My name is Tiffany Hales and I am an attorney in Eagle Idaho. I work for Brian Webb Legal which is located at 839 E. Winding Creek Drive, Suite 102 in Eagle Idaho 83616.

On March 29, 2016, Brian and Renae Prindle walked into my office for a consultation on an eviction matter. This was not unusual, as I handle a lot of eviction cases. There eviction was unusual. In the fall of 2015, they decided to put their house located at 37 S. Westwood in Nampa, Idaho on the market. The Prindles have small children and rather than having to juggle keeping the house clean and prepared for showings with the daily needs of their small children, they elected to move out of the house and in with Renea's parents. They received an offer on their house in December 2015 which was contingent with the buyer of their house selling her house in California. During the time the house was unoccupied and on the market, they would drive by and check on the property every week to 10 days.

On March 12, 2016, the Prindles checked on the Westwood property and everything was fine. They got busy and were not able to check on the property again until March 24, 2016. When they arrived at the property that day they found a vehicle in the driveway, children running around, the front door open. Brian approached the front door and could see furniture had been moved into the house and several individuals inside the house. Brian asked what was going on. A woman who identified herself as Debbra Smith came to the door and Brian explained he was the owner of the house. Debbra Smith said she had rented the house and produced a contract Brian had never seen or signed. Debbra told Brian she found the house on Craig's list and paid a gentleman $1500.00 to rent the house. The contract was signed and the address given for the owner was in Portland. She also indicated she had been living in the house since March 13, 2016.

Knowing this was not his contract, nor had he authorized anyone to contract a rental agreement for the house, Brian told Debbra and the other individuals at the house that he was going to call the police. At the mention of the police, several of the individuals in the house immediately left the house and got into a van that was parked in front of the house and drove away. When the Nampa Police Department arrived, Brian explained that he owned the house and Debbra had no right to be in the house. After Debbra produced the contract NPD determined this was a civil matter and would not become involved. My client was frustrated.

The next day on March 25, 2016, my client went to the house and had a conversation with Debbra. My client explained that Debbra could not live in the house, the house was for sale, and had a buyer ready to close on the house within the next 30 days. Debbra agreed to move out by Sunday March 27, 2016 at 6:00 p.m.

My clients returned to the house on Sunday March 27, 2016 at 6:00 p.m. and found that no one was home. Wanting to determine if Debbra had vacated the property my clients tried to unlock the front door, only to discover that the locks had been changed and my clients, the owners of the house, no longer had access. They went around to the back of the house and discovered a sliding glass door that was unlocked and entered the house. What they found astonished them. The house was dirty, there were holes in the wall, a cat was using a back closet for a litter box and the house smelled of marijuana. They found several pipes that appeared to them to be marijuana pipes, along with a zip lock baggie that appeared to have marijuana residue in the bag. It was clear Debbra had not moved out of the house. Since Debbra had agreed to move out of the house by then, they elected to change the locks. The changed the locks, secured the house and left. Debbra returned to the Westwood property a short time later and discovered she no longer had access and called the Nampa Police Department. NPD called my clients and

told them they could not lock Debbra out of the property and they needed to immediately give a key to Debbra. They were also instructed that they could not turn off the utilities to the property.

So, when these clients arrived in my office, they had a squatter in their property, they were paying utilities for her to live there, she was refusing to leave and damaging their property and her occupancy of the property was threatening to derail their sale of the property.

After they told me their story, I told them I knew Debbra Smith because on March 10, 2016, approximately 3 days before she began occupancy of the Westwood property, I had evicted her from a residence at 148 Shoshone Ave, in Nampa, which was approximately one block from the Westwood property. This confirmed their belief that the she had falsified the story that she found the house on Craig's list and entered into a contract. I told them that if she had $1500.00 to give someone in March 13, 2016, then she would have had $1500.00 to pay her rent and stay in the Shoshone property.

I began reviewing the law to determine how to evict a squatter, Debbra Smith, from the Westwood property.

Idaho Code § 6-302. FORCIBLE DETAINER DEFINED

Every person is guilty of a forcible detainer who either:

1. By force, or by menaces and threats of violence, unlawfully holds and keeps possession of any real property, whether the same was acquired peacefully or otherwise; or,

2. Who, in the nighttime, or during the absence of the occupant of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof, for the period of five (5) days, refuses to surrender the same to such former occupant. The occupant of real property, within the meaning of this subdivision, is one who, within five (5) days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands.

Per the code Debbra Smith held the property pursuant to Forcible Detainer. So now that I knew how she was holding the property, I needed to get her out.

§ 6-310. ACTION FOR POSSESSION - COMPLAINT - SUMMONS

In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent, or on the grounds that a landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or in the event the tenant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, it is sufficient to state in the complaint:

(1) A description of the premises with convenient certainty;

(2) That the defendant is in possession of the premises;

(3) That the defendant entered upon the premises, holds the premises, and is in default of the payment of rent or that the landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant;

(4) That all notices required by law have been served upon the defendant in the required manner or no notice is required because the defendant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code; and

(5) That the plaintiff is entitled to the possession of the premises.

Upon filing the complaint, a summons must be issued, served and returned as in other actions, provided, however, that at the time of issuance of the summons, the court shall schedule a trial within twelve (12) days from the filing of the complaint and the service of the summons,

complaint and trial setting on the defendant shall be not less than five (5) days before the day of trial appointed by the court.

The law, as it is currently written, provides for what is known as an "expedited" eviction if the tenant has failed to pay rent, or is using or manufacturing illegal drugs on the property. My clients had no valid rental agreement with Debbra Smith requiring her to pay rent to them, so they could not file an expedited eviction for non-payment of rent. The statute does not provide for an expedited eviction of a squatter, which meant for my client to evict her for squatting on the property, they had file a traditional law suit, meaning she could continue to remain in possession of the property for 3-6 months depending on the time it would take the lawsuit to wind its way through the legal system.

Since my clients had seen drugs and paraphernalia on the property, we decided to see if we could make an expedited eviction "stick." We went to court on Monday April 11, 2016. My client, Brian, testified about entering the property to determine if she had vacated and finding the marijuana pipes and a baggie with marijuana residue. Brian testified that he had a brother who used marijuana so he was familiar with the odor and the equipment used, such as marijuana pipes. Debbra Smith denied those items were in house and denied she used drugs. This despite multiple arrests and convictions she had for possession of marijuana and paraphernalia, with the most recent arrest on Friday April 8, 2016, two days before the trial. Judge Debra Orr found that because Brian had not taken the marijuana pipe and baggie with the residue to be tested to confirm that the substance was marijuana, she could not find that Debbra Smith was using illegal substances in the house. She did not dismiss, our case but rather gave us the opportunity to file an amended complaint and go the route of a traditional eviction with Debbra Smith remaining in the house. I filed the amended complaint.

This case, as you can imagine, received a significant amount of media coverage. Because of that media coverage and the pressure that coverage was putting on Debbra Smitha and the Nampa Police Department, the Nampa Police Department stepped up to the plate and helped negotiate a solution to this case. My client agreed to pay for three months' worth of storage for Debbra Smith's belongings, and NPD agreed to arrange for her belongings to be moved from the house to a storage unit, and the house was turned back over to my clients. My client's words to me were that he was not happy about paying for Debbra Smith's storage, but three months of her storage was cheaper than my hourly rate. I could not disagree.

I am very happy that my clients got their house back, and what I learned from this experience was there was a "hole" in our eviction statute that needs to be fixed to protect individuals like Brian and Renae Prindle in the future.

I have been working with Todd Lakey to draft this legislation. Senate Bill Number 1120 provides that someone who is in possession of property pursuant to the definition of "Forcible Detainer" can be evicted under section 6-310 which provides for an expedited proceeding. When a complaint is filed, a hearing must be held with 72 hours, excluding weekends and holidays. This will allow property owners such as the Prindles, immediate access to the court system to remove a squatter from the property. Had the Prindles been able to remove Debbra Smith within 72 hours, it would have limited the damage to their property, limited the utility cost to them, and they would not have had to pay for her storage, in addition to avoiding over a month of emotional turmoil that Debbra Smith put them through. This bill provides that if a landlord is acting in bad faith or a landlord/tenant relationship existed, the landlord would be liable for treble damages if they lose in court.

I would submit to the committee that this bill that is necessary to correct an oversight in the eviction process in Idaho, and I would ask that the committee approve this bill and send it to the Senate for a vote on the floor. Thank you.

Does the committee have any questions?