

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, February 26, 2024

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

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

**ABSENT/ EXCUSED:** Senator 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 & Rules Committee (Committee) to order at 1:30 p.m.

**MINUTES APPROVAL:** **Senator Foreman** moved to approve the Minutes of January 22, 2024. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Senator Wintrow** moved to approve the Minutes of January 29, 2024. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Senator Hartgen** moved to approve the Minutes of January 31, 2024. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT:** **Committee Consideration of the Reappointment of John D. Hayden, Jr. of Boise, Idaho to the State Board of Correction to serve a term commencing January 1, 2023 and expiring January 30, 2029. Mr. Hayden** stated he was educated in Idaho and involved with a family business. He was appointed to the Board of Correction Board five years ago, but due to a paperwork error did not take on the role.

**DISCUSSION:** In response to Committee member questions, **Mr. Hayden** described the role of the director and what his goals and objectives were for the role. He stated his objective was to develop a mechanism for accountability. Other goals included more higher education programs, mental health programs, and solutions for addiction both during an inmate's term and after supervision. He explained that some county jails were not as crowded, but appreciated the income that came from inmates being kept there. He said that he preferred the programming that the Department of Correction (DOC) system provided. He explained that it was the director's job to make decisions.

**Chairman Lakey** asked if there were any other questions. There were no further questions. He thanked Mr. Hayden for his service on the board. **Chairman Lakey** stated that a vote would be held at the next Committee meeting.

**S 1343**                    **FIREARMS, EXPLOSIVES, AND OTHER DEADLY WEAPONS - Amends and adds to existing law to revise a provision regarding a false report of explosives and to provide for the crime of false reports of violence or emergency in public or private places. Senator Nichols** was scheduled to present. **Chairman Lakey** explained **S 1343** would be taken up in the next committee meeting due to procedural corrections to the bill. **Senator Nichols** confirmed that changes were needed. **Chairman Lakey** said that if there were no objections **S 1343** would be heard at the next committee meeting. No objections were made.

**RS 31489**                    **Relating to Salaries of Judges. Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts, presented **RS 31489** as a bill that was aimed to address the JFAC approved salary and merit-based raises for justices and judges. He explained that salaries for justices and judges were set in statute by Idaho Code § 59-502. He explained how the salaries were set. He asked that **RS 31489** be sent to print. **Chairman Lakey** asked if there were any questions. There were no questions.

**MOTION:**                    **Senator Anthon** motioned to send **RS 31489** to print. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**

**S 1325**                    **Uniform Public Expression Protection Act - adds to existing law to establish the Uniform Public Expression Protection Act. Senator Lenney** explained **S 1325** provided a comprehensive framework for the resolution of Strategic Lawsuits Against Public Participation (SLAPP). He explained that SLAPP lawsuits are designed to intimidate, distract, bankrupt, and punish free speech. They were costly and could take years to defend against. The bill was intended to safeguard freedom of speech and public participation by providing a mechanism to swiftly dismiss meritless lawsuits aimed at stifling public discourse. This legislation would protect individuals and organizations from being targeted by SLAPP lawsuits, which would ensure that public engagement and expression, especially on matters of societal or community interest, were not hindered by legal intimidation tactics.

**DISCUSSION:**                    In response to Committee member questions, **Senator Lenney** explained there were no actual case numbers, nor a mechanism for tracking cases. His research showed that there were multiple cases and that many people were in the committee meeting to testify on the issue. He then explained that he worked with the Idaho Supreme Court on the language of the bill. He was made aware of the issue in 2020 after a conversation with David Keating, President of the Institute for Free Speech.

**TESTIMONY:**                    **Kaitlinn Wolff**, attorney with the Uniform Law Commission, testified in favor of **S 1325**. She explained that this bill would enact the Uniform Public Expression Protection Act in Idaho that would create a framework to deal with this type of lawsuit, if filed in Idaho.

**DISCUSSION:**

In response to Committee member questions, **Ms. Wolff** explained how the law was intended to work and what types of cases were expected to be seen. She also explained how **S 1325** was designed to weed out illegitimate lawsuits and that the First Amendment did not protect against that type of activity.

Seeing no further questions from the Committee **Senator Lakey** asked **Jason Slade Spillman** if he had any input on **S 1325**.

In response to Senator Lakey's question, **Mr. Spillman**, Legal Counsel, Administrative Office of the Courts, explained that he was not there to testify on **S 1325**, but would be happy to answer any questions. He then explained that Senator Lenney consulted with the courts from the beginning and incorporated everything that had been pointed out from the court's perspective. He also explained that the court had the ultimate authority to adopt a rule to cover the process and that would likely be required. It was his opinion that if the motion was granted, the case was over. The aggrieved party would then be entitled to appeal. In his opinion it would not be drawn out due to the case being dismissed. Upon a dismissal there would not be a right to appeal.

In response to Committee questions, **Mr. Spillman** explained that if an order was granted despite the language in the statute, there would still be a right to appeal the motion granted and the case would be dismissed. If it were without prejudice they could re-file and start over. If it were with prejudice it was his opinion a plaintiff would have a route to appeal. He went on to explain that the court was interested in seeing that the statute laid out a workable framework for the court to adopt a rule to effectuate the process.

**TESTIMONY:**

**Michael Waggoner** from Rathdrum, Idaho testified in support of **S 1325**. He stated that he was aware of a number of situations in the local area where **S 1325** would have been helpful. He wanted to say more, but from the advice of his legal counsel he was unable to speak on this further.

**TESTIMONY:**

**Matthew Jensen**, resident of District 17, testified in support of **S 1325**. Mr. Jensen explained that he was commonly known as Orange Jacket Guy, a contradictory personality who delved into political "tomfoolery" on social media. He explained that while staying within lawful and ethical bounds on the platform, he had been threatened with legal action upwards of 60 times. **Mr. Jensen** supported **S 1325** because he felt it would prevent frivolous lawsuits.

**TESTIMONY:**

**Greg Pruitt** from Rigby, Idaho with the Idaho Second Amendment Coalition testified in support of **S 1325**. He stated that the Idaho Second Amendment group supported the legislation and that they all should have received a letter stating their support. He then explained that he and his family were impacted by a situation that **S 1325** would have stopped. He was sued for five different portions of articles that he had published exercising his First Amendment Rights. In one of the lawsuits he was accused of fraud, intentional interference with contract, civil conspiracy, tortious interference with economic expectancy, and defamation. He ended up spending \$20,000 before many of the charges were dropped and the lawsuit was ultimately dropped by the accuser. At that point, his only course of action was to sue the accuser back to try and recoup some of his money.

**TESTIMONY:** **Dustin Hurst** from Boise, Idaho testified in support of **S 1325**. **Mr. Hurst** stated that he too was sued and had been through this process. He explained that he had been the target of a SLAPP lawsuit due to his political activities. The plaintiff in the case wanted more than \$200,000 in damages due to loss of income and reputation repair. As Mr. Pruitt had previously noted, it was not just defamation, there were four other counts that the plaintiff accused the defendant of. He was fortunate that his attorney carried the case pro bono so he did not face the same legal bills that Mr. Pruitt did. He went on to explain that without these protections in place anyone could face these types of lawsuits and be forced to carry significant financial burdens because of massive legal bills. He stated SLAPP lawsuits could affect anyone.

**DISCUSSION:** In response to Committee member questions, **Mr. Hurst** explained that this bill would not provide him a free pass to commit libel, slander, defamation, and that he would be held to the same standards pursuant to the law.

**TESTIMONY:** **Gregory Graf** testified in support of **S 1325**. **Mr. Graf** described two different situations where he was the victim of SLAPP lawsuits that cost him a significant amount of money.

**DISCUSSION:** **Chairman Lakey** clarified for Mr. Graf that an appeals process could be found on page four, 6-3709, that a motion that was granted or denied could be appealed.

**TESTIMONY:** **David Jensen**, chairman of the Idaho Commission on Uniform State Laws testified in support of **S 1325** and urged the Committee to give the bill a do pass recommendation.

**DISCUSSION:** In response to Committee member questions **Mr. Jensen** explained that he was a transactional private practice attorney, not a litigator. He expressed it was his opinion that the right to appeal a case could be found elsewhere in the civil rules procedure in Idaho and it was not necessary to include the appeals procedure within the statute. He explained how this bill went through the same extensive drafting process that all uniform acts have gone through and he strongly recommended that this bill received a do pass recommendation.

**TESTIMONY:** **Ken McClure** of the Idaho Liability Reform Coalition testified in support of **S 1325**. He explained that his group had worked for three decades to reduce the friction costs of litigation. His group would support the enactment of this legislation.

**DISCUSSION:** In response to Committee member questions, **Mr. McClure** explained that Rule 9 would provide the basis to get a motion for dismissal scheduled or to get a motion for summary judgment scheduled. However, it would not provide a stay, nor would it provide relief. He explained that he hoped that this statute would not increase incivility; however, the people who were uncivil had a First Amendment right to be uncivil. In his opinion, this bill would protect the First Amendment. The biggest benefit of this statute was that it provided a time-out on running the clock and running up the cost of litigation.

**MOTION:** **Vice Chairman Foreman** motioned to send **S 1325** to the floor with a do pass. **Senator Hart** seconded the motion. The motion carried by **voice vote**. **Senator Anthon** requested to be recorded as voting nay.

**DISCUSSION:** **Chairman Lakey** explained that **S 1348**, **S 1262**, and **S 1343** would be moved to the next Committee meeting.

**ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 3:00 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary

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Debra Mulligan  
Assistant Secretary