

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, March 04, 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 meeting of the Senate Health and Welfare Committee (Committee) at 3:05 p.m.

DOCKET NO. 16-0000-1900F
RULE 16.02.08 **Vital Statistics Rules. Elke Shaw-Tulloch**, Administrator of the Bureau of Vital Records and Health Statistics, Department of Health and Welfare (DHW), presented the Rule 16.02.08. **Ms. Shaw-Tulloch** explained that on January 9, the Committee approved the omnibus **Docket No. 16-0000-1900F**, but withheld the vital statistics Rule 16.02.08. The purpose of the vital statistics rule chapter is to provide guidance for records, forms, and registration requirements for reporting. **Ms. Shaw-Tulloch** respectfully requested that the Committee approve the rule.

DISCUSSION: **Senator Heider** asked what the consequences would be if the chapter is not approved. **Ms. Shaw-Tulloch** replied that if the chapter is not approved, based on the lawsuit that required DHW to change the identity on birth certificates, they will need to continue processing applications, but without standards and proper authority.

Vice Chair Souza inquired if there were no reauthorization, when would that part of rejection go into effect. **Dennis Stevenson**, Administrative Rules Coordinator, stated that all rules become effective upon adoption or very close to sine die.

TESTIMONY: **Lori Burelle**, representing the Southwest Chapter of the National Organization for Women (NOW), urged support and approval for this docket. **Ms. Burelle** said there is a health and safety risk without approval and there is a need to comply with the federal court order. Career public servants will pay the price of disapproval and asked for the passage of the rule.

Kathy Griesmyer, Policy Director, Idaho American Civil Liberties Union (ACLU), said they are in support of Rule 16.02.08. **Ms. Griesmyer** said that Section 201.06. would provide for the completion of requirements and there are no known complications from allowing this. See attachment 1.

DISCUSSION: **Senator Lee** inquired about the legal decision regarding Section 201.06.c. **Richie Eppink**, ACLU of Idaho, responded. The court ordered DHW to prepare a policy to allow a name change. **Senator Lee** asked if there could be a possible misuse of the name change. **James Aydelotte**, Bureau Chief, Bureau of Vital Records and Health Statistics in DHW, said there is a one-time opportunity to have a name change without fee, but one must still follow the process for a usual name change. The referenced section addresses the name change must not be marked amended and must not refer to the original birth certificate name or indicator of sex.

Senator Heider asked if the Committee doesn't approve this rule, is there a threat of physical violence and requested an example or firsthand experience. **Ms. Griesmyer** said transgender individuals have shared stories about being turned away because their driver's license doesn't match how they look. **Vice Chair Souza** doesn't think a birth certificate is required to get a driver's license and asked if that was true. **Ms. Griesmyer** replied that there are different requirements for different documents.

TESTIMONY: **Moné Miller**, representing the Idaho Coalition Against Sexual Violence, asked for approval of this docket. The current process is the best way to address this.

Emily Jackson, a transgender person, thanked DHW and its employees for being highly professional. She stated that she served a six-year obligation with the Idaho Army National Guard during the Vietnam era and was honorably discharged with the rank of Sergeant E-5. **Ms. Jackson** said she is a civil engineer, parent, grandparent, and great-grandparent. She said she doesn't just identify as a woman, she is a woman. A woman is much more than chromosomes. **Ms. Jackson** indicated that all of her many identity documents identify her and without humiliation. She thanked the Committee for allowing her to testify in favor of Rule 16.02.08

DISCUSSION: **Senator Lee** and **Mr. Aydelotte** discussed the requirement to obtain a court order for a name change, and where in the rule it is referenced. **Mr. Aydelotte** said the only thing that has changed is how it is documented, and how DHW documents the name change on the certificate. He added that none of the name change process was being invalidated, and the rule didn't address that specifically.

TESTIMONY: Peter C. Renn, Counsel at Lambda Legal, submitted written testimony. See attachment 2.

MOTION: **Vice Chair Souza** moved to approve **Docket No. 16-0000-1900F**, Rule 16.02.08, with the exception of Section 06, page 38-39. **Senator Bayer** seconded the motion.

SUBSTITUTE MOTION: **Senator Jordan** moved to approve **Docket No. 16-0000-1900F**, Rule 16.02.08. **Senator Nelson** seconded the motion.

DISCUSSION: **Senators Jordan, Lee, Nelson, Bayer, Heider,** and **Chairman Martin** discussed several aspects of following, or not following, the court order.

Senator Bayer commented that if the Committee doesn't object to the court order, then it would be seen as accepting it, and the court won't do anything if questions aren't raised.

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

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

MINUTES APPROVAL: **Senator Burtenshaw** moved to approve the Minutes of January 30, 2020. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

Senator Nelson moved to approve the Minutes of February 5, 2020. **Senator Lee** seconded the Motion. The motion carried by **voice vote**.

Senator Lee moved to approve the Minutes of February 6, 2020. **Senator Burtenshaw** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Martin** adjourned the meeting at 4:12 p.m.

Senator Martin
Chair

Margo Miller
Secretary

Juanita Budell
Assistant Secretary