee for consideration. This bill allows for certain bankruptcy exemptions and adjusts for inflation.

MOTION: **Rep. Hartgen** made a motion to send the bill to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Hartgen** and **Zollinger** will sponsor the bill on the floor.

H 462: **Chairman Chaney** returned the bill to Committee for consideration. This bill allows for a tenant/landlord walk through and requires a landlord to provide a receipt of charges against the security deposit.

MOTION: **Rep. Gannon** made a motion to send the bill to the floor with a **DO PASS** recommendation. Speaking to the motion, he stated the walk through is incumbent on the tenant to request, and it could go a long way to resolving disputes.

Rep. Young said she thought the language could be improved because it did not seem necessary to provide a receipt if the whole deposit is returned.

VOTE ON MOTION: **Rep. Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Reps. Zollinger** and **Young** requested to be recorded as voting **NAY**. **Rep. Wintrow** will sponsor the bill on the floor.

H 461: **Chairman Chaney** returned the bill to Committee for consideration. This bill provides a uniform process for counties and sheriffs to follow regarding evictions and removal of a tenant's property.

Rep. Ricks spoke in support of the bill.

MOTION: **Rep. Zollinger** made a motion to send the bill to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Gannon** made a motion to send **H 461** to General Orders. Speaking to the motion, he agreed the bill fixes a problem that needs to be addressed, but the bill provides judges discretion to allow more time for commercial tenants who may need more time to vacate a property, but there is not a similar provision for residential renters. He stated the bill needed a relief valve to allow more than three days in cases of renters with extenuating circumstances such as disabilities, calamities or domestic abuse.

Chairman Chaney stated Rule 80 declarations apply in Committee considerations.

Reps. Troy and **Ricks** invoked Rule 80.

Reps. Hartgen and **Troy** spoke in support of the original motion. They stated the eviction process is lengthy and renters know it is coming and have the time to prepare to vacate the property.

Rep. Davis spoke in support of the substitute motion. She stated it should be left up to the judge to allow for more time for people with challenges, particularly disabilities.

Further debate among Committee members focused on the language in Section 2, paragraph 2 as it states a judge "may" grant a commercial tenant more time to remove their property, but a residential tenant "shall" have seventy-two hours. **Rep. Ricks** stated the bill stakeholders discussed this and some we're not comfortable with the three days because current law allows for immediate eviction, but this bill is a compromise. He explained it takes longer for commercial businesses because they have more equipment. **Rep. Gannon** explained under current law, a tenant can still get their belongings from the sheriff before auction, but this process puts the property in the hands of landlords.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman Chaney** called for a roll call vote to send **H 461** to General Orders. **Motion failed by a vote of 4 AYE, 12 NAY and 2 Absent/Excused. Voting in favor of the motion: Reps. Gannon, McCrostie, Wintrow and Davis. Voting in opposition to the motion: Reps. Monks, Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Hartgen, Ricks, Troy, Young and Chairman Chaney. Reps. Goesling and Marshall** were Absent/Excused.

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for vote on the motion to send **H 461** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Davis** requested to be recorded as voting **NAY. Rep. Ricks** will sponsor the bill on the floor.

H 459: **Chairman Chaney** returned the bill to Committee for consideration. This bill requires landlords to provide 45-days written notice on annual leases and 30-days notice on month-to-month leases when rent is raised 10 percent or more.

MOTION: **Rep. Davis** made a motion to send the bill to the floor with a **DO PASS** recommendation.

Reps. Kerby and **Zollinger** spoke in support of the bill, but **Rep. Zollinger** stated he had a few questions about the language and reserved the right to change his mind on the floor vote.

VOTE ON MOTION: **Rep. Chaney** called for a vote on the motion. **Motion carried by voice vote. Rep. Rubel** and **Wagoner** will sponsor the bill on the floor.

H 431: **Chairman Chaney** returned the bill to Committee for consideration. This bill defines the Attorney General's duties to protect charitable assets from misuse or misappropriation and ensure donors' intent is followed.

MOTION: **Rep. Wintrow** made a motion to send bill to the floor with a **DO PASS** recommendation.

Reps. Ehardt and **Young** spoke **in support** of the bill, but stated they had questions about how this bill related to church assets, so they reserved the right to change their votes on the floor once they learned more. **Chairman Chaney** stated it would be difficult for religious institutions to misuse proceeds unless it was a religious institution that was set up fraudulently. He explained the difference between personal trust instruments and charitable trusts. Charitable trusts have no options for establishing standing for claims against the trust if it fails.

VOTE ON MOTION: **Chairman Chaney** called for a vote on the motion. **Motion carried by voice vote.** **Reps. Zollinger** and **Scott** voted **NAY**. **Rep. Zollinger** stated he reserved the right to change his vote on the floor after talking with the sponsor regarding questions. **Rep. Troy** will sponsor the bill on the floor.

H 433: **Rep. Troy** presented **H 433**, which allow citizens who have lost their driver's license because of non-payment of child support to petition the courts for a temporary restricted license for good cause.

For the record, no one indicated a desire to testify.

H 435: **Rep. Zito** presented **H 435**. This bill clarifies the consent necessary for the adoption of an adult by removing the requirement of parental consent because the adult adoptee is over the age of 18. This will make adoptions easier. **Rep. Zito** yielded her time to **Stephanie Stout**.

Stephanie Stout, a family law attorney, explained this is a clean up bill that treats married parents and unmarried parents differently. For the past 25 years, the court has been treating them the same, but a recent court appeal prompted a closer look at the plain language, so this bill seeks to clear this up.

H 404: **Rep. Zito** presented **H 404**. This bill targets financial exploitation of a person 60 years of age or older by establishing a felony penalty for any caregiver convicted of exploiting an victim for \$1,000 or more. She explained the idea for this bill came to her from a constituent.

Denise McManna-Gustafson spoke **in support** of the bill. She shared a story of an elderly family member who was exploited by a neighbor. In answer to questions from the Committee, she explained the family contacted elder abuse and a case was opened, but the relative passed away before the case was resolved.

Francoise Cleveland, AARP Idaho, spoke **in support** of the bill. She explained financial abuse is one of the biggest areas of elder abuse and it is expected to grow as the baby boomer population ages. In answer to questions from the Committee, she stated one in 10 people over the age of 50 are victims of abuse.

Committee members questioned whether sections of statute regarding theft and vulnerable adults could provide the desired protection. **Rep. Zito** stated this bill expands the definition to included any adult over the age of 60 and is intended to cover victims who may not yet fully meet the definition of vulnerable adult, but are in the early stages of mental decline. In answer to questions from the Committee, **Rep. Zito** explained LSO modeled the bill after similar statues in other states. It was suggested by **Rep. Zollinger** that some of the language from this bill be moved to I.C. 18-1505, which addresses exploitation of a vulnerable adult.

H 466: **Reps. Ehardt and Zollinger** presented the bill that was drafted for the purpose of preventing forced or coerced marriage and abuse. This legislation creates a minimum age requirement of 16 years old and provides for a maximum age difference between parties of three years for children under the age of 18. Rep. Ehardt emphasized the bill retains parental consent rights and eliminates the possibility of marriage for individuals under the age of 16. Rep. Zollinger stated the bill is similar to one introduced last year, but it eliminates the need for court approval.

Lori Burrelle, Southwest Chapter National Organization for Women, testified that her organization cautiously endorsed the bill. She stated concerns that the bill did not require the consent of the boy or girl and they would have preferred to see the minimum age set at 18, but viewed this bill as step in the right direction.

In answer to questions from the Committee, **Rep. Zollinger** stated this bill was drafted to address the difficult balance between protecting children and recognizing the sanctity of parental rights.

H 434: **Rep. Zito and Zollinger** presented the bill to eliminate the requirement for a marriage license. She explained it would take the state out of the marriage license business and turn the responsibility over to the counties by establishing a process for solemnizing the marriage and filing for a \$15 certificate. This change would allow money collected to be used directly in the counties. She explained the funds currently generated by marriage licenses and used to support programs sponsored by the Idaho Council on Domestic Violence & Victim Assistance could be replaced by allowing the Council to apply for funding from the General Fund or double the filing fee for divorce.

In answer to questions from the Committee, **Rep. Zito** stated she did not collaborate with the Domestic Violence Council or members of JFAC when drafting the bill. **Rep. Zollinger** explained a person shouldn't need to ask the state for permission to marry as the policy reason for changing the requirement from a license to a certificate. He stated the certificate would meet all requirements for proof of marriage for such things as insurance as long as it is written in statute.

Annie Hightower, Director of Law and Policy, Idaho Coalition Against Sexual & Domestic Violence, spoke **in opposition to H 434**. She testified that 16 of the agency's programs are funded by the Idaho Council on Domestic Violence & Victim Assistance. She described the types of services provided and explained that redirecting funds to the counties for undefined programs would immediately impact important programs that service constituents across county lines. She also stated concerns about the conflicts created if both **H 434** and **H 466** pass. In answer to Committee questions, she stated this bill would be harmful to rural areas.

Nicole Fitzgerald, The Idaho Council on Domestic Violence & Victim Assistance, requested her letter to Committee members be entered into the record. (Attachment)

ADJOURN: There being no further business to come before the Committee, the meeting adjourned at 2:52 p.m.

Representative Chaney
Chair

Wendy Carver-Herbert
Secretary