

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 06, 2023

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Foreman, Senators Lee, Anthon, Ricks, Hart, Hartgen, Wintrow, and Ruchti

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 Lakey** called the meeting of the Senate Judiciary & Rules Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Wintrow** moved that the Committee accept the minutes from the January 18, 2023 meeting. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Hartgen** moved that the Committee accept the minutes from the January 23, 2023 meeting. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

RS 29994 **Parent/Guardian Notification & Child Protection Investigations.** **Senator Herndon** stated this legislation was drafted with the intent to modify the Child Protective Act in Idaho Code. If passed, this bill would have the Department issue notice to any parent or guardian of a child involved in a Child Protective Service (CPS) referral within 72 hours of first contact. Also included in this legislation was the inclusion of parental rights, such as the ability to refuse to answer questions of a department worker; the right to consult an attorney and have one present during an investigation; the right to refuse entry to home or on real property by a department worker; and they could reject the questioning of any minor in their home or on their property by a department worker, unless there was a warrant or court order issued. This proposal was drafted using H 170 from the 2019 Legislative Session as inspiration. **Senator Herndon** also said that the State had already started informing parents of their constitutional rights in the event of a CPS referral situation. He noted how the previous version of this bill from 2019 received opposition from the Fraternal Order of Police and how, due to some changes that were made to the language, they had taken a neutral position on **RS 29994**.

DISCUSSION: **Vice Chairman Foreman** indicated his support for the proposal, stating that he thought the intent to codify the process for those investigations was a good thing. **Senator Herndon** responded by commenting on the importance of helping parents not feel overwhelmed at a stressful time with law enforcement and CPS workers present. **Senator Wintrow** asked if there were any specific concerns the Department of Health & Welfare communicated to the Sponsor while he had been working on this legislation. **Senator Herndon** responded by saying the Department did not have any concerns as they worked on the bill, and he incorporated language from the Director with regard to the full spectrum of legal rights for parents.

MOTION: **Senator Hart** moved that **RS 29994** be sent to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

- RS 30187** **Outfitters & Guides Liability Provisions.** **Aaron Lieberman**, Executive Director, Idaho Outfitters & Guides Association, introduced **RS 30187** by stating that it intended to accomplish three things: 1) have clarified some liability protections outfitters and guides have unless they acted in a negligent or reckless way, 2) note that written liability waivers were enforceable, and 3) acknowledge that there were *inherent* risks associated with those activities.
- DISCUSSION:** **Senator Wintrow** began discussion by asking Director Lieberman if there were more substantive changes that might come during a full hearing. **Director Lieberman** responded with an example of language that would be struck from Code, including a rule requiring guides must be "clean and well-mannered, with a visible desire to please..." Noting that he was not an attorney that works with case law, he questioned the ability to enforce that rule and thought it prudent to clean up that section of rule. He indicated the remaining changes would include such types of clean up language as these.
- MOTION:** **Senator Lee** moved that **RS 30187** be sent to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.
- S 1029** **Juvenile Proceedings, Immunizations and Parent/Child Relationships.** **Senator Lenney** explained this legislation was addressing the Child Protective Act section of Code. Some of the changes found in this bill include making any attempt to initiate a CPS referral based on immunization status prohibited, and the Court could not grant an order to terminate a parent/guardian and child relationship based on immunization status. **Senator Lenney** cited several instances in other states where issues like this have come up and how contentious they became. It was his hope the State of Idaho could get ahead of any problems like those.
- DISCUSSION:** **Senator Wintrow** asked the Sponsor if there had been any cases in Idaho where the government had attempted to take children away from their family due to their vaccination status. **Senator Lenney** responded by stating that Idaho's Code was "vaccine agnostic". He continued stating that a spokesperson for the Department of Health & Welfare told the press that there might have been CPS referral cases where vaccine status had been included in their reports. **Vice Chairman Foreman** asked the Sponsor if there were any codified protections in Idaho with respect to the issue or if it was ultimately left to the individual judge to decide on a case-by-case basis. **Senator Lenney** indicated that his interpretation was that it would be left up to the judge's discretion. He also stated the legislation was an attempt to solidify parental rights and codify other elements of the CPS referral process.
- TESTIMONY:** **S 1029** had three people register to testify, all of whom were supportive of the legislation. **Jackie Davidson**, Boise, Idaho, stated that as a parent and a grandparent she wanted to have her parental rights protected. She indicated that she believed there were not cases of children being removed from their families due to vaccination status in Idaho, but that she felt this legislation would effectively preempt that from ever happening. **Doris Phillips**, Boise, Idaho, cautioned against any action that would result in the separation of a child from their family. She had seen first hand how traumatizing that could be on both sides. **Ms. Phillips** also warned against suggesting youth taking untested vaccines, and urged the Committee to act to protect children. **Tiffany Kreck**, Maine, who acts as a director of an advocacy program, said her organization had noticed an increasing number of instances across the country where vaccine status had become a point of contention in family court cases. She further cautioned that in Maine, they thought they were safe from instances of children being taken from their parents in such a manner until it was too late, and urged Idahoans take action.
- MOTION:** **Vice Chairman Foreman** moved to send **S 1029** to the Senate floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

S 1034 **Court Fee Transmission to the State Treasurer.** **Senator Hartgen** had agreed to carry this legislation for a number of county clerks who were hoping to make the schedule to which they pay fees to the State Treasurer consistent throughout the State. The payment date would be the 15th of the month. At present, several were to be paid by the 5th and others on the 15th. Those involved in the payment process were asking for the date to be made consistent so there would be no question on payment due dates.

MOTION: **Vice Chairman Foreman** moved to send **S 1034** to the Senate floor with a **do pass** recommendation. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

S 1035 **Fees for Court Venue Changes.** **Senator Hartgen** proposed legislation which would allow a venue change to retain the \$29 fee with the original county and transfer the necessary documents using the Odyssey system.

MOTION: **Senator Ricks** moved to send **S 1035** to the Senate floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

JFAC DISCUSSION: **Chairman Lakey** began the JFAC discussion by asking the Committee if there were any priorities they wanted him to present before JFAC. **Senator Anthon** stressed the importance of competitive compensation for state police and judges to keep and attract talent, acknowledging the Legislature had done good work in this area, but there remained more to do. **Vice Chairman Foreman** expressed his desire for the State to explore a program that reimburses counties for accommodating state prisoners. **Senator Lee** reiterated the concern Senator Anthon expressed about judges in Idaho not being competitively compensated for their work. She also suggested the Committee urge JFAC to give further financial support to the P.O.S.T program and ensure it was fully funded so more people could get certified. **Senator Hartgen** raised a concern about Idaho's incarceration rates, and suggested JFAC explore creating better funding diversion programs to improve quality of life and ease tax burdens. **Senator Hart** echoed some of the same sentiments as Senator Hartgen, identifying housing, transportation, and work placement programs as good areas to focus on.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:38 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Kieran Sprague
Assistant Secretary