

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Wednesday, February 19, 2020

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Chaney, Acting Vice Chairman Monks, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Acting Vice Chairman Monks

GUESTS: The sign-in sheets will be retained with the minutes in the Committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

Chairman Chaney called the meeting to order at 1:30 p.m.

H 454: **Chairman Chaney** returned **H454** to the Committee for consideration. This legislation would amend the definition of "neglect" within the current child protection statutes.

MOTION: **Rep. Young** made a motion to send **H 454** to the floor with a **DO PASS** recommendation.

Rep. Marshall voiced concerns that the language concerning "imminent serious harm to a child" may set too high a standard and the language related to parental rights to seek a second opinion was unclear.

SUBSTITUTE MOTION: **Rep. McCrostie** made a substitute motion to **HOLD H 454** in Committee.

Speaking **in support** of the substitute motion, **Reps. Amador, Hartgen, Goesling, Wintrow, and Troy** echoed the concerns about unclear language and further pointed out that the large number of erroneous calls was an indication that the current law works well. Rep. Hartgen stated the number of unfounded calls are entirely worth the time and cost if even one child's life is saved by the current statute. Rep. Wintrow echoed the feeling and added there are cases in which a parent may not be equipped to properly care for a child or may not have a child's best interests at heart and thereby should be reported.

Speaking **in opposition** to the substitute motion, **Reps. Kerby, Young, Ehardt, and Zito** voiced support for the original motion as a measure to reduce time and money spent on erroneous calls to CPS. Rep. Young pointed out the Committee must consider the risk of causing family trauma due to unfounded calls, as well as the parental right to seek a secondary medical opinion for their child without fear of a CPS report.

ROLL CALL VOTE ON SUBSTITUTE MOTION: A roll call vote was requested on the substitute motion. **Motion carried by a vote of 10 AYE, 6 NAY, with 2 Absent/Excused. Voting in Favor** of the motion: **Reps. Chaney, Amador, Goesling, Hartgen, Marshall, Ricks, Troy, McCrostie, Wintrow, Davis. Voting in Opposition** to the motion: **Reps. Kerby, Zito, Zollinger, Ehardt, Scott, Young. Reps. Monks and Gannon** were Absent/Excused.

H 402: **Chairman Chaney** returned **H 402** to the Committee for consideration. This legislation would require CPS employees to be trained on the constitutional rights of parents.

MOTION: **Rep. Zollinger** made a motion to send **H 402** to the floor with a **DO PASS** recommendation.

In support of the motion, **Rep. Marshall** said he felt this legislation contained some hard decisions for lawmakers, but he believed it to contain the proper balance between the rights of children and the rights of parents.

VOTE ON MOTION: **Motion carried by voice vote. Reps. Davis, Wintrow, and McCrostie** requested to be recorded as voting **NAY. Rep. Scott** will sponsor this bill on the floor.

H 403: **Chairman Chaney** returned **H 403** to the Committee for consideration. This legislation would cross reference the Child Protection Act with the sections of Idaho Code relating to parental rights.

MOTION: **Rep. Hartgen** made a motion to send **H 403** to the House floor with a **DO PASS** recommendation.

Rep. Young noted that people often speak as if the rights of the child and the rights of the parents oppose each other. She asserted when the rights of the parents are upheld, the safety, health, and happiness of children are being upheld as well. She noted that there are exceptions where abuse or neglect take place.

VOTE ON MOTION: **Motion carried by voice vote. Reps. Davis, Wintrow, and McCrostie** requested to be recorded as voting **NAY. Rep. Scott** will sponsor this bill on the floor.

H 455: **Chairman Chaney** returned **H 455** to the Committee for consideration. This legislation would remove the term "other person" from the section of the Child Protection Act listing mandatory reporters.

MOTION: **Rep. Zollinger** made a motion to send **H 455** to the House floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Wintrow** made a substitute motion to **HOLD H 455** in Committee. She stated her belief of everybody's responsibility to report acts of child abuse or neglect.

Reps. Troy, Hartgen, and Amador spoke **in support** of the substitute motion. They stated friends and neighbors often notice instances of abuse before professionals and should be required to report because everyone should be responsible for the safety of children. Many false reports are filed out of a desire for revenge or vindication and those reports would still be filed under the new legislation.

Reps. Scott, Ehardt, Zollinger, Young, and Kerby spoke **in opposition** to the substitute motion. It was a consensus that people may still report instances of child abuse and this legislation would simply remove the penalty for people not in professions which are required to report and the law is not a reasonable expectation for citizens. It serves only to make people afraid of punishment and add to the false report rate. They stated people should report child abuse or neglect because it is the right thing to do, not because they are afraid of breaking the law.

ROLL CALL VOTE FOR SUBSTITUTE MOTION: A roll call vote was requested on the substitute motion. **Motion failed by a vote of 8 AYE, 9 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Amador, Goesling, Hartgen, Troy, Gannon, McCrostie, Wintrow, and Davis. Voting in opposition** to the motion: **Reps. Chaney, Kerby, Zito, Zollinger, Ehardt, Scott, Marshall, Ricks, and Young. Rep. Monks** was Absent/Excused.

ROLL CALL VOTE ON ORIGINAL MOTION: A roll call vote was requested on the original motion. **Motion carried by a vote of 9 AYE, 8 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Chaney, Kerby, Zito, Zollinger, Ehardt, Scott, Marshall, Ricks, and Young. Voting in opposition** to the motion: **Reps. Amador, Goesling, Hartgen, Troy, Gannon, McCrostie, Wintrow, and Davis. Rep. Monks** was Absent/Excused. **Rep. Scott** will sponsor this bill on the floor.

H 429: **Chairman Chaney** returned **H 429** to the Committee for consideration and requested the Committee send this legislation to General Orders. This legislation would create a pilot project that would give the Public Defense Commission supervision of public defenders in participating counties. This would allow under served counties better access to public defenders.

MOTION: **Rep. Zollinger** made a motion to send **H 429** to General Orders. He commented he found the legislation both useful and interesting as a pilot program and would like to see if it could be amended.

Committee discussion focused on the fiscal note as the biggest concern of this legislation. They did not feel they had enough information about the fiscal impact to make a decision.

SUBSTITUTE MOTION: **Rep. Zito** made a motion to **HOLD H 429** in Committee for a time certain of February 25, 2020 to allow the sponsor time to fix the fiscal note.

The Committee discussed the need for public defenders, especially in the more rural areas of the state.

VOTE ON SUBSTITUTE MOTION: **Chairman Chaney** was in doubt regarding the voice vote and called for a roll call vote on the substitute motion. **Motion failed by a vote of 7 AYE, 10 NAY, 1 Absent/Excused. Voting in favor of the motion: Reps. Zito, Ehardt, Hartgen, Troy, Young, McCrostie, and Wintrow. Voting in opposition to the motion: Reps. Chaney, Kerby, Amador, Zollinger, Scott, Goesling, Marshall, Ricks, Gannon, and Davis. Rep. Monks** was absent/excused.

VOTE ON ORIGINAL MOTION: **Chairman Chaney** called for a vote on the original motion to send **H 429** to General Orders. **Motion carried by voice vote.** Chairman Chaney will sponsor the bill on the floor.

H 460: **Rep. Barbieri** presented **H 460** to the Committee, regarding garnishment from a bank account for money owed. He explained Idaho currently only allows garnishments to be served through a sheriff's office and this legislation would allow lawyers to process garnishments and streamline the process. This change would reduce fees and taxes, and would bring Idaho into alignment with the rest of the nation.

Speaking **in support** of **H 460** were: **Kate Hass**, Kestrel West; **William Mark**, Johnson Mark LLC; and **Trent Wright**, Idaho Bankers Association. They mentioned the current system is unnecessarily time consuming, and since most garnishments have a 90 day period of activity, most expire without being acted upon while in the Sheriff's possession. They stated any fees outside of those listed within this legislation could not be charged without a court order. Additionally, Mr. Wright explained banks take the brunt of changes to the garnishment system, and the banks are in favor of this bill.

Speaking **in opposition** to **H 460** were: **Terry Derden**, Idaho Sheriffs Association and Ada County Sheriff's office; **Shirley Featherston**, Bingham County Sheriff's Office; **Sheriff Steve Bartlett**, Ada County Sheriff's Office; **Elizabeth Lloyd**, Supervisor of Civil Division of Ada County Sheriff's Office; and **Sheriff Vaughn Killeen**, Idaho Sheriff's Association. They stated the Sheriffs' offices currently handle garnishments due to the need for a neutral party to mediate and serve garnishments. They explained the fee charged by Sheriffs' Offices is cost based and Sheriffs' Offices do not make a profit on them, but all services provided are covered. They voiced concern for the implementation of this new system would cause confusion.

Rep. Barbieri summarized the biggest concern with this legislation seemed to be about fairness. He stated the issue of garnishments is the concern of banks, employers, and debtors, not the sheriffs. The legislation would streamline garnishments in a fair manner for all concerned parties and reduce the burden on banks.

Chairman Chaney called a recess of the committee at 3:35 p.m.

Chairman Chaney reconvened the meeting at 3:51 p.m.

H 464: **Rep. Hartgen** introduced **H 464** stating the intention of this legislation is to revise the homestead exemption and adjust for inflation. She then introduced **Alexandra Caval**, representing herself, to further explain the legislation. Ms. Caval stated that this bill would address the bankruptcy exemption and the assets that may be removed from consideration of payment, she further explained that the homestead exemption is currently fixed on the date when the case is filed and contains unclear language that doesn't protect the appreciation of homes. The legislation would remove that language and make the cap amount a static number as well as increase the amount on the homestead, personal property, vehicle, firearm, and tools of the trade exemptions in order to adjust for inflation. In response to Committee questions, **Ms. Caval** clarified that Idaho opted out of the Federal Exemption Code in order to create it's own, and that all exemptions used in Idaho come from this code. She also stated that medically necessary equipment is exempted in a different part of code and that it has no cap. **Rep. Hartgen** concluded by stating that it was probably time to bring this part of code up to standard.

H 459: **Rep. Rubel** introduced **H 459**, stating that the intention of this legislation was to protect renters in Idaho from unscrupulous practices by landlords who seek to take advantage of the growing market and current housing crisis by raising rent prices in large amounts with no warning. She stated the legislation would simply require landlords to give 45 days notice of a rent increase of 10% or more to tenants with a 12 month lease or 30 days for tenants with a month to month lease. She believed this would give renters enough time to decide if the increase would fit in their budgets or find new housing if necessary, helping to reduce the current housing crisis. **Rep. Wagoner**, the cosponsor, explained statistics for the Committee, showing how housing prices in his district of Caldwell have risen. The numbers constitute a very real housing crisis, and he stated this legislation could go far toward helping to alleviate that crisis.

Speaking in support for **H 459** were: **Lupe Wissel**, State Director AARP; **Kendra Knighten**, Idaho Voices for Children; **Zoe Olson**, Idaho Fair Housing Council; **Monica Fabbi**, Intermountain Fair Housing Council; **Mel Leviton**, **Anthony Yenason**, IFHC; **Jodie Peterson Stigers**, Interfaith Sanctuary; **Issa Mtakarutimauna**, IFHC. They stated the requirement would not be burdensome for landlords, but being given little to no notice is onerous for renters especially those with mobility issues. They pointed out this is not rent control, but simply gives renters reasonable time to find new housing or to get an additional job to afford the increase. Idaho rents have grown at a rate three times faster than wage increases, putting a considerable strain on households. Supporters called attention to the many people, including a large number of families with children, who face the choice of unaffordable rent or homelessness. They pointed out while this may seem like a problem only affecting the Treasure Valley, it is an issue state wide. Additional comments addressed out-of-state rental management companies which only care about the money and have no investment in Idaho or Idahoans.

Jane Williams testified in support of the bill. She shared her personal experience, stating that when her apartment complex was sold to an out of state company her rent was significantly raised with no warning, she inquired about a month-to-month rate as a short term solution, only to be told that it would be twice what she originally paid. She emphasized that she and her children are one minor problem away from homelessness.

Rep. Rubel stated a significant portion of Idaho's residents are living one small problem away from homelessness, including many children and people with disabilities. This legislation would not solve the problem, but would at least provide some extra time for those most vulnerable to find housing. In response to a Committee question, she explained in any case where a landlord is unable to provide 45-days warning before a lease expires, the lease would simply roll over into a month-to-month format at the current rate, after which the landlord would only be required to issue 30-days notice.

H 461:

Rep. Ricks introduced **H 461**, explaining Idaho currently has no state-wide process for landlords to follow after winning an eviction case. The counties and local governments currently set the rules a landlord must follow after successful eviction proceedings, leading to statewide disparities. The proposed legislation would set a uniform state-wide standard for these proceedings. **Rep. Ricks** introduced co-sponsor **Brian Stutzman**, representing himself, for further explanation. **Mr. Stutzman** explained the variability in requirements that landlords across the state face after a successful eviction. In many cases the landlords are responsible for any property left behind. He further stated any belongings left by an evicted tenant are largely trash, sharing his personal experience. In response to Committee questions, **Mr. Stutzman** explained the language in the legislation giving an evicted person 72 hours to vacate the premises would not take effect until after a court order had been issued. Because eviction processes can take up to a month the tenants would have much longer than 72 hours to prepare to move.

Speaking in opposition to **H 461** were: **Ms. Olson, Christine Pisaini**, Council of Developmental Disabilities, **Mr. Yenason, Ms. Fabbi**, and **Melissa Morales**. They stated tenants do not often have legal representation during eviction proceedings and this bill provides no requirements for representation or even notification. They added it is nearly impossible for a person to move in 72 hours and noted this bill has no provision for extenuating circumstances such as disability. It was further stated this bill seems to give landlords the power to carry out their own evictions without any direction for how to do so, and attention was drawn to the dangerous situations this could cause.

Rep. Ricks and **Mr. Stutzman** returned to the podium and clarified only a judge may issue an eviction order and the eviction process must be completed before this bill would come into play. This legislation is not intended to change the eviction process itself; it simply provides a unified statute for the whole state. The intention of this legislation is to reduce costs to landlords, preventing them from passing additional costs on to responsible tenants.

H 462:

Rep. Wintrow introduced **H 462** and **Jim Jones**, representing himself, to provide a thorough explanation of the bill. **Mr. Jones** shared a story about past clients who's landlord never walked through at move in or move out, but refused to return their security deposit due to damages. He mentioned the Ada County Housing Association had done a walkthrough with the couple and found the apartment had been in very poor shape at move-in. This legislation would require landlords to do a walkthrough at move in and move out when requested by a tenant, and provide documentation to the tenant as a measure to increase transparency and accountability for both parties.

Chairman Chaney called a recess of the committee at 5:45 P.M.

Chairman Chaney reconvened the meeting at 6:04 P.M.

Rep. Wintrow added the legislative intent of this bill is to increase transparency and remove surprise charges to tenants. The bill would also require landlords to provide an itemized receipt of expenses taken out of the security deposit and eliminate late fees after two charges limited to \$75.

In response to Committee questions **Rep. Wintrow** clarified landlords would be required by this legislation to make time for walkthroughs, and agreed to an amendment stating that move out walkthroughs would be on the established move out date.

Speaking **in support** were: **Ms. Fabbi**, **Ms. Pisaini**, and **Mr. Yenason**, sharing stories of situations where a walk through would have prevented problems and disputes over security deposits. They also shared examples of landlords who either refused or charged for walkthroughs. They stated this bill will benefit landlords and tenants by increasing transparency and fairness between parties.

Rep. Wintrow concluded by reiterating the bill is simply intended to increase transparency and protect both tenants and landlords.

H 431:

Rep. Troy presented **H 431** to the Committee, stating the transference of wealth from one generation to the next is the largest transfer of wealth in the history of the world. She stated these individuals have a strong desire not to leave all their wealth to family, but to give their money to charities. She stated this bill would amend existing code to require closing charity programs with 501(c)3 status to turn any leftover donated funds to another charity to comply with the charitable intent of the donor. They should also disclose this disbursement to the Attorney General of Idaho. **Rep. Troy** then introduced **Fred Delaine**, Deputy Attorney General, to explain. He reiterated this legislation would define the Attorney General's authority and the distinction of charitable trusts and assets compared to private trusts. The new language would also define the consequences of misappropriation of charitable assets. He stated most charitable organizations handle this process correctly, but some have not which prompted this bill. He concluded the bill is simpler than it looks and protects assets for the benefit of communities.

In response to Committee questions, **Mr. Delaine** stated the Attorney General's office would notify all charities in Idaho with a 501(c)3 status, including churches or faith-based charities if they hold 501(c)3 status. **Rep. Troy** reiterated this bill is meant to protect donor intent.

ADJOURN:

There being no further business to come before the Committee, the meeting was adjourned at 6:57 P.M.

Representative Chaney
Chair

Emma Wall
Secretary