

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, February 14, 2020

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Senators Lodge, Anthon, Thayn, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Vice Chairman Lee and Senator Grow

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.

MINUTES APPROVAL: **Senator Anthon** moved to approve the Minutes of February 5, 2020. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1339 **Chairman Lakey** informed the Committee that there would be a change in the agenda to allow the speakers of **S 1339** to attend a public defense meeting.

Relating to Addition of a Clerk of the Court to the Magistrate Commission. **Kelli D. Brassfield**, Idaho Association of Counties, started by addressing Senator Burgoyne's inquiry last Committee meeting. She stated that clerks and deputy clerks provide various administrative tasks to magistrate judges such as: filing documents, calendaring court cases, accounting of fees and fines, taking court minutes and proceedings, and attending to daily operations and management of court records. She added that clerks' knowledge on magistrate proceedings could bring helpful insights to the District Magistrate Commission (Commission).

Ms. Brassfield introduced Angela Barkell, Owyhee County Clerk, to further explain **S 1339**. **Ms. Barkell** discussed the duties county clerks perform in the court system. She mentioned that the addition of a county clerk in each judicial district would be beneficial to the Commission due to clerks' familiarity and understanding of the court system.

MOTION: **Senator Burgoyne** moved to send **S 1339** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed by **voice vote**.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Senator Thayn.

RS 27713 **Relating to Defining Commercial Burglary and Classifying it as a Misdemeanor.** **Chairman Lakey** defined burglary as an action that involves an individual entering private property with an intent to commit theft or felony. He emphasized that burglary is a different and separate offense from theft. He explained that **RS 27713** amends the definition of burglary. This bill makes clear that any action that involves entering private property with an intent to steal items worth less than \$300 will be considered commercial burglary and a misdemeanor instead of a felony.

MOTION: **Senator Cheatham** moved to send **RS 27713** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Senator Thayn passed the gavel back to Chairman Lakey.

RS 27726

Relating to Bicyclists and Mountain Operators Respective Liabilities. **Chairman Lakey** clarified that **RS 27726** is a correction of **RS 27560** that was sent to print last Committee meeting. This bill corrects slight typographical errors but other terms are the same as the previous bill. **Chairman Lakey** asked for a motion to print **RS 27726**.

MOTION:

Senator Anthon moved to send **RS 27726** to print. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1319

Relating to Penalties for Vicious Dogs. **Senator Mark Harris**, District 32, gave a brief history and summary of Idaho Code §§ 25-2810 and 25-2811. He indicated that the statute was amended in 2016, which restricted the authority of law enforcement officers. However, H 137 (2019) modified Idaho Code § 25-2810, and acknowledged a crime and misdemeanor to anyone who owns, harbors, or possesses at-risk or dangerous dogs as defined in the statute. **Senator Harris** stated that **S 1319** will remove the order of the court language from Idaho Code § 25-2811. This will clarify the provision that a law enforcement officer can cite the dog owner when the dog has bitten a person or causes serious injury to a person, without prior court order.

MOTION:

Senator Burgoyne moved to send **S 1319** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion passed by **voice vote**.

S 1322

Relating to Grandparents Visitation Rights. **Senator Jim Rice**, District 10, described the ambiguity of the current grandparent visitation right statute in Idaho Code § 32-719. He stated that **S 1322** repeals that statute, which was incorrectly placed under the section that deals with divorces. He indicated that this bill affixes Chapter 18 to Title 32 of Idaho Code. **Senator Rice** gave a detailed description of the grandparents visitation rights, visitation procedures, and limitations.

In response to Senator Nye's question, **Senator Rice** confirmed that this bill is derivative of the parental rights to a child, and does not address the termination of parental rights to a child.

MOTION:

Senator Cheatham moved to send **S 1322** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion passed by **voice vote**.

S 1337

Relating to Priority Payments of Incarcerated Individuals. **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, stated that **S 1337** is the revision of **S 1221**. According to Mr. Spillman, the bill deals with Idaho Code § 31-3201I which sets the priority order of distribution of payment made in criminal and infraction cases. He enumerated the insertions, omissions, and technical amendments described in the bill. He highlighted that the purpose of **S 1337** is to give coherent understanding of the order of distribution of payments received by the court.

MOTION:

Senator Burgoyne moved to send **S 1337** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion passed by **voice vote**.

**PAGE
RECOGNITION:**

Recognize and Thank Audra Hodges for her Service to the Senate Judiciary and Rules Committee. Senate Page **Audra Hodges** expressed her gratitude to the Committee for their kindness. She was grateful for all the advice and lessons learned during her time as a page.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:12 p.m.

Senator Todd M. Lakey
Chair

Sharon Pennington
Committee Secretary

Rellie Wisdom
Majority Staff Assistant