MINUTES

SENATE JUDICIARY & RULES COMMITTEE

DATE:	Wednesday, January 22, 2025
TIME:	1:30 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Wintrow, and Ruchti
ABSENT/ EXCUSED:	Senator Keyser
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 Senate Judiciary and Rules Committee (Committee) to order at 1:31 p.m.
MINUTES APPROVAL:	**Senator Foreman** moved to approve the Minutes of January 13, 2025. **Senator Ricks** seconded the motion. The motion carried by **voice vote.**
GUBERNATORIAL APPOINTMENT VOTE:	**Senator Wintrow** moved to send the Gubernatorial Appointment of **Christine Starr** to serve as the Executive Director of the Commission of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Lent** seconded the motion. The motion carried by **voice vote.**
GUBERNATORIAL APPOINTMENT VOTE:	**Senator Wintrow** moved to send the Gubernatorial Appointment of **Mary Martin** to serve on the Commission of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Ricks** seconded the motion. The motion carried by **voice vote.**
RS 31967	**Relating to addressing the growing threat of "swatting" and its dangers to the public and private sectors. Senator Tammy Nichols** stated this legislation was passed on the Senate floor last session, but there was not time to get it through the House before the session adjourned. She explained this legislation was a proactive measure. It addressed the dangerous and escalating issues of swatting. They posed a risk to public safety, private individuals, and government resources. The goal of this bill was to deter false emergency reports, protect public and private safety, and prevent the waste of law enforcement resources. The definition of "swatting" was the act of making false reports of violence or emergencies which prompted a large scale police or emergency response. It caused harm to innocent individuals, unnecessary risk to law enforcement, and disruption to public safety services. This legislation criminalized false reports of violence or emergencies in public or private places. It provided a clear definition to ensure consistent enforcement and it established penalties appropriate to the severity of the offense. This legislation demonstrated Idaho's commitment to public safety, accountability and the efficient use of governmental resources.
DISCUSSION:	**Senator Ricks** asked if this legislation was essentially the same as the 2024 legislation. **Senator Nichols** explained the penalties were changed to line up with the current code that was written for very similar crimes.

Senator Foreman was concerned the word "cause" on page 2 starting on line 10 might be viewed as vague. **Senator Nichols** responded those lines were the same verbage as what was currently in code for similar crimes and were used for consistency.

MOTION: **Senator Ricks** moved to send **RS 31967** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote.**

S 1001 **UNIFORM PUBLIC EXPRESSION PROTECTION ACT -**added to existing law to establish the Uniform Public Expression Protection Act. **Senator Brian Lenney** explained that SLAPP lawsuits stood for Strategic Lawsuits Against Public Participation. He added they could take years and thousands of dollars to settle. SLAPP lawsuits were specifically designed to intimidate, distract, bankrupt, or punish free speech. The bill was designed to provide a comprehensive and efficient mechanism for quick resolution to SLAPP lawsuits. **S 1001** allowed a judge to dismiss a case on the front end of the lawsuit instead of having to wait until they went through full discovery. It protected innocent parties from being victimized by wealthy and powerful people who tried to silence free speech. **Senator Lenney** stated he felt this legislation represented a nonpartisan issue because there had been support from a broad political coalition.

DISCUSSION: **Sentor Lent** questioned if there had been any feedback from judges or prosecutors on their positions. **Senator Lenney** responded he had spoken with the Supreme Court Administrators, and the Idaho Trial Lawyers Association, and there were no objections.

Senator Wintrow asked if her assumption that the judge decided if the lawsuit moved forward or not was correct. **Senator Lenney** agreed with her, and added that it was also determined by the judge if he would allow limited discovery or any discovery.

TESTIMONY: **Kaitlin Wolff** testified on behalf of the Uniform Law Commission, and supported this legislation. **Ms. Wolff** explained the harm this legislation was trying to prevent. People weaponized the court system and used it to punish people for speaking out on issues of public concern. The bill created a process where if someone was faced with an unfair lawsuit, they filed a motion with the court that would freeze the lawsuit. That resulted in no discovery which would then prevent mounting legal fees and depositions between the parties. After those steps had been followed, the judge decided whether or not it was an unjust lawsuit or if it appeared legitimate. If it was legitimate, then it followed the normal course of a trial. **Ms. Wolff** stated there was no mechanism in Idaho to stop the fake lawsuits from proceeding. The growing trend made sure all states had an anti-SLAPP statute strong enough to prevent individuals who shopped for a state to file a lawsuit in.

DISCUSSION: **Chairman Lakey** stated there were three different potential aspects of a case to determine whether it proceeded forward. The first was if the party failed to state a cause of action. The second was if there was no issue of material fact. The third aspect was if they failed to establish a prima facie case. **Chairman Lakey** asked Ms. Wolfe to explain what prima facie meant. **Ms. Wolff** stated it meant "on the face." She further explained the judge looked at the basic statement and determined if there was enough evidence to show a legitimate lawsuit.

Senator Ricks asked if Ms. Wolff was aware of less bullying online in states who had anti-SLAPP legislation. **Ms. Wolff** explained that this legislation was fairly new and it varied from state to state. The anti-SLAPP legislation did not change any underlying cause of action, so people still needed to watch what they say online. **Senator Ricks** questioned if the legislation protected those who were more vocal to speak out and attack others with it. **Ms. Wolff** explained the protection did not cover anything vulgar, hate speech, or similar things that someone may post online.

TESTIMONY: **Katherine Hartley,** attorney, represented the Pacific Justice Institute, encouraged the passing of **S 1001. Ms. Hartley** explained anti-SLAPP laws defended against efforts to kill constitutionally protected speech through meritless, harassing, or frivolous lawsuits. SLAPP lawsuits were often designed to burden defendants with maximum legal fees and maximum distress. An anti-SLAPP law provided a procedure to dismiss unnecessary lawsuits from draining time and resources defending one's viewpoints from groundless claims, and dismissed frivolous claims quickly for a more efficient legal process.

TESTIMONY: **Matthew Kay Jensen**, testified on his own behalf, and stated he had been threatened with legal action upward of 65 times since his online account was created. At least 44 of the threats were from people who were either known to be, or alleged to have been, in the State of Idaho. He testified he had never said anything to the level of any legal action being required. **Mr. Jensen** asked the Committee to help the people of Idaho before the SLAPP situation got any worse.

TESTIMONY: **Ken McClure,** represented the Idaho Liability Reform Coalition, encouraged the passing of **S 1001.** The groups Mr. McClure represented had a common theme of "Let's save the judicial system for suits that belong in the judicial system, and see if we can get those lawsuits resolved in a quicker, cheaper way." Mr. McClure added the legislation allowed someone who may not be able to afford expensive lawyers to get their day in court in a quick and economical way.

TESTIMONY: **Cynthia Gibson,** Government Relations Associate, Idaho Conservation League, supported the passage of **S 1001. Ms. Gibson** stated this legislation had wide support from reporters, public speech advocates, the American Civil Liberties Union (ACLU), National Taxpayers Union, and dozens of conservative, moderate and progressive groups alike. They felt it would be in the best interest of the people of Idaho to adopt this new rule.

TESTIMONY: **David Jensen,** Chair, Idaho Uniform Law Commissioners, stated the Idaho Uniform Law Commissioners fully supported the legislation. They considered it to be a worthy addition to Idaho law.

Senator Lenney closed by stating passage of this legislation protected people from enduring unnecessary punishment as a result of using their freedom to speak.

MOTION: **Senator Ruchti** moved to send **S 1001** to the Senate floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION: **Senator Ruchti** explained these lawsuits were a bit different than most lawsuits filed in court. They had to do with free speech, freedom of the press, and official deliberations done by deliberative bodies, city councils, and legislative bodies. They were particular types of cases with a complex set of laws. The legal system is designed to remove frivolous lawsuits. Under the Constitution, one has the right to their day in court. One has the right to have a jury hear the case. With SLAPP lawsuits, the judge determines whether there are facts to support the case. If not, the court can dismiss the case. **Senator Ruchti** expressed he felt this was the right way to handle these types of cases.

Chairman Lakey added he appreciated this legislation did not change the legal elements of a particular cause of action. The initial review contemplated by this bill made sure the basic standards were met before the lawsuit proceeded.

MOTION: The motion carried by **voice vote.**

ADJOURN: There being no further business before the Committee, **Chairman Lakey** adjourned the meeting at 2:14 p.m.

Senator Lakey	Sharon Pennington
Chair	Secretary