

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Wednesday, March 03, 2021

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Vice Chairman Hartgen, Representatives Kerby, Amador, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash

**ABSENT/
EXCUSED:** Chairman Chaney

GUESTS: Fred Birnbaum, Idaho Freedom Foundation; Allan Reynolds, ACLU; Jason Zimmerman; Kate Haas, Idaho Boys and Girls Club Alliance; Paul Riggins, IACDL, Andrew Masser, IACDL.

Madame Chair Hartgen called the meeting to order at 1:35 p.m.

MOTION: **Rep. Nash** made a motion to approve minutes from January 23, 2021. **Motion carried by voice vote.**

H 196: **Rep. Necochea** presented **H 196**, known as Fair Chance Employment. It is aimed at reducing barriers to employment for formerly incarcerated people. Fair Chance Employment will benefit the state by working to reduce Idaho's recidivism rates, improve public safety, and increase workforce participation by motivated individuals. It would remove the initial barrier to work in the application process for those with a criminal history. Rep. Necochea listed large local businesses which have already eliminated questions regarding criminal history and said that if **H 196** passed, Idaho would join 36 other states in similar legislation. She noted organizations listed as exempt; 501(c)3s were made exempt at the request of Boys and Girls Club. Rep. Necochea shared a story about a young man who was not given an opportunity for employment due to his record and re-offended.

Moné Miller of Idaho Coalition of Domestic Violence Prevention, testified **in support of H 196**. She cited statistics on the economic impacts of those who have experienced domestic violence; family income declines when a father is imprisoned. She also cited statistics of those with criminal records seeking employment and connected the lack of employment with the perpetuation of domestic violence.

Ruby Mendez-Mota of the ACLU, testified **in support of H 196**. She cited statistics of employment records and applicant call-backs for those with records. She reiterated the potential financial benefits of the bill. In response to committee questions, Ms. Mendez-Mota repeated that there is no penalty for business owners who don't follow the legislation. The 21% of our population statistic she gave was clarified as those with criminal records living in Idaho.

Fred Birnbaum of Idaho Freedom Foundation, testified **in opposition to H 196**. He told a story of being a factory manager who hired many people and said he would not have been able to screen them under this bill. Mentioning exemptions on page two he said that provisions for different entities are wrong. In response to Committee questions, Mr. Birnbaum said the exemptions are problematic and implied they were used to get those agencies to support the bill. He said that the better way is for businesses to do this would be voluntarily. He suggested holding state agencies to these requirements first.

Allan Reynolds testified in support of H 196. He said he has been denied employment because of his record and told stories of his struggle with his work history. He asked Representatives to imagine a loved one having these issues and stated Idaho has problems not backing off being hard headed.

David Lund of BarNone, testified in support of H 196. He spoke to the prevention of recidivism for the health of Idaho. He restated that 21% of Idahoans have criminal history. He said every entity had a say in the creation of this bill and the Judicial and Rules Committee submitted feedback on it last year.

Evan Stewart, of Jesse Tree, testified in support of H 196. He gave an overview of his organization and their data for FY 2020. Thirty percent of applicants were previously incarcerated; he sees this as a significant connection between housing insecurity and incarceration. He said the biggest barriers for program participants are access to resources, employment and housing.

Jason Zimmerman testified in support of H 196. He told his story of being incarcerated and though he secured a job upon his release, he believes he was discriminated against in salary and opportunities for advancement. He also cited difficulties in getting an interview to numerous jobs he applied to with the Ada County Highway District. He said he could get low paying jobs but couldn't get a quality job that had benefits or would enable him to support his children.

Kate Hass, of Idaho Boys and Girls Club Alliance, testified on behalf of Boys and Girls Clubs, in support of H 196. She said she's worked with other organizations to reduce barriers to work and cited research on recidivism reductions tied to employment. In response to Committee questions, Ms. Haas clarified the changes made this year included 501(c)(3)s, specifically youth serving organizations.

Jennifer James testified in support of H 196. She cited statistics and reiterated aspects of the bill which would be beneficial to the community.

Victoria Koch of Boise State University, testified in support of H 196. As the daughter of a convicted felon, serving a perfect parole, he has not been given a fair chance. She said a felon's debt should be considered served by their time in prison but they continue to pay the price after they are released. She implored the Committee to restore the rights of individuals to fair employment once released from prison.

Andrew Masser, of Idaho Association of Criminal Defense Lawyers, testified in support of H 196. A sense of purpose and a way to meet the costs of criminal proceedings is only possible through employment. He supports this legislation because it allows people to contribute to the local labor market.

Mattie Stewart of Boise State University, testified in support of H 196. They believe it will help break cycles and reduce recidivism. Ms. Stewart has a family member who has a criminal history and is not getting interviews though they are qualified and wonders if it is because she has to declare her criminal history.

Suzanne Budge of Nation Federation of Independent Businesses, testified in opposition of H 196. She said small businesses are 50% of Idaho employers and business owners are often the ones to hire; they are worried about the safety of employees and legal battles that could ensue with the passing of this legislation. The organization polled their members last year and found 91% of them were concerned about legislation like this.

In response to Committee questions about whether her organization would sign on with amendments, **Ms. Budge** said they could help but she couldn't confirm NFIB would sign on. She thinks a more positive approach, like incentives, is needed, rather than putting the responsibility on employers. She agreed that starting with state agencies would be a better approach.

In closing, **Rep. Nocochea** stated that employers can ask for criminal records after gathering their pool of applicants. The purpose is to keep the process open. She said an employer doesn't have to give interviews before asking about criminal history; the point is for people to be able to submit their application without it going directly into a discard pile.

In response to Committee questions, **Rep. Necochea** said she chose to include the exemptions because having a criminal record could interfere with these specific types of jobs. She addressed perceived conflicts around the imposition of fines or litigation and said law suits could be a possibility under this bill if an employer doesn't follow the law.

Rep. Skaug declared a rule 80, stating a possible conflict as an employer.

MOTION:

Rep. Skaug made a motion to **HOLD H 196** in committee indefinitely.

SUBSTITUTE MOTION:

Rep. Ruchti made a substitute motion to send **H 196** to the floor with a **DO PASS** recommendation.

Rep. Ruchti spoke to the substitute motion. He said **H 196** forces the Committee to decide whether they think an offender's debt is paid to society when their time is served. He listed redemption stories and noted the human affinity for the belief that people can better themselves.

Committee members expressed fear of the unintended consequence that this legislation could be seen as mean spirited, and about wanting to see more pardons so more people could walk away from their criminal record. Concerns were expressed about ambiguity of enforcement and the exemptions, and agrees this issue needs to be addressed using the brain science around young people making mistakes.

ROLL CALL VOTE:

Rep. Scott requested a roll call vote on the substitute motion for **H 196**. **Substitute Motion failed by a vote of 5 AYE, 10 NAY, and 1 Absent/Excused. Voting in favor of the motion: Reps. Hartgen, Gannon, McCrostie, Ruchti, Nash. Voting in opposition to the motion: Reps. Kerby, Amador, Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug. Chairman Chaney was absent/excused.**

VOTE ON ORIGINAL MOTION:

Motion carried by voice vote.

RS 28734:

Rep. Green presented **RS 28734**. This proposed legislation would amend Chapter 64, Title 18, Idaho Code, by addition of a new section 18-6411, Idaho Code, to prohibit the disclosure of personal identifying information with the intent to harass, intimidate or cause targeted residential picketing. **Rep. Green** clarified that it does not make target picketing a misdemeanor or prevent anyone from standing on the sidewalks. She stated domestic tranquility is a right and there are currently no statutes in Idaho that address this though Utah's legislature recently passed something similar. She said this achieves one additional level of security and is supported by all law enforcement associations in Idaho.

There was extended Committee discussion around the definitions of residential targeted picketing and intent to harass. Legal considerations for the concept of intent were reviewed. It was stated that law enforcement needs sufficient evidence to be able to enforce or charge someone with a crime. It was clarified that under this legislation it would be legal to protest or picket in front of someone's house but it would not be legal to circulate that person's address publicly with the intent to harass, intimidate or cause targeted residential picketing. Concerns about bill language being too broad were expressed.

MOTION:

Rep. McCrostie made a motion to introduce **RS 28734**.

**SUBSTITUTE
MOTION:**

Rep. Kerby made a substitute motion to introduce **RS 28734** and recommend it be sent directly to the Second Reading Calender. Roll call vote was requested. **Motion carried by a vote of 10 AYE, 3 NAY and 1 Absent/Excused. Voting in favor** of the motion: **Reps. Hartgen, Kerby, Marshall, Troy, Cannon, Erickson, Gannon, McCrostie, Ruchti, Nash. Voting in opposition** to the motion: **Reps. Scott, Young, Nate. Absent/Excused: Chairman Chaney. Rep. Green** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 3:52 p.m.

Representative Hartgen
Chair

Beth Norton
Secretary