

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 13, 2023

TIME: 1:00 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 1:00 p.m. **Chairman Lakey** announced **H 187** would be heard first and then return to the agenda as listed.

H 187 **HEALTH - Repeals and adds to existing law to provide authority to administer CPR or use an automated external defibrillator and to provide legal immunity.** **Representative Ehlers** explained the first part of this legislation repealed existing regulations to incentivize more businesses to have Automated External Defibrillators (AED's) in the workplace. The second part was the addition of Good Samaritan language for immunity into State code to protect those using an AED in an emergency situation.

DISCUSSION: **Senator Wintrow** asked if the numerous regulations **H 187** proposed to repeal were included in the bill's language. **Representative Ehlers** confirmed they were.

Senator Ricks asked what the reasoning was for the drafting of the bill. **Representative Ehlers** said he previously worked for a company that worked with software and technology associated with AED's, and that exposure made him aware of the improvements made to the operability of those devices. That paired with the rise in heart problems in the United States, with over 360,000 cases of sudden cardiac arrest per year, was his inspiration.

TESTIMONY: **Erin Bennett**, Government Relations Director with the American Heart Association, testified in support of **H 187**. **Ms. Bennett** said that, for every minute that passed without treatment, someone's likelihood of survival would drop by 10 percent as a result of a cardiac event. She said that was an important consideration for rural Idaho, where emergency response times were 30 minutes or more. **Ms. Bennett** said she had worked with the Department of Education on rules that would require CPR and first aid training as a requirement for high school graduation.

MOTION: **Senator Ricks** moved to send **H 187** to the floor with a **do pass** recommendation. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

S 1156 **JUDGES - Amends existing law to revise a provision regarding the salaries of judges. Jason Spillman**, Legal Counsel, Administrative Office of the Courts, presented **S 1156** as a bill aimed to address the competitive disadvantage Idaho judges faced in terms of compensation. **Mr. Spillman** said Idaho judges were paid less than their peers in neighboring states, with salaries and benefits that lagged far behind the national average which caused many to become private sector attorneys. The bill language included raises for appeals, district, and magistrate judges of 7.5, 7.8, and 8.5 percent, respectively. Supreme Court justices were to receive a 7 percent raise as well.

MOTION: **Senator Ruchti** moved to send **S 1156** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

S 1158 **JUDGEMENTS IN CIVIL ACTIONS - Amends existing law to revise an exemption regarding motor vehicles and to define a term. Senator Anthon** said the inspiration for the bill was to stop a trend of conflicting results in case law that resulted from language surrounding exemptions for debtors that surrendered property to their creditors. The bill cleaned up language and added a new definition of motor vehicle. **Senator Anthon** asked the Committee to send **S 1158** to the **14th Order** of business for possible amendment.

DISCUSSION: **Senator Wintrow** asked for an example of vehicles being involved in collection situations and what was involved with the exemption. **Senator Anthon** said the Courts had determined a debtor that was in possession of an inoperable motor vehicle at the time of collection would lose it. That same practice was extended to those that were not licensed or registered, which inspired the legislation. A goal of the legislation was to protect debtors from losing their vehicles in those instances with an update to the definition in State Code.

MOTION: **Senator Ruchti** moved to send **S 1158** to the **14th Order** of business for possible amendment. Seconded by **Senator Hart**. The motion carried by **voice vote**.

H 186 **METHODS OF EXECUTION - Amends existing law to provide for execution by firing squad and to provide for certain requirements prior to an execution. Senator Ricks** said the intent for **H 186** was to amend State Code to add the firing squad as an alternative for lethal injection in the event supplies were unavailable for an execution within five days after the issuance of a death warrant. He said that Idaho had eight inmates on death row, with the potential for several more as a result of the high-profile incidents in Moscow and Rexburg, which made this legislation necessary if Idaho were to satisfy its constitutional and humane responsibility to have an alternative available. **Senator Ricks** said he spoke with the Director of the Department of Corrections, who said they were willing and able to carry out that responsibility if the legislation passed. He said the only additional cost to the State would be the creation of a facility for witnesses to attend, which was a constitutional obligation. **LaMont Anderson** with the Attorney General's Office took Senator Ricks' place to provide additional details and respond to questions.

DISCUSSION: **LaMont Anderson**, Lead Deputy Attorney General for the Capital Litigation Unit, said death penalty opponents had pressured drug manufacturers to not supply the materials needed to perform executions in states where it was legal, and that has handicapped Idaho's ability to carry any out. He said the primary mode of Capital Punishment in Idaho was hanging until 1978, at which point it was changed to lethal injection. In 1982, firing squad was added as an alternative, until a U.S. Supreme Court decision brought that practice to a halt in 2009.

Senator Anthon asked what methods of execution were legal, per the Court's determination. **Mr. Anderson** said it was his understanding that lethal injection, firing squad, and electrocution were the legal methods, and there had been conversations about an adjustment to the blend of drugs administered in a lethal

injection.

Senator Wintrow asked if the performance of a firing squad execution was considered humane. **Mr. Anderson** cited a majority opinion from *Glossip v. Gross* that determined the firing squad method was relatively quick and painless, and an expert declaration from a case in 1983 supported that.

Senator Ruchti asked if there were any other states that were limited in their ability to perform lethal injection executions due to an inability to access the necessary drugs. **Mr. Anderson** said Texas could be in that position soon, but he was unaware of any other states that could be in the same situation.

TESTIMONY: **Randy Gardner**, brother of Ronnie Lee Gardner, the last person in the United States to be executed by firing squad, testified that such a form of death is cruel and unusual punishment. **Mr. Gardner** explained the inhumanity that surrounded the proceeding, the trauma involved with the cleanup and the fallout from being involved in any way with taking the life of another person. He pleaded with the Committee to not let the firing squad be the form of death penalty used in Idaho.

TESTIMONY: Johnathan Baldauf, Colton Bennett, Amy Dundon, Randy Gardner, Mary Ruckh, Juandalynn Taylor, and Frank Thompson testified in **opposition to H 186**. The group expressed concern about the legal justification for the legality of firing squad executions. A 50-year court case in California over a forced firing squad execution on an inmate that did not consent raised their question of whether that response was a determination of that method of execution being cruel and unusual. Per case law, the original case that supported the use of firing squad executions came in 1878 in the then-Utah Territory. It was said at that time, when methods like hanging were used and now considered unethical, perhaps that same approach should have been taken during the review of firing squad executions, due to its cruel nature and the carnage left behind. Another consideration that was mentioned was the emotional impact on the emotional health of the Department of Corrections personnel that would be assigned that responsibility. They suggested that, since the Attorney General asked for the firing squad method to be discontinued in 2009, Idaho should continue to follow that recommendation.

MOTION: **Senator Foreman** moved that **H 186** be held in Committee subject to call of the chair. **Senator Ruchti** seconded the motion.

SUBSTITUTE MOTION: **Senator Lee** made a substitute motion to send **H 186** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. A roll call vote was taken. **Senators Lee, Anthon, Ricks, Hart, and Chairman Lakey** voted aye. **Senators Hartgen, Wintrow, Ruchti, and Vice Chairman Foreman** voted nay. The motion carried and **H 186** was sent to the floor with a **do pass** recommendation.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:08 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Kieran Sprague
Assistant Secretary