

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, February 27, 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 2:15 p.m.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Wintrow** moved to send the Gubernatorial Reappointment of Shelly Parker to the Commission of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Anthon** moved to send the Gubernatorial Reappointment of Scott Smith to the Commission of Pardons and Parole to the floor with the recommendation that he be confirmed by the Senate. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Lee** moved to send the Gubernatorial Reappointment of Terry Kirkham to the Commission of Pardons and Parole to the floor with the recommendation that he be confirmed by the Senate. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

**S 1105** **Chairman Lakey** announced that Senator Adams was not in attendance and the Committee would move on with **S 1105**.

**S 1105, Sex Offender Registration, Revision.** **Ashley Dowell**, Executive Director, Idaho Commission of Pardons and Parole, announced the intent of **S 1105** was to clean up language in State Code that became confusing following the passage of a bill that pertained to the sex offender registry. The previous legislation was crafted to have "crimes against nature" removed from Code, since it was declared unconstitutional. Criminal justice groups were concerned the language became misleading, so the goal was to ensure no one was accidentally removed from the registry.

**MOTION:** **Senator Ricks** moved to send **S 1105** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

**Child Abuse, False Reports.** **Senator Herndon** said the aim of the legislation was to amend the Child Protection Act section of Idaho Code to have false Child Protective Services (CPS) claims or reports upgraded to a misdemeanor with the potential for up to a \$1,000 fine and/or three months in county custody. Currently, Idaho Code would allow a parent to seek criminal damages for false claims only if they knew the person who made the report. The anonymity required in the CPS reporting process needed to be dealt with and to accomplish this, the legislation would have provisions added to the perjury section of Code. To relieve concerns, he said there would be an immunity provision for people who could have submitted reports using false information, because they did not act in malice. **Senator Herndon** said that 29 states attached criminal penalties to such offenses, and suggested Idaho do the same by passing this legislation. The ultimate goal of this legislation, he said, was to reduce persistent, bad-faith actions that consume CPS resources, preventing them from going after people who were actually putting children in harm's way. He concluded by stating that he included written testimony from a social worker in the Committee's materials (see Attachment 1).

**DISCUSSION:**

**Senator Lee** asked what the burden of proof would look like if bad faith actions in a CPS case were shifted from a civil to criminal standard. **Senator Herndon** said he consulted with prosecutors on the language, and it was their understanding that the changes to Code that would have come with this legislation's passage would effectively allow them to litigate in those circumstances, and that events like pattern reports that were proven false would establish grounds for criminal prosecution. **Senator Anthon** inquired about how they decided on three months and/or \$1,000 fine if those acts were made misdemeanors. **Senator Herndon** said that a lot of the other states that have codified a similar punishment opted for a six-month duration, but he thought that was too aggressive, and a three-month period was sufficient. **Senator Wintrow** asked if Senator Herndon had supporting materials from the Attorney General on the proposal. **Senator Herndon** said he did not, but he worked with their office while crafting the legislation. **Senator Wintrow** followed up by asking how the prosecution would be able to prove a report was made in bad faith. **Senator Herndon** said it was circumstantial, but that the process would involve evidence collection, usually based on repeat behavior of false report submissions. **Senator Anthon** expressed that prosecutors were already adequately empowered under Code to go after offenders like these, and that the legislation might be unnecessary, or could even reduce the sentencing for them.

**TESTIMONY:**

**Ronald (Scot) Allen** from Horseshoe Bend testified in favor of **H 66**. He said he was a father of nine and the victim of over 10 false reports to CPS. The false reporting put him and his family through a great deal of emotional and financial challenges, and it was his belief **H 66** would give victims and social workers alike protections from the abuses of the reporting system. **Mr. Allen** mentioned that one of the social workers he interfaced with was also a victim of false reports. **Senator Anthon** asked if Mr. Allen knew who it was that submitted all the false reports. **Mr. Allen** said that he did not know, since the reporting system involved reporter anonymity. **Senator Lee** asked if Mr. Allen had any conversations with his county prosecutor. **Mr. Allen** said that he had not, but that he had spoken to all the CPS personnel he could, but he kept hitting dead ends. **Senator Lee** followed up to ask if he thought **H 66** would help in his situation since reporters would still be anonymous, and suggested he get in contact with his prosecutor. **Mr. Allen** said that he had been advised to get representation and bring a civil case to a judge and that, in extreme circumstances like his, there should have been legal ramifications on the books for anyone who was found to have deliberately and repeatedly filed malicious CPS reports. He also said he included a written statement for the Committee (see Attachment 2).

**Devin Miller** spoke in favor of **H 66**, and urged the Committee to help Idaho follow the lead of the 29 other states that had codified more aggressive penalties for false CPS reports.

**Alicia Abbot** from Sandpoint, Idaho did not testify, but registered as being against the bill.

**MOTION:** **Vice Chairman Foreman** moved to send **H 66** to the floor with a **do pass** recommendation. **Senator Hart** seconded the motion. **Chairman Lakey** called for a roll call vote. **Senators Anthon, Ricks, Hart, Vice Chairman Foreman** and **Chairman Lakey** voted aye. **Senators Lee, Hartgen, Wintrow, and Ruchti** voted nay. The motion carried.

**RS 30425** **Coronavirus Vaccinations.**

**MOTION:** **Senator Anthon** moved that **RS 30425** be sent to print. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

**S 1023** **Office of Administrative Hearings**

**H 52** **Grand Juries**

**S 1023** and **H 52** were held due to lack of time.

**ADJOURNED:** There being no further business, **Chairman Lakey** adjourned the meeting at 3:00 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary

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Kieran Sprague  
Assistant Secretary