MINUTES

SENATE JUDICIARY & RULES COMMITTEE

DATE:	Wednesday, February 26, 2025
TIME:	1:30 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, Wintrow, 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 Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.
	Chairman Lakey noted that Senator VanOrden and Senator Ruchti had conflicts, so **S 1113** and **H 36** were moved to the top of the agenda, followed by **RS 32442**, **H 19**, and finally the **Gubernatorial Reappointment.**
S 1113	**ADOPTION – Adds to existing law to establish provisions regarding postadoption contact agreements. Senator VanOrden** introduced the bill. **S 1113** created an agreement between the birth parents and adoptive parents before the adoption was finalized. It outlined any information deemed pertinent by either party to be shared and filed with the court. **Senator VanOrden** emphasized the voluntary aspect of the agreement. She explained that promises had been broken after an adoption was finalized and this prevented that.
DISCUSSION:	**Senator Lenney** inquired how this would change anything if an agreement was already voluntary. **Senator VanOrden** responded that the difference was current agreements were made verbally, the legislation put it in writing and having it in code increased effectiveness.
	Senator Wintrow asked if there had been any enforceability issues in other states. **Senator VanOrden** responded that she was not aware of any.
TESTIMONY:	**Cara Walsh**, a licensed social worker of 17 years, testified against **S 1113.** She highlighted two major concerns with the bill. The first was the impracticality of the courts to decide the best for a four to six-month old child. She explained that relationships naturally evolve. **Ms. Walsh's** second concern was that this bill would create significant financial and emotional burdens on both adoptive and birth parents.
DISCUSSION:	**Chairman Lakey** asked for clarification that this agreement was not required. **Ms. Walsh** affirmed but explained that notifying parents of their rights could result in them opting into a postadoption agreement where the cost was a burden. **Ms. Walsh** responded that she would change the agreement to go through the adoption agencies, not the courts. She explained that adoption agencies had been doing these agreements and reached out to the courts, when necessary, at no cost.

Senator Foreman asked if it would be better to have this agreement in writing than solely verbal. **Ms. Walsh** agreed but clarified that adoption agencies put these agreements in writing and offer to file them with the courts if the birth mother chose. **Senator Foreman** questioned if Ms. Walsh would be willing to work with the bill sponsor if **S 1113** was sent to the 14th Order. **Ms. Walsh** responded yes, but preferred starting from scratch.

Senator Wintrow clarified with Ms. Walsh that the process was already practiced and asked if the definition of "the best interest of the child" could be confused in court. **Ms Walsh** agreed. **Senator Ruchti** asked how adoption agencies kept these agreements separate from contracts. **Ms. Walsh** clarified that they had informed both sets of parents that agreements made were not legally enforceable when parental rights were terminated.

TESTIMONY: **Terry Marcroft** testified in support of **S 1113. Ms. Marcroft** explained that she was the main proponent of the bill. She described the different types of agreements that could be made, such as the exchange of photos or letters. **Ms. Marcroft** emphasized that similar legislation passed in two dozen other states.

DISCUSSION: **Senator Shippy** asked how these agreements would treat changing circumstances, such as the birth parents doing drugs. **Ms. Marcroft** answered if this were to happen, the agreement could be modified.

Chairman Lakey inquired how the court would enforce the agreements without awarding monetary damages. **Ms. Marcroft** responded that the courts would most likely do nothing, but the written agreement provided reassurance. **Chairman Lakey** asked for more clarification about enforcement. **Ms. Marcroft** explained that a written agreement compelled the adoptive parents to follow through.

Senator Ricks asked Ms. Moorcroft to expand on her experience and asked if she had seen agreements not honored. **Ms. Marcroft** described her past experiences working with adoption agreements and listed a few broad examples of broken agreements.

Senator Ruchti asked Ms. Marcroft to explain the difference between post-adoption and pre-adoption agreements. **Ms. Marcroft** stated she was not aware of pre-adoption agreements.

TESTIMONY: **Amber Stiles** testified in opposition to **S 1113**. She emphasized that **S 1113** blurred legal standards because birth parents felt they had to sign the agreement. **Ms. Stiles** explained that she worried about coercion because the agreement was filed with the courts. She stated that parents would feel an implied obligation.

Shelly Cozakos, a licensed adoption attorney, testified in opposition to **S 1113**. She highlighted how this bill affected multiple aspects of adoption proceedings, specifically the enforceability in tandem with the termination of birth parents' rights. **Ms. Cozakos** clarified that she was testifying primarily on behalf of adoptive parents.

DISCUSSION: **Senator Wintrow** asked how **S 1113** could impact the best interests of the child. **Ms. Cozakos** clarified that under this bill adoptive parents were unable to practice their parental rights to determine the best interests of the child without potential court interference. **Senator VanOrden** noted that there had been legal counsel on this bill. She emphasized that birth parents had a communication agreement to be kept aware of the child's development

Chairman Lakey asked if Senator VanOrden would be willing to send **S 1113** to the 14th order. **Senator VanOrden** stated that she would but clarified that those who testified in opposition had not contacted her about the bill.

MOTION: **Senator Foreman** moved to send **S 1113** to the floor with a **do pass** recommendation. **Senator Lent** seconded the motion.

DISCUSSION: **Senator Wintrow** stated that she did not want to support the bill if these agreements were already done by adoption agencies and stated the bill could open the door to a future lawsuit.

Senator Lenney said that he supported the concept of the bill, but testifiers swayed him to vote no.

Senator Ricks said that he was uncomfortable passing the bill in its current form. He noted that he wanted to send this to the **14th Order**.

SUBSTITUTE MOTION: **Senator Ricks** moved to send **S 1113** to the **14th Order. Chairman Lakey** seconded the motion.

DISCUSSION: **Vice Chairman Shippy** noted his concerns that this complicated who would have full parental rights as well as changing circumstances with the birth parents. He was worried about the best interests of the child and would be voting no.

ROLL CALL VOTE: **Chairman Lakey** called for a roll call vote on the substitute motion. **Senators Ricks, Lent,** and **Chairman Lakey** voted aye. **Senators Foreman, Lenney, Keyser, Wintrow, Ruchti,** and **Vice Chairman Shippy** voted nay. The motion failed.

ROLL CALL VOTE: **Chairman Lakey** called for a roll call vote on the original motion. **Senators Foreman and Lent** voted aye. **Chairman Lakey, Vice Chairman Shippy**, and **Senators Ricks, Lenney, Keyser, Wintrow, and Ruchti** voted nay. The motion having failed, **S 1113** was held in Committee subject to call of the Chair.

H 36 **IDAHO ADMINISTRATIVE PROCEDURE ACT – Adds to existing law to establish provisions regarding the issuance of a subpoena in a contested case. Senator Ruchti** introduced **H 36.** This bill created a subpoena enforcement mechanism for Administrative Procedures, as there had been no enforcement in the past. **Senator Ruchti** introduced Brian Nichols, the Chief Administrative Hearing Officer for the Idaho Office of Administrative hearings, to present the rest of the bill. **Mr. Nichols** explained that **H 36** was part of a larger effort to update Idaho code on contested cases from the 1961 to the 2010 version of the State Administrative Procedure Act. He explained that the new subpoena enforcement method had been used in other agencies.

MOTION: **Senator Foreman** moved to send **H 36** to the floor with a **do pass** recommendation. **Senator Shippy** seconded the motion. The motion carried by **voice vote.**

RS 32442 **Relating to State of Idaho entering into the Respiratory Care Interstate Compact. Senator Ward-Engelking** requested that **RS 32442** be sent to print and returned to the Health and Welfare Committee.

MOTION: **Senator Ricks** moved to print **RS 32442** and return it to the Health and Welfare Committee. **Senator Wintrow** seconded the motion.

DISCUSSION: **Senator Lenney** noted that he had always voted against interstate compacts and would vote no on **RS 32442.**

Chairman Lakey shared he did not like interstate compacts, but would vote to print this.

VOTE: The motion carried by **voice vote.**

H 19	**H 19 CRIMINAL HISTORY RECORDS – Amends existing law to authorize the submission of fingerprints of certain persons to the Bureau of Criminal Identification. Senator Keyser** presented **H 19.** This bill added other qualified services that served vulnerable populations to receive fingerprint services from law enforcement. **Senator Keyser** noted that **H 19** moved already practiced rules into code.
MOTION:	**Senator Shippy** moved to send **H 19** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion. The motion carried by **voice vote.**
GUBERNATORIAL REAPPOINTMENT:	**Committee Consideration of the Reappointment of Anna "Janie" Dressen of Coeur d'Alene, Idaho, to the Commission of Pardons and Parole** to serve a term commencing January 1, 2025. **Ms. Dressen** stated she was first appointed to the Commission in 1997 and retired in 2006 for three years. She was asked to return in 2009 and had served on the Commission since. She emphasized her love for the job and the pleasure of offering paroles to people.
DISCUSSION:	**Senator Wintrow** asked what Ms. Dressen thought the most important aspect was when making parole decisions. **Ms. Dressen** answered that public safety was the most important aspect. **Senator Lenney** questioned if a sexual predator could go through the Rider Program and be rehabilitated. **Ms. Dressen** responded that it was unlikely for them to be considered for the Rider program. Sexual predators were referred to a different program.
ADJOURNED:	There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:50 p.m.

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Senator Lakey
Chair

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Sharon Pennington
Secretary

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Allison Boden
Assistant Secretary