

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

- DATE:** Thursday, March 17, 2022
- TIME:** 1:30 pm or upon adjournment
- PLACE:** Room EW42
- MEMBERS:** Chairman Chaney, Vice Chairman Hartgen, Representatives Kerby, Amador, Ehardt(Bryan Zollinger), Scott, Marshall, Troy, Young, Nate, Cannon, Erickson, Skaug, Gannon, McCrostie, Ruchti, Nash
- ABSENT/
EXCUSED:** None
- GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.
- Vice Chairman Hartgen** called the meeting to order at 1:32 p.m.
- S 1340:** **Rep. Cannon** presented **S 1340** which amends existing law to revise the definition of "owner". This legislation corrects a technicality, adding language to the definition of "owner" in the criminal code that deals with theft.
- Vice Chairman Hartgen** turned the gavel over to **Chairman Chaney**.
- MOTION:** **Rep. Kerby** made a motion to send **S 1340** to the floor with a **DO PASS** recommendation.
- Jeff White**, Fraud Prosecutor from the Ada County Prosecutor's Office, **spoke in** support of **S 1340** and offered to answer any committee questions about the legislation. .
- Rep. Cannon** and **Chairman Chaney** declared a Rule 80.
- VOTE ON
MOTION:** **Motion carried by voice vote.** Rep. Cannon will sponsor the bill on the floor.
- S 1320:** **Rep. Young** presented **S 1320** which amends existing law to provide that original birth certificates and other records will be made available upon request to adoptees for adoptions that occur on or after July 1, 2022. Last year's bill has been improved and is now before the committee. Adoptees who are 18 years older will be able to obtain their adoption records but there is a process involved. Adoptees will have to register with the existing voluntary adoption registry and wait 30 days so the Department of Vital Statistics can notify the birth parents, who will be contacted if they have maintained current contact information. The birth parent will be given an opportunity to indicate if they would like contact and how would they like that contact to take place, or if they prefer no contact, and the third option is redacting their name. This would mean the adoptee would still get the birth record, however the name of the parent who requested the redaction would be withheld. The redaction has a sunset, a five year hold, and after 5 years the adoptee may submit another record request and the same process occurs. This legislation gives people who were not comfortable with the practice of adoption record access a chance to opt out.
- MOTION:** **Rep. Scott** made a motion to send **S 1320** to the floor with a **DO PASS** recommendation.

During discussion committee members voiced their support of **S 1320**, though it is not perfect legislation it is a step forward in the area of adoptee access to birth records. With the old school thought behind shielding these kind of records dying out this legislation draws a line in the sand and makes a clear statement that going forward there will be significant change in policy.

VOTE ON MOTION:

Motion carried by voice vote. Rep. Young to sponsor the bill on the floor.

UNANIMOUS CONSENT REQUEST:

Chairman Chaney made a unanimous consent request to move **S 1339** to the bottom of the agenda. There being no objection the request was granted.

S 1279:

Rep. Hartgen presented **S 1279** which adds to existing law to authorize the use of a temporary guard or private security service by Sheriffs in certain instances. Testimony was taken during the March 3rd meeting, no additional testimony will be taken today.

MOTION:

Rep. McCrostie made a motion to send **S 1279** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION:

Rep. Gannon made a substitute motion to send **S 1279** to General Orders.

During committee discussion members expressed concerns about broadness, qualifications of private security guards, and the idea of private security guards managing inmates in these situations.

VOTE ON SUBSTITUTE MOTION:

Substitute motion failed by voice vote.

VOTE ON MOTION:

Motion carried by voice vote. Rep. Hartgen will sponsor the bill on the floor.

Chairman Chaney turned the gavel over to **Vice Chairman Hartgen**.

H 782:

Rep. Chaney presented **H 782** pertaining to judicial council, judges, and salary. Currently the Judicial Council is comprised of seven members, the Chief Justice of the Supreme Court, who acts as Chairman; a district court judge, appointed by the Idaho Supreme Court; two non-judicial attorneys who are appointed by the Idaho State Bar, and three public members appointed by the Governor. All of the members, except the Chief Justice are confirmed by the Senate. **H 782** changes the membership, and inspiring this legislation is the perception that the Judicial Council is not a diversity point of view. This bill would change the way the members of the Judicial Council are chosen in an effort to increase the public confidence in a non biased Judicial Council.

Senator Abby Lee spoke in support of **H 782** saying that participating in the process of Senate confirmations brought concerns to her attention. Consider how this seven member council is comprised, one member is the Chief Justice, and three members are appointed by the Governor and confirmed by the Senate, and the other three members are selected by the Idaho State Bar Commission, including the district judge position. Current statute is giving the Idaho State Bar Commission the power to directly nominate three members of the Judicial Council when the Bar Commission is not comprised of elected individuals. This legislation adjusts that and creates better transparency.

Chairman Chaney and **Senator Lee** responded to several committee questions, there was concern expressed about changing the balance of power in the Judicial Council.

Ken McClure, ILRA, spoke in support of **H 782** saying his organization has had concern about the selection of judges for a long time. The selection process is limited, closed; the Bar controls who gets to go forward to the Governor and the Governor has no other choice but to choose from the Bar nominees. The process is non-transparent, it is in a box.

Judge Juneal Kerrick, Idaho Supreme Court, spoke in opposition of **H 782** saying that the Courts touch all citizens and so judicial recruitment and selection is important to everyone. The collaboration involved in the creating of the current statute that was passed in 1967 was considerable and involved meetings that were held across the state. This is a policy, legislative decision, but she cautioned about making decisions in a hurry, without all the information. A decision is only as sound as the information on which it is based, the court is urging an alternative process involving a blue ribbon committee to consider a cross section of persons. The Court has had very little time to respond to this legislation, and there is critical concern about the fact that this policy change is linked with a judicial pay bill.

MOTION: **Rep. Amador** made a motion to send **H 782** to the floor **without** recommendation.

Judge Kerrick answered committee questions about the process involved to evolve the current statute, and judicial recruitment, and retention. Any existing problems with judicial recruitment could more directly be linked to district judge pay and workload and the fact that judges incur considerable personal expense to stand for public election then the members of the Judicial Council.

SUBSTITUTE MOTION: **Rep. Marshall** made a substitute motion to **HOLD H 782** in committee until a time certain, the March 21, 2022 meeting.

Judge Kerrick responded to several committee questions.

AMENDED SUBSTITUTE MOTION: **Rep. Gannon** made an amended substitute motion to lay **H 782** on the table.

ROLL CALL VOTE ON AMENDED SUBSTITUTE MOTION: Roll call vote requested. **Amended substitute motion failed by a vote of 7 AYE, 10 NAY, 0 ABSENT/EXCUSED.** Voting in support of the motion **Reps. Ehardt(Zollinger), Scott, Nate, Gannon, Ruchti, Nash, and Hartgen.** Voting in opposition of the motion **Reps. Chaney, Kerby, Amador, Marshall, Troy, Young, Cannon, Erickson, Skaug, and McCrostie.**

During committee discussion the committee expressed concerns about changing a process that has been in place for fifty years.

UNANIMOUS CONSENT REQUEST: **Rep. Marshall** made a unanimous consent request to change his substitute motion to hold until a time certain to a motion to **HOLD H 782** in committee, there being an objection the request is not granted.

ROLL CALL VOTE ON SUBSTITUTE MOTION: Roll call vote requested. **Substitute motion failed by a vote of 7 AYE, 10 NAY, 0 ABSENT/EXCUSED.** Voting in support of the motion **Reps. Ehardt(Zollinger), Scott, Nate, Gannon, Ruchti, Nash, and Hartgen.** Voting in opposition of the motion **Reps. Chaney, Kerby, Amador, Marshall, Troy, Young, Cannon, Erickson, Skaug, and McCrostie.**

ROLL CALL VOTE ON MOTION: Roll call vote requested. **Motion carried by a vote of 10 AYE, 7 NAY, 0 ABSENT/EXCUSED.** Voting in support of the motion **Reps. Chaney, Kerby, Amador, Marshall, Troy, Young, Cannon, Erickson, Skaug, and McCrostie.** Voting in opposition of the motion **Reps. Ehardt(Zollinger), Scott, Nate, Gannon, Ruchti, Nash, and Hartgen.** **Chairman Chaney** will sponsor the bill on the floor.

Vice Chairman Hartgen turned the gavel over to **Chairman Chaney.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:51 p.m.

Representative Chaney
Chair

Andrea Blades
Secretary