

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 600

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE JUDICIAL COUNCIL; AMENDING SECTION 1-2101, IDAHO CODE,  
2 TO REVISE PROVISIONS REGARDING MEMBERSHIP OF AND APPOINTMENTS TO THE  
3 JUDICIAL COUNCIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
4 1-2102, IDAHO CODE, TO REVISE A PROVISION REGARDING A CERTAIN DUTY OF  
5 THE JUDICIAL COUNCIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-  
6 TION 74-104, IDAHO CODE, TO PROVIDE FOR CERTAIN RECORDS OF THE JUDICIAL  
7 COUNCIL; AMENDING SECTION 48-1509, IDAHO CODE, TO PROVIDE A CORRECT  
8 CODE REFERENCE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE  
9 DATE.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 1-2101, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 1-2101. JUDICIAL COUNCIL -- CREATION -- MEMBERSHIP -- APPOINTMENTS --  
15 VACANCIES. (1) There is hereby created a judicial council, which shall con-  
16 sist of seven (7) permanent members, and one (1) adjunct member. Three (3)  
17 permanent attorney members, one (1) of whom shall be a district judge, shall  
18 be appointed by the governor from a list for each position that contains not  
19 less than two (2) and not more than four (4) qualified applicants submitted  
20 to the governor by the board of commissioners of the Idaho state bar with the  
21 consent of the senate. The lists from the board of commissioners of the Idaho  
22 state bar shall give due consideration to geographic representation and a  
23 variety of legal practices. In addition, ~~three~~ (3) permanent non-attorney  
24 members shall be appointed by the governor with. All six (6) permanent mem-  
25 bers appointed by the governor shall be subject to the consent of the senate.  
26 If any of the above appointments be made during a recess of the senate, they  
27 shall be subject to consent of the senate at its next session. The term of  
28 office for a permanent appointed member of the judicial council shall be six  
29 (6) years. Vacancies shall be filled for the unexpired term in like manner.  
30 All ~~a~~Appointments shall be made with due consideration for ~~area~~ geographic  
31 representation and not more than three (3) of the permanent appointed mem-  
32 bers shall be from one (1) political party. The chief justice of the ~~S~~supreme  
33 ~~C~~court shall be the seventh member and chairman of the judicial council. No  
34 permanent member of the judicial council, except a judge or justice, may hold  
35 any other office or position of profit under the United States or the state.  
36 The judicial council shall act by concurrence of four (4) or more members and  
37 according to rules ~~which~~ it adopts.

38 (2) In addition to the permanent members of the judicial council, when-  
39 ever there is an issue before the council ~~which~~ that involves the removal,  
40 discipline or recommendation for retirement of a district court magistrate,  
41 the chief justice shall appoint an adjunct member of the judicial council,  
42 who shall be a district court magistrate. For all purposes for which the ad-

1 adjunct appointment is made, the adjunct member shall be a full voting member  
2 of the judicial council.

3 SECTION 2. That Section 1-2102, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 1-2102. DUTIES OF COUNCIL. The judicial council shall:

6 (1) Conduct studies for the improvement of the administration of jus-  
7 tice;

8 (2) Make reports to the supreme court and legislature at intervals of  
9 not more than two (2) years;

10 (3) Submit to the governor the names of not less than two (2) nor more  
11 than four (4) qualified persons for each vacancy in the office of justice  
12 of the supreme court, judge of the court of appeals, or district judge, one  
13 (1) of whom shall be appointed by the governor; provided, that the council  
14 shall submit ~~only~~ the names of only those qualified persons who are eligible  
15 to stand for election pursuant to section 1-2404, 34-615, or 34-616, Idaho  
16 Code; and provided further that the governor may reject one (1) list of names  
17 submitted for any vacancy, in which case the council shall solicit interest  
18 in the vacancy a second time and submit a second list of not less than two (2)  
19 and not more than four (4) qualified applicants for the vacant position. No  
20 person whose name was submitted initially shall be submitted a second time  
21 for the same vacancy;

22 (4) Recommend the removal, discipline and retirement of judicial offi-  
23 cers, including magistrates;

24 (5) Prepare an annual budget request in the form prescribed in section  
25 67-3502, Idaho Code, and submit such request to the supreme court, which  
26 shall include such request as submitted by the judicial council in the annual  
27 budget request of the judicial department; and

28 (6) Such other duties as may be assigned by law.

29 SECTION 3. That Section 74-104, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 74-104. RECORDS EXEMPT FROM DISCLOSURE -- EXEMPTIONS IN FEDERAL OR  
32 STATE LAW -- COURT FILES OF JUDICIAL PROCEEDINGS -- JUDICIAL COUNCIL. (1) The  
33 following records are exempt from disclosure:

34 (1a) Any public record exempt from disclosure by federal or state law or  
35 federal regulations to the extent specifically provided for by such law  
36 or regulation.

37 (2b) Records contained in court files of judicial proceedings, the  
38 disclosure of which is prohibited by or under rules adopted by the Idaho  
39 supreme court, but only to the extent that confidentiality is provided  
40 under such rules, and any drafts or other working memoranda related to  
41 judicial decision-making, provided the provisions of this subsection  
42 making records exempt from disclosure shall not apply to the extent that  
43 such records or information contained in those records are necessary  
44 for a background check on an individual that is required by federal law  
45 regulating the sale of firearms, guns or ammunition.

46 (2) The judicial council rating of candidates for a judicial vacancy  
47 whose names are submitted to the governor and the tabulated scores from

1 attorney questionnaires on the qualifications of those candidates shall be  
2 public.

3 SECTION 4. That Section 48-1509, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 48-1509. PUBLIC RECORDS. All documents submitted to the attorney gen-  
6 eral by any person, including nonprofit hospital entities giving notice un-  
7 der section 48-1503, Idaho Code, in connection with the attorney general's  
8 review of the proposed nonprofit hospital conversion transaction pursuant  
9 to this chapter shall be deemed records contained in court files of judicial  
10 proceedings, as provided for in section 74-104 (~~21~~) (b), Idaho Code, and shall  
11 only be subject to public disclosure, pursuant to a public document request,  
12 in the same manner as set forth in that section.

13 SECTION 5. An emergency existing therefor, which emergency is hereby  
14 declared to exist, this act shall be in full force and effect on and after  
15 July 1, 2022.