

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, February 16, 2024

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senators Anthon and 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 1:30 p.m.

PRESENTATION: **Honoring of Page Naomi Foster.** **Chairman Lakey** asked Ms. Foster what she learned during her time as a Committee Page at the Capitol. **Ms. Foster** stated that she learned a more in-depth process of government and had a greater appreciation for state government.

Senator Lee asked Ms. Foster what her plans were for the future. **Ms. Foster** gave a brief overview of her plans for the future and her planned time in Reserve Officers' Training Corps (ROTC). The Committee presented her with gifts and letters of recommendation.

NOTE: **Chairman Lakey** stated that due to necessary clarification requests, **S 1278** would not be presented in Committee.

S 1263 **LIENS FOR PERFORMANCE OF FUTURE OBLIGATIONS – Amends existing law to provide for certain contracts secured by deeds of trust.** **Senator Ruchti** was to present the bill and invited Ken Howell, Attorney, Holly Troxell and General Counsel for Idaho Bankers Association, to assist with the presentation of the bill. **Mr. Howell** stated that the bill addressed an issue created by an Idaho Supreme Court decision in 2016 called Liberty Bankers. There was an explanation of legal gaps regarding deeds of trust. The Idaho Bankers Association proposed an amendment to Idaho Code § 45-108 to rectify this issue. **Mr. Howell** concluded that the bill was to make a very minor change in the language to say that liens and obligations secured by deeds of trust related back to the original priority date for purposes of future advances.

DISCUSSION: **Senator Wintrow** questioned what happened if the change was not made. **Mr. Howell** explained that lenders would use mortgages and the functionality worked the same until there was a default. Under the laws of the State of Idaho, to collect on a mortgage, a lender was required to file a foreclosure lawsuit. Ultimately, the impact on the consumer was a much more expensive process for collection.

TESTIMONY: **Trent Wright**, President and Chief Executive Officer (CEO), Idaho Bankers Association, testified in support of the bill. He noted additional support from the Idaho Realtors Association, the Associated General Contractors, and the Go West Credit Union.

MOTION: **Senator Wintrow** moved to send **S 1263** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

- S 1276** **PAYMENTS TO THE COURT – Amends existing law to revise a provision regarding an electronic payment convenience fee.** **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, described the issue that the current fee process did not align with that of standard industry practice. He explained the vendor kept the convenience fee for providing a service, required the courts to funnel the fee through the Court Technology Fund (Fund), and back to the vendor. **Mr. Spillman** stated the requirement to deposit the fee would be stricken to align with industry practice and eliminate the inefficiency associated with funneling the fee through the Fund.
- DISCUSSION:** **Senator Hart** queried if someone did not want to use a credit or debit card, whether they could still write a check, do a wire transfer, or pay in another form. **Mr. Spillman** explained that other methods of payment were accepted. He believed that all the county clerk's offices accepted cash as well, but was unaware of the possibility for wire transfers.
- MOTION:** **Senator Hartgen** moved to send **S 1276** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.
- S 1277** **ADDRESS CONFIDENTIALITY FOR JUDICIAL OFFICERS – Amends Laws of 2023 to define "Idaho residential street address."** **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, explained that this bill related to a piece of legislation that the courts requested last year regarding safety concerns that judges were encountering that was already passed, (Title 19, Chapter 62). He stated that this bill provided clarification of the definition of a judicial officer's "Idaho residential street address" to include a legal description of real estate containing the location of such address. This bill was said to provide clarity for both the judicial officers and public agencies.
- MOTION:** **Senator Hart** moved to send **S 1277** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.
- S 1278** At the request of the sponsor, Chairman Lakey, **Chairman Lakey** stated this bill would not be presented in Committee.
- S 1281** **HEALTH - Amends existing law to clarify requirements for criminal history and background checks for potential temporary caregivers.** **Senator Lee** stated this bill was a clarification to authorize the Idaho Department of Health & Welfare (IDHW) to submit the fingerprints of temporary caregivers to the Federal Bureau of Investigation (FBI) to process criminal history and background checks. **Senator Lee** stated that this statutory update was needed in order to add this category of caregivers as an approved group per FBI requirements.
- MOTION:** **Senator Wintrow** moved to send **S 1281** to the floor with a **do pass** recommendation. **Senator Hart** seconded the motion. The motion carried by **voice vote**.
- RS 31325** **Relating to Clarification of Payments for Indigent Individuals through the Office of the State Public Defender.** **Senator Lee** stated that there was a gap in the public defense funding and their responsibilities. She explained how this piece of legislation provided clarification that the Office of the State Public Defender (OSPD) had the responsibility to provide coverage and payment for representation for counties prior to the creation of the OSPD, as well as any statutorily required coverage. **Senator Lee** further stated that this bill created a fund to coordinate statewide payments for Guardian Ad Litem representation previously paid by individual counties.
- MOTION:** **Senator Hartgen** moved to send **RS 31325** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

RS 31373

Relating to Adoption Restrictions. Senator VanOrden reported this legislation addressed adoption facilitators and unlicensed adoption facilitators. These adoption facilitators were also referred to as "brokers." She explained that this legislation would ensure that unlicensed adoption facilitators would be guilty of a misdemeanor.

DISCUSSION:

Senator Foreman asked what the reasoning was behind the restrictions on how much these agencies could spend. **Senator Foreman** stated that he was referencing line item 5. **Senator VanOrden** stated that it was addressed in existing Code.

Senator Foreman queried if Senator VanOrden knew of agencies or groups that were acting as "brokers" financially supporting women that were in trouble. **Senator VanOrden** responded that she personally did not know of this and stated that this was something that was to be prevented. **Senator Lee** also stated that the current statute ensured babies were not bought and sold.

MOTION:

Senator Lee moved to send **RS 31373** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Lakey** adjourned the meeting at 3:06 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Olivia McDonald
Assistant Secretary