

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 13, 2023

TIME: 2:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman VanOrden, Vice Chairman Zuiderveld, Senators Lee, Harris, Bjerke, Wintrow, and Taylor

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 VanOrden** called the meeting of the Health and Welfare Committee (Committee) to order at 2:15 p.m.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Mark Bowen to the Board of Environmental Quality. Mr. Bowen** stated he had a consulting engineering background. His first appointment to the Board was in 2018, and was seeking reappointment for 2023.

DISCUSSION: **Senator Lee** asked what one of the biggest challenges he foresaw was, or if there was something he thought the Committee should know. **Mr. Bowen** responded that one of the big challenges the State of Idaho faced right now was funding for infrastructure in smaller communities, as those systems had aged dramatically.

Senator Wintrow inquired as to how he plans to balance safety as well as efficiency. **Mr. Bowen** replied one must struggle with competing interests, and believed it was a conversation that needed to be had. The decision makers were the ones who must to make those judgments.

Senator Taylor invoked Senate Rule 39 H for a possible conflict of interest.

S 1154 **HEALTH - Amends existing law to clarify requirements for criminal history and background checks for potential temporary caregivers. Senator Lee** explained last year, a piece of legislation was passed that allowed family caregivers to temporarily help children who were at risk of entering the foster care system, which required a background check. This bill would allow the Department of Health and Welfare to obtain that check at no cost to the caregiver.

MOTION: **Senator Harris** moved to send **S 1154** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

H 264 **GESTATIONAL AGREEMENTS ACT - Adds to existing law to enact the Gestational Agreements Act. Representative Green** stated this bill codified into statute best practices the Idaho surrogacy industry already used. Currently there was no statutory law in Idaho that addressed surrogacy.

Representative Healey explained the Gestational Carrier Agreement protected the parents, the gestational carrier, and the baby. Currently, the names of both parents were not on the original birth certificate. Idaho mandated a court process to remove the name of the surrogate from the birth certificate, and add the child's parents to it. The bill would help create a more smooth process after the baby was born for the surrogate, and less of a burden for the child's parents.

TESTIMONY: **Jacqueline Wakefield** testified in opposition, stating that contrary to the proposed statute, there was intent to protect the welfare of children born. It fails to protect the unborn children involved in the process, as some of those procedures involved in that technology resulted in embryos frozen, destroyed, or subject to experimentation. She submitted written testimony.

DISCUSSION: **Senator Lee** asked if her opposition was to the in vitro fertilization (IVF) or to the enforceable agreements that could protect all parties involved. **Ms. Wakefield** replied it failed to protect the unborn. **Senator Lee** asked if there was a specific part of the bill identified that was bothersome, or was there something that could be added to the bill to enable her support. **Ms. Wakefield** replied it did not protect unborn children, and asked to submit written testimony for the record.

TESTIMONY: **Breanna Shrenk** testified in support of **H 264**. She stated as a surrogate, she had carried for four families. She said the most challenging part was the mandatory court process that she was forced to attend 3 days after she delivered the baby, that terminated her right to the child, when she was aware the child was not hers to begin with.

Karen Simkins testified in opposition of **H 264**. She stated the bill was representative of a tourism industry in Idaho that was unregulated and needed study from the Committee to consider how it affected families.

Emily Naugle registered in opposition to **H 264**.

Heather Seychelle testified in support of **H 264**. She explained she was disappointed with the mandatory court process that placed their name on their baby's birth certificate, as she was made to inform the judge why they would be good parents. She felt that if she had given birth to the child herself, she would not need to explain to a judge that she would be a good parent. She did not feel this was a fair process.

Megan Wold, Right to Life Idaho, testified in opposition of **H 264**. She urged the Committee to reconsider the bill, as the purpose was to facilitate contracts consistent with Idaho's public policy. Idaho Code prevented a surrogate contract from limiting a surrogate's right to make personal decisions to safeguard her health or the embryo or fetus she carried. She stated that language could allow a surrogate to obtain an abortion if she believed it was in the interest of her mental or emotional health, despite any objection of the intended parents.

Melissa Sherman, Selenia Prado, Shannon Rayner, Renee Rippey, Dr. Kevin Maas, Idaho Center for Reproductive Medicine, Yuki Moss, Shaylan Pease, Jennifer Ellsworth, Vaughn Ellsworth, and Sarah Edmunds, testified in support of **H 264**, as each of them were not able to have children of their own without the assistance of a surrogate.

Crystal Kulack testified in support of **H 264**. She explained she was a surrogate who assisted the Sherman's to have their own family. She stated the questions asked at the court hearing were redundant and unnecessary, as the contract had already been created by the medical professionals. The terms of that contract were clearly understood by all parties, and was signed and notarized before the embryo was ever placed in her womb.

DISCUSSION: **Vice Chairman Zuiderveld** asked if this bill stated that life began at the time of conception. **Representative Green** answered that was not in the scope of what the bill attempted to obtain. **Vice Chairman Zuiderveld** asked how many gestational carriers were egg donors that resided in Idaho. **Representative Green** replied she did not know what that number was.

Vice Chairman Zuiderveld asked how much money a carrier received for carrying the child, and if that could be considered human trafficking. **Representative Green** stated some were compensated and some were not, as there was no expectation in the contract. They attempted to put provisions in place to ensure protection against the human trafficking of babies, because they were aware that process was a possibility.

Vice Chairman Zuiderveld inquired if the gestational agreement gave the carrier the right to abort the unborn child. **Representative Green** stated it was to ensure the mother could do what was necessary for her health and the baby.

MOTION: **Senator Lee** moved to send **H 264** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Zuiderveld** requested she be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman VanOrden** adjourned the meeting at 3:25 p.m.

Senator VanOrden
Chair

Michelle Tierney
Secretary