

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Friday, March 17, 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 and Rules Committee (Committee) to order at 1:05 p.m.

**Chairman Lakey** shared that the Committee had received hundreds of e-mails on **H 71** and he appreciated their interest in this important issue. He explained the hearing was to be carried out with a high level of decorum and respect to those who were participating. He said the Committee room was no place for high school sporting event behavior, and no intimidation or attempts to influence or distract people that testified was not acceptable. **Chairman Lakey** asked those testified to share their own opinions and not attack the opinions of others.

**H 71**

**CHILD PROTECTION ACT.** **Senator Den Hartog** explained to the Committee what this legislation did. She enumerated the following elements of the bill: 1) Established protections for children under the age of 18 from irreversible pharmaceutical and surgical interventions for the purpose of altering the appearance of a child's sex. 2) Prevented the off-label use of puberty blockers and cross sex hormones for the purpose of treating gender dysphoria 3) Prevented the removal of healthy organs and body tissues 4) Did not prevent the use of puberty blockers for early on-set puberty 5) Did not prevent medical treatment for medically verifiable genetic disorders of sex development, intersex disorders, or other issues for which the medications were authorized. The main reasons for the passage of this bill were the potential for lifelong sterility and sexual dysfunction and a lack of research that demonstrated the long term effects of puberty blockers, cross-sex hormones, and their safety in use for gender dysphoria treatment. **Senator Den Hartog** explained there was a piece of Code in **H 71**, established by a bill that passed a few years ago, that addressed female genital mutilation. After discussion, it was decided the idea to combine those two types of legislation together was not the right course of action. She suggested sending **H 71** to the 14 Order for possible amendment. The reason for this suggestion was to have that section of Code left alone. The female genital mutilation bill also prohibited travel across state lines, but the amendment aimed to separate that, and it would only relate to female genital mutilation. **Senator Den Hartog** added she had visited with a physician about the legislation and his concern was about the long term efficacy of the use of puberty blockers and cross-sex hormones and a lack of understanding about the long term health implications of their use. He indicated the United States medical community did not seem willing to self regulate in this space, but acknowledge that could be done through the State licensing process or legislatively. That was part of the reason **H 71** was introduced and brought before the Committee.

**Senator Wintrow** asked Senator Den Hartog how she thought this legislation might impact Idaho's parental control of their children. **Senator Den Hartog** responded that she was concerned about the way parents and their children were counseled through this process, and what kind of help they received from the medical community. The other consideration was the long term impacts of what was done. Those decisions were major and 18 years old did not mean they were capable of making such life-changing choices. She stated gender dysphoria was not new. This legislation did not include withholding therapy, counseling services or issues related to anxiety or depression. The bill suggested the State did not see the type of treatment discussed as appropriate for those under the age of 18.

**TESTIMONY:**

**Terri Pickens** spoke in opposition to **H 71**, and said it marginalized the LGBT community, of which her daughter was a part. She said legislative proposals like that hurt children, and those choices were better left to families and not a committee.

**William Malone**, an Endocrinologist, expressed his neutrality on the bill. He said the effects of puberty blockers were not reversible, most of those that used them became sterile, and there were no proven benefits to mental health or reduction of suicidal ideation.

**Gretchen Rauer** spoke in opposition to **H 71** on behalf of her transgender daughter. She said there was a lot of anti-trans legislation the Legislature worked on that greatly affected her daughter's well-being. She expressed concern that minors were able to, with parental consent, receive cosmetic surgery, piercings, and tattoos, but there was a line drawn when it came to their well-being.

**Bill Burleigh** shared that he used to be transgender, and he reverted after seven years as a woman. He shared his concern that people received gender-affirming care in cases where they really needed mental health therapy.

**Kara Saperston**, a Pediatric Urologist, urged the Committee to not pass **H 71** and pass a different bill that prevented surgical treatments for gender dysphoria in people under the age of 18. She said, if the patient received hormone treatments after they began puberty, their bodies had the ability to produce the hormones they were born with again once hormone treatment concluded.

**Christian Welp** said biological sex was a gift from God. He said biological sex and gender were inseparable, and people were graced once they accepted their identity.

**Roman Heuterman** spoke in opposition to the bill. **Roman** said it was not illegal to be transgender in Idaho, and it was a family's choice to decide what treatments were best for their circumstances.

**Dr. Scott French**, an Emergency Room physician, spoke in favor of the bill. He cited the high rate of suicides and suicide attempts among LGBT youth, and **H 71** protected them from treatments that had the ability to worsen their conditions.

**Robin Sautter** testified against the bill. **Robin** said **H 71** removed valuable treatment options for medical providers, and legislative actions like this contributed to the shortage of medical providers in Idaho.

**Craig Campbell** said society placed many restrictions on what minors could or could not do. He said that, if that was already the case, there was nothing wrong with the prohibition of treatment options that were irreversible when they were too young to make those decisions.

**Lora Volkert** urged the Committee to "Choose Lives over Lies". She said **H 71** was

bad policy, and gender-affirming care made a positive difference in the lives of transgender youth.

**Blaine Conzatti**, President, Idaho Family Policy Center, said his interactions with medical professionals convinced him that the treatments barred in **H 71** were not helpful for children. He said the solution for children that suffered from gender dysphoria ought to receive mental treatment rather than medical treatment.

**Mia Hoetker** urged the Committee to vote against **H 71**, as it was a violation of 32-1011, Idaho Code, that gave parents the ultimate authority to determine appropriate treatment for minors in their custody. She said those treatments saved the lives of people she knew, and asked the Committee to consider that as they made their decision.

**Peggy McFarland** said she was a counselor that worked with youth, particularly on the matter of gender dysphoria. She asked the Committee to pass **H 71**, and noted that there was a 19 percent increase in suicide within 15 years of transition.

**Lynn Thomson** spoke in opposition to the bill. **Lynn** described the challenges of life growing up as a trans youth in Idaho and how, after visits with many different medical professionals that were unsuccessful, gender-affirming care made life better.

**Katherine Aberle**, a Board-certified Surgeon, asked the Committee to pass **H 71**. She said surgical treatment, puberty blockers, or cross-sex hormones did not solve the root problems of gender dysphoria.

**Jessica Duvall**, American Pediatricians of Idaho, said people in her profession never recommended treatments that they did not think would help, and gender-affirming care was only recommended to families when it was needed. She urged a "no" vote on **H 71** and emphasized that most kids were told gender-affirming care was not recommended for them.

**Nicole Trakel** spoke in favor of **H 71**. She said children ought to be allowed to be kids and have the time to figure out who they truly were. She said it was best for them to wait for adulthood to make a life-altering decision.

**Neil Ragan**, Family Doctor, spoke in opposition to the legislation. He said there were more transgender adults in his care than children, and expressed his wish that those people were able to receive treatment when they were younger rather than wait and struggle for years before they could.

**Rodney Storey**, Physician, stressed the danger and consequences of the medications and surgeries **H 71** addressed. He said the risk of depression, bone density issues, cancer, and more were dramatically increased in those that received those treatments.

**Cole Krout** spoke against **H 71**, and said the physical and social transitions that came with treatment saved lives. Cole said it was incredibly difficult to grow up in Idaho, but transition helped make it easier.

**Jon Lyons** asked the Committee to advance **H 71** because of the harmful side effects of the mentioned medical and surgical treatments. He said minors did not have a full understanding of the long term consequences, and they needed protection.

**Chelsea Gaona-Lincoln** spoke in opposition to **H 71**, and claimed it was an act of government overreach. She said the bill removed the ability for families to decide for themselves what treatment was appropriate, and that Idaho attempted to legislate transgendered people out of existence.

**DISCUSSION:** **Senator Den Hartog** reminded the Committee that the legislation did not preclude those children from therapy, and recognized how important that treatment was. It did state that life-altering decisions required one to wait until the age of 18. Another concern was that many of these therapies were off-label treatments. Medicine was an art and many of the treatments were left up to the discretion of the physicians. **Senator Den Hartog** restated her original request to send the legislation to the 14th order for possible amendment to separate it from the female gender mutilation statute and leave it as it was when it was passed, and add a new section to do as **H 71** proposed.

**MOTION:** **Vice Chairman Foreman** stated his concern that gender-changing drugs were too easy to obtain and they caused irreversible harm. There was currently no science-based standard of care, and he felt the State had to take steps to regulate this area of medicine. **Vice Chairman Foreman** moved to send **H 71** to the 14th order for possible amendment. **Senator Anthon** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Wintrow** made a substitute motion to hold **H 71** in Committee. **Senator Ruchti** seconded the motion.

**DISCUSSION:** **Chairman Lakey** stated the substitute motion would be discussed first. **Senator Wintrow** explained she felt the evidence provided by several physicians was quite convincing that puberty blockers were reversible and not harmful. She appreciated the peer review information that was provided and the fact that no surgeries would be performed under 18 years of age. She added that her motivation to hold this bill in Committee was because it was about parent care and control. **Senator Wintrow** did not believe it was the place of the State to interfere with family relationships. **Vice Chairman Foreman** stated there was plenty of reason for the State of Idaho to step in and protect the public and regulate what was happening in this area of medicine. **Senator Hartgen** explained that parental rights were high on her list. It was important for us to choose what we would support and what we would not support. She stated she would like to see many things taken out of this legislation and only leave the surgery part in it. She will supported sending **H 71** to the 14th Order for possible amendment. **Senator Ruchti** stated he did not think Idaho should be doing this legislation. He believed individualism was an Idaho trait. He felt it was unfair and unwise to put prohibitions on requirements for medical care. Once they were put in code, they were hard to remove. He believed the government should stay out of these decisions and let the patient, parents, and doctors develop the right course of action for them. **Senator Anthon** supported sending the legislation to the 14th Order. He did not feel the bill would work as it was written and there were more concerns than just parental rights issues. **Senator Lee** added that she was anxious to see the legislation separated from the female genital mutilation section of code. She commented that there were things that she both agreed and disagreed with. She stated these were issues that were not going to go away and needed to be dealt with. **Senator Lee** supported sending **H 71** to the 14 Order in order to have further conversation. **Senator Ricks** added that he would also be supporting the motion to send **H 71** to the 14th Order and he wanted to give the full Senate an opportunity to weigh in on the legislation. He stated this was a very hard decision for families and especially for such young people. There were strong arguments which supported each side of this issue. **Chairman Lakey** said he would support the original motion to send **H 71** to the 14th Order. He agreed there was a need to take the legislation out of the female genital mutilation statute and possibly correct some inaccurate statements. He added the "do no harm" statement can be taken both ways and it complicates an even more difficult issue.

**SUBSTITUTE MOTION VOTE:** **Chairman Lakey** asked for a vote on the substitute motion to hold **H 71** in Committee. The nays carried the vote. The substitute motion failed.

**ORIGINAL MOTION VOTE:** **Chairman Lakey** asked for a vote on the original motion to send **H 71** to the 14th Order for possible amendment. The motion carried by **voice vote**. **Senators Ruchti** and **Wintrow** asked to be recorded as voting nay.

**ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 3:40 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary

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Kieran Sprague  
Assistant Secretary