

Gov's child support proposal still flawed

By Wayne Hoffman, Idaho Freedom Foundation

In a matter of days, state lawmakers return to Boise for an extraordinary session of the Legislature, where they will be asked to vote on a bill, as Gov. Butch Otter's proclamation put it, "to maintain a compliant state program of child-support services in Idaho ... and to ensure our state's policies for recognizing foreign judgments are preserved."

The governor's proclamation doesn't tell lawmakers what legislation to adopt, but the governor posted a proposal on his website that remains flawed despite new sections intended to satisfy recalcitrant legislators who balked at Senate Bill 1067 prior to adjournment of the regular legislative session in April. In general, the bill fails because it gives lip service to concerns lawmakers had about data security, due process, legislative oversight and state sovereignty.

For example, rather than create a process whereby state officials can proactively protect Idahoans from data breaches, the new proposal merely contains a requirement to notify child support program participants under the state's identity theft law that their data may have been compromised.

A provision calling for the governor or his designee to "monitor proceedings affecting Idaho residents" as part of the 2007 Hague Convention on the International Recovery of Child Support meekly promises to supply legislators with information about the monitoring upon request. A previous draft proposal compelled the Department of Health and Welfare to supply lawmakers with annual reports on this topic, meaning continuous legislative oversight.

Legislators who wonder whether the state will be bound to an international treaty forever will get no comfort from this proposal. The draft says, "If at any time it appears that (proceedings under the Hague convention) are imperiling Idaho residents or affecting Idaho residents in an unjust manner, it is the intent of the Legislature that request be made to the federal government to file a denunciation under Article 64 of the Convention on behalf of the State of Idaho." Denunciation is a process under a treaty that allows for participating governments to withdraw.

However, the governor's draft doesn't say how one would determine that Idaho residents had been harmed, or who would decide. Nor does the bill say who would make the request to the federal government. Furthermore, because Idaho's desire to withdraw from the agreement would be subject to action by the federal government, it would be entirely up to the federal government to decide whether to honor the state's request, rendering this section fairly useless.

The proposal would also benefit substantially from the addition of a simple sunset clause that requires lawmakers to act on it again at some future point. That would at least allow lawmakers to take more time to study this complex issue, provide oversight and protect Idaho's interests.

States are not mere administrative units of the federal government, in much the way counties are not administrative units of state government. Lawmakers must protect state sovereignty and the citizens of Idaho, not pass legislation just to make Congress, the White House or foreign governments happy.

Lawmakers have been told the new child support bill will contain safeguards. State lawmakers have a responsibility to make sure the bill being presented actually contains them. This version does not.