

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, March 06, 2020

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, and Nye

ABSENT/ EXCUSED: Senator Burgoyne

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.

GUBERNATORIAL APPOINTMENT HEARING: **Committee Consideration of the Appointment of Paula Garay to the Sexual Offender Management Board (SOMB).** **Paula Garay** introduced herself and stated she has been a board member of SOMB since 2011. Prior to 2011, she served as a therapist, clinical director, and executive director for juvenile sex offenders. Currently, she has a private practice treating juvenile sex offenders.

DISCUSSION: **Chairman Lakey** asked Ms. Garay to discuss the rewards and challenges of being a board member of SOMB. **Ms. Garay** stated that the most fulfilling part of her job is developing effective standards and applications for the evaluators, polygraph examiners, and treatment providers. These standards and applications will ensure consistency of the treatment programs throughout Idaho. She acknowledged that keeping up with current issues on the national level is challenging; on the other hand, being affiliated with Association for the Treatment of Sexual Abusers helps SOMB adhere to the up-to-date standards and practices.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Thayn** moved to send the Gubernatorial appointment of Paula Garay to the Sexual Offender Management Board to the floor with the recommendation that she be confirmed by the Senate. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Nye** moved to approve the Minutes of February 12, 2020. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 402 **Relating to Child Protection. Representative Heather Scott**, District 1, enumerated the functions and duties of Department of Health and Welfare (DHW) and Child Protection Services (CPS) employees. She stated that **H 402** addresses proper and professional trainings of DHW and CPS employees which would prepare them for intense situations that they might encounter. **Representative Scott** cited instances of confrontations between CPS employees and defendants that led her to draft this legislation.

DISCUSSION: **Chairman Lakey** inquired if these encounters have been reported to Dave Jeppesen, Director, DHW, for corrective actions. **Representative Scott** said that Director Jeppesen was aware of these disputes. Moreover, she added that the Attorney General's (AG) Office had made recommendations in some of the language in this legislation.

TESTIMONY: **Jean Fisher**, Idaho Prosecuting Attorneys Association (IPAA), spoke against the bill. On behalf of IPAA, **Ms. Fisher** contested the section that states that parents have the right to refuse interviews and medical examinations of a child in their legal care and custody unless there is a warrant or court order requiring particular actions.

In response to the Committee's questions, **Ms. Fisher** replied that it is in the State's interest to protect a child against abandonment, abuse, or neglect. She also detailed the protocols that CPS employees currently follow if there is a report of possible child abuse, neglect, or abandonment.

Matthew Cox, Child Abuse Pediatrician, St. Lukes Children's Hospital; and **Patricia Weires**, clinical social worker, Children At Risk Evaluation Services, spoke in opposition to **H 402**. **Mr. Cox** and **Ms. Weires** expressed their concerns on the parents' right to refuse medical evaluation and interview of a child who had been reported for possible abuse. They stressed that child abuse could only be identified through immediate medical evaluation and/or interview of the child. Delaying proper medical attention and the interview can give an opportunity for the parents to provide coaching, manipulation, and influence the child's possible abuse disclosure.

Miren Unsworth, Administrator, Division of Family and Community Services at DHW, stated she was present to answer inquiries about the department. **Senators Lodge** and **Cheatham** asked about the approaches, procedures, and duration that DHW utilizes in training its employees. **Ms. Unsworth** detailed the steps DHW employees adhere to when visiting a possible abused child. She stated that new employees undergo structured field and classroom trainings once a week for the duration of six months.

DISCUSSION: **Chairman Lakey**, **Vice Chairman Lee**, and **Senators Anthon**, **Cheatham**, and **Grow** agreed that **H 402** needs to be modified for more definitive articulation of topics such as court orders and warrants, parents' refusal to consent to interviews and medical evaluation of the child, and the interval between the alleged abuse incident and the evaluation of an abused child.

MOTION: **Senator Grow** moved to send **H 402** to the 14th Order of Business for possible amendment. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

H 457AA **Relating to Sexual Offender Registration Notification and Community Right-to-Know Act.** **Senator Regina Bayer**, District 21, explained that **H 457aa** amends current law that lists prohibited access for convicted sex offenders in schools. This legislation would add daycare to the list. She specified that there are two exceptions in the statute. She emphasized that this legislation was written to protect children against possible sexual predators.

MOTION: **Senator Anthon** moved to send **H 457aa** to the floor with a **do pass** recommendation. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

H 464 **Relating to Property Exemptions.** **Senator Anthon** gave a brief description of **H 464**. He stated that this legislation pertains to the homestead exemption used in debt collection and bankruptcy proceedings, and emphasized that the two proceedings are separate and contain different exemptions. This bill would increase the dollar value of allowed personal property exemptions. He indicated that the exemption values indicated in Idaho Code § 11-605 were last adjusted in 2006.

MOTION: **Senator Cheatham** moved to send **H 464** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 466 **Relating to Marriage. Representative Barbara Ehardt**, District 33, presented **H 466** that would increase the minimum legal age of marriage to 16. She pointed out that this legislation would prevent forced or coerced marriages to those who are unable to protect themselves from abuse. **Representative Ehardt** added that this section proposes that marrying individuals between the ages of 18 and 16 would need written parental consent. In addition, this section would also restrict the age difference between parties involved to three years.

MOTION: **Vice Chairman Lee** moved to send **H 466** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 432AA **Relating to the Criminal Justice Integrated Data System Act. Eric Fredericksen**, Idaho Criminal Justice Commission, introduced Jared Larsen, criminal justice policy advisor, Office of the Governor, to give a brief background of **H 432aa**. **Mr. Larsen** stated that this legislation would provide the State of Idaho Controller's Office (SCO) the statutory authority to implement and fund the Criminal Justice Integrated Data System (CJIDS). He indicated that directors and members of Idaho Department of Correction, Commission on Pardons and Parole, Idaho Public Defense Commission, Idaho Criminal Justice Commission, and State Appellate Public Defender's Office were present to answer some questions from the Committee.

Mr. Fredericksen introduced Representative Caroline Nillson Troy, District 5, to give a short statement about the bill. **Representative Troy** clarified that this proposed amendment would clarify how non governmental organizations would contribute and utilize the data provided by the CJIDS.

Mr. Fredericksen conveyed that CJIDS' main goal is to manage data from contributing state agencies, evaluate and compare data between agencies, and establish reports to be used by the Idaho criminal justice system. He indicated that the CJIDS will be housed in SCO but the data collected will remain property of the contributing agency, not SCO. He assured the Committee that all raw data collected will be secured, and only final reports and data analyses are for public release, and subject to Data Oversight Council's approval. In response to Senator Cheatham's question, **Mr. Fredericksen** affirmed that the agencies providing their data would do so voluntarily.

MOTION: **Senator Lodge** moved to send **H 432aa** to the floor with a **do pass** recommendation. **Senator Cheatham** seconded the motion. The motion carried by **voice vote**.

H 384 **Relating to the Idaho Wrongful Conviction Act. Representative Doug Ricks**, District 34, stated that Idaho is one of 15 states in the country that has no regulation on compensating a person who was wrongfully convicted. He indicated that **H 384** would create monetary and non-monetary compensation for Idahoans who are wrongfully convicted. The bill also contains provisions on the length of period an exoneree could claim compensation, and the reimbursement of state compensation should there be any civil settlements. It was mentioned that there are currently six exonerees, and four of them are eligible for compensation. **Representative Ricks** introduced Kate Haas, Kestral West on behalf of The Innocence Project, to discuss possible amendments to the bill. **Ms. Haas** pointed out that the amendments were discussed with prosecutors, the AG's office, and state courts. She emphasized that the amendments do not and will not impact the process of determining one's exoneration.

MOTION: **Senator Grow** moved to send **H 384** to the 14th Order of Business for possible amendment. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

TESTIMONY: **Christopher Tapp** and **Charles Fain** spoke in support of the **H 384**. **Mr. Tapp** and **Mr. Fain** were wrongfully convicted for crimes they did not commit. They shared the obstacles they had experienced after their release, primarily due to the collateral ramifications from having been involved in the criminal legal system. They mentioned that **H 384** would grant an opportunity to their fellow exonerees to rebuild their lives after exoneration.

DISCUSSION: **Vice Chairman Lee** and **Senator Grow** expressed their appreciation to Mr. Tapp and Mr. Fain for their bravery, and for sharing their personal experience to the public. **Senator Nye** asked about the statute of limitations in claiming state compensation. **Chairman Lakey** and **Ms. Haas** confirmed that there is statute of limitations in **H 384**. An eligible individual has two years to claim remuneration from the time of exoneration or release from prison. Furthermore, upon the passage of this bill, existing exonerees will have two years, from the date of this bill's enactment, to claim state compensation.

Upon request of Representative Ricks, **Chairman Lakey** moved to the next item in the agenda before hearing **H 461**.

H 463 **Relating to Court Fees and Costs.** **Kelli Brassfield**, Idaho Association of Counties, explained that **H 463** proposes that collected fees and payments for court-ordered drug and alcohol tests are to be paid to the clerk of the court. This legislation would append a new section authorizing counties to create a juvenile pretrial supervision program which is similar to adult pretrial and misdemeanor probation.

MOTION: **Vice Chairman Lee** moved to send **H 463** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 461 **Relating to Unlawful Detainer.** **Representative Doug Ricks**, District 34, stated that Idaho is one of the states in the country with no statute regarding post-eviction procedure. He presented a short video that summarized **H 461**. It was indicated in the video that the bill aims to simplify Idaho eviction law by specifying what would occur after a judicial court issues a judgment against a tenant. Residential tenants will have 72 hours to vacate the premises. Subsequently the landlord may remove any items and dispose them. The bill contains a provision that judges could issue an eviction order to extend the removal of properties in the premises. He emphasized that this legislation will not modify the eviction code.

TESTIMONY: **Brian Stutzman**, Idaho Falls, spoke in support of **H 461**. He shared his personal experience as a landlord. He stated that **H 461** would standardize the post-eviction process statewide.

Sergeant James Richardson, Ada County Sheriff's Office, spoke in opposition of **H 461**. His contention had to do with the ambiguity of the Sheriff's office authority in the post-eviction process. He believed that local law enforcement should handle this type of case.

MOTION: **Vice Chairman Lee** moved to send **H 461** to the 14th Order of Business for possible amendment. **Senator Cheatham** seconded the motion.

ROLL CALL VOTE: **Chairman Lakey** called for a roll call vote on the motion. **Vice Chairman Lee** and **Senators Lodge, Cheatham**, and **Nye** voted aye. **Chairman Lakey** and **Senator Grow** voted nay. The motion carried.

DISCUSSION: **Vice Chairman Lee** and **Senators Cheatham** and **Lodge** empathized with the difficulties the landlords are facing in the post-eviction process. On the other hand, they conveyed their concerns on the scope of authority of the Sheriff's office cited in **H 461**. **Senator Nye** addressed his apprehension on the short post-eviction notice given to tenants after the court ruling. **Chairman Lakey** and **Senator Grow** believed that the three-day post-eviction notice to vacate the premises is acceptable. The Committee encouraged Representative Ricks to expedite the revision of **H 461** in order for it to be heard this legislative session.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 4:20 p.m.

Senator Todd M. Lakey
Chair

Sharon Pennington
Committee Secretary

Rellie Wisdom
Majority Staff Assistant