

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, March 24, 2023

TIME: 1:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Ricks

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 1:00 p.m.

MINUTES APPROVAL: **Senator Hartgen** moved to approve the minutes of March 13, 2023. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

RS 30755 **Relating to Legislation of Findings and Approving Fee Rules Reviewed by the Senate Resources and Environment Committee. Senator Burtenshaw** asked to have **RS 30755** sent to print.

MOTION: **Senator Anthon** moved to send **RS 30755** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

H 341 **CRIMES AND PUNISHMENT - Senator Lee** asked that **H 341** be sent to the 14th Order of business for possible amendment. She indicated this legislation was important and needed to be passed but there were needed changes. **Senator Lee** introduced Lt. Kimball and asked him give an overview of human trafficking in Idaho.

TESTIMONY: **Lieutenant Jason Kimball**, Nampa Police Department, talked about human trafficking and what it looked like in Idaho (see Attachment 1). **Lt. Kimball** explained that most human trafficking is occurring online. He pointed out that the numbers given on the attachment were very conservative because law enforcement had limited access to dark web websites that cannot be researched. The time frame for the data collected was approximately six weeks from when their study was done. There was also a segment of about a 100 known brick and mortar sex trafficking locations. Many of them have licenses for massage therapists when they are working in sex trade. There were immigrants that come from foreign countries and were forced to participate in these operations. The attachment provided more information for localized areas. **Lt. Kimball** stated there were also illicit sex trade locations. They were located through undercover research done together with the task force on human trafficking. During the past five years, seven of these locations were shut down in the City of Nampa. The people who work there came from other states or countries and were forced to stay on the premises. They must have an escort to leave and were not allowed to even go for a walk unaccompanied.

Chairman Lakey asked if those people were prosecuted for human trafficking. **Lt. Kimball** responded that they were not. He stated that, in the past, the cases were taken to the prosecutors, they were told those cases were extremely hard to charge because of the Idaho code – the reason for the legislation being discussed. He added they wanted to make changes with **H 341** which would change their approach and give victims the support and find the justice they needed.

Jennifer Zelinski, Executive Director, Idaho Anti-Trafficking Coalition, stated **HB 341** fails to protect victims from being convicted of prostitution. She spoke passionately about the many ways people were treated and it was labeled as prostitution, yet so many times it was sex trafficking. To fight human trafficking, the demand to target traffickers must be addressed. Using the prostitution statute does not recognize any form of victimization and fails to address the exploitation of sexual activity, labor acts and services. Prostitution was through means of consent, Human trafficking was through means of non-consent, force or abuse, coercion, or blackmail. There needs to be a human trafficking statute that specifically address that crime and all crimes related to it. Using the prostitution statute to address human trafficking would take Idaho back 20+ years. Idaho could start on the right foot by creating its own statute for human trafficking.

Chad Benson, Detective, City of Nampa, said he had been able to work many regular types of cases as a detective and for the past two years he had been able to work human trafficking cases. He had removed people from trap houses, pulled victims out of familial trafficking situations, and participated in multi-agency operations where the approach had been victim centered. He had helped with reunification of families who had been a part of sex trafficking in one way or another and helped stop a Mexican cartel trying to establish a territory in Nampa. All of the efforts were focused on helping the victims survive sex trafficking. **Det. Benson** stated the one thing he had never seen was one person prosecuted for the sex trafficking crimes they committed. The Legislation being discussed in **H 341** would eliminate the problems with State code that have caused these people to not have to pay for their crimes. The victims do not have to be identified as a prostitute. They were not choosing, they were being forced into commercial sex trade. This legislation gave tools to those who needed them to hold those accountable who were trafficking these victims and moved forward with remedying the problem.

Monica Martinez, Victim Advocate/Case Manager, Idaho Anti-Trafficking Coalition, testified against **H 341**. **Ms. Martinez** stated her opposition was due to the strong belief that no human trafficking effort or victim protection law should be added to a prostitution statute that we know will directly hurt victims. She would like to bring awareness and education on this matter and how society perceive and treat victims. In Idaho, children were being arrested for prostitution and there were no mandate systems to protect them. This legislation would hold accountability, but at the expense of victims, because how we label them was how we treated them. If this was the starting point, then we have a chance to do it right. **Ms. Martinez** encouraged the Committee to read the human trafficking statute and implement training mandated, victim centered approaches, responses, and increase mandatory minimums for all trafficking offenses.

Jeff Nye, Chief, Criminal Law Division, Idaho Attorney General's Office, testified in support of **H 341**. **Mr. Nye** stated he would be answering questions that had been asked rather than giving prepared remarks. Regarding Senator Ruchti's question on protecting victims - subsection three was written because the authors did not want victims to be targeted. It specified who was to be completely excepted out of it. Senator Wintrow's question, relating to enacting this legislation rather than focusing on the human trafficking statute. After significant investigation, it was found the first step should be to have a good pimping statute. Human trafficking always required some form of force or coercion and it could be difficult to prove. One should be able to prove that there was some illegal sexual activity and some one else financially benefitted from it. You could still go after the people benefitting from that conduct. **Senator Wintrow** asked if victims were arrested for crimes in the example he referenced of a recent "sting." He responded they were and had learned from their mistake. **Senator Wintrow** asked how this language was chosen over another. **Mr.**

Nye responded it was used because it was to mirror the language that was used in subsection one to make it absolutely clear who was being referred to.

Senator Lee reminded the Committee that law enforcement needed this tool to be able to get to other tools that were taking a long time. Human traffickers were not being convicted in Idaho. This legislation would help to make that possible. There could still be work done on more complete legislation, but this would be a good first step and could help with the problem in the interim. It was a significant improvement to the policy to say these individuals shall not be criminally liable. The next step would be to have the Idaho Criminal Justice Commission work with the Attorney General's Office on amendments. **Senator Lee** asked to send **H 341** to the **14th Order** of Business for possible amendment. **Chairman Lakey** asked to have the mandatory minimum on line 20 on page one left in. **Senator Lee** agreed.

MOTION: **Vice Chairman Foreman** moved to send **H 341** to the **14th Order** of Business for possible amendment. **Senator Anthon** seconded the motion.

Senator Wintrow shared her experience on the Criminal Justice Commission and the many things she learned. One of the important lessons was, it was important to get the bad guy. But first and foremost, the victim's safety and their experience must be a top priority and then build the laws around that. It would require all to listen to what they said and how they felt. **Senator Wintrow** asked everyone to come together and center on the victim.

MOTION VOTE: **Chairman Lakey** expressed that there was a balance that he felt needed to be reached. It was very important to be aware of the victim and their needs and make that a priority. It was also necessary to put the bad guys in jail. If they were not in jail, more people were going to get hurt. He does not see **H 341** hurting any one. Discussions with the prosecutors revealed they had become concerned that many of the sex trafficking cases were not getting tried. It doesn't appear past changes had the desired effect. There needs to be more done. All in favor of supporting the motion to send **H 341** to the **14th Order** of business for possible amendment, please say aye. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 1:45 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary