MINUTES

SENATE JUDICIARY & RULES COMMITTEE

DATE:	Friday, March 14, 2025
TIME:	1:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, Wintrow, and Ruchti
ABSENT/ EXCUSED:	None
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 1:00 p.m.
MINUTES APPROVAL:	**Senator Foreman** moved to approve the Minutes of February 12, 2025. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.
H 81	**LIABILITY OF RECREATION CLUBS AND THEIR MEMBERS - Adds to existing law to limit the liability of recreation clubs and their members**. **Senator Carlson** explained that the legislation was intended to encourage the formation of recreation clubs and participation in their activities by limiting the liability of volunteers and members from injury claims by participants in activities with known and inherent dangers. Exceptions were made for intentional conduct, gross negligence, and negligence. She noted that the first page of the bill specified that the liability limitation applied to free recreation activities. The bill aimed to prevent lawsuits for any reason if a person was injured. **Senator Carlson** highlighted the exceptions on page 2, item 4. An agreement had been reached to send the bill to the amending order, with a suggestion to remove the phrase on line 39, page 2, which stated, "or to give any warning of a danger related to the recreation activity."
DISCUSSION:	**Chairman Lakey** and **Senator Carlson** discussed the proposed amendments and the recreation clubs that did not charge a fee.
TESTIMONY:	**David Claiborne**, Attorney, Sawtooth Law Offices, representing the Idaho Recreation Council and the Idaho State All Terrain Vehicle (ATV) Association, explained that participation in clubs was promoted to build camaraderie among recreationists. It was also where participants learned how to responsibly engage in their pursuits and where to do so correctly. The legislation aimed to limit the liability of club volunteers, members, directors, and officers from being sued by those possibly injured while engaged in activities with known risks and dangers. He noted exceptions for cases where the club provided the equipment that caused the injury, or if there was gross negligence, reckless conduct, intentional injury, or ordinary negligence between two members. He provided an example where if someone was motorcycling and one member carelessly ran into another, the injured party could sue the careless operator but not the club organizers or officers. Working with trial lawyers and their concerns led to the proposed deletion of the language on page 2, lines 39-40.

DISCUSSION: **Senator Ruchti** asked if a person new to rock climbing who was learning to rappel at a club and got injured because the belayer stopped paying attention, then the club could not be sued. However, the negligent belayer could be sued. **Mr. Claiborne** said that was the intent and the way the bill was drafted.

Senator Ricks asked Mr. Claiborne if he had encountered any liability issues. **Mr. Claiborne** mentioned two specific instances involving ATV clubs in the Idaho Falls area that disbanded due to the high cost of liability insurance. Club members had also been sued.

Senator Foreman commented that existing tort law and much of what was in the bill seemed like common sense. He questioned if there was a widespread need for changing or adding to the law, noting that the high cost of liability insurance appeared to be the impetus for the bill. **Mr. Claiborne** confirmed that the high cost of liability insurance, difficulty in recruiting leaders willing to organize and lead activities, and fear of being sued were the main reasons for the bill.

TESTIMONY: **Kate Haas**, Kestrel West, testified in support of the bill. She and her friends had formed a non-profit running club in the Treasure Valley, which had insurance and required members to sign a waiver. She noted that the bill provided an additional layer of protection, safeguarding the club if people attended events without signing the waiver and were not yet members.

MOTION: **Senator Ricks** moved to send **H 81** to the 14th Order of Business for possible amendment. **Senator Lent** seconded the motion. The motion carried by **voice vote**.

H 125 **RIOTS - Amends existing law to provide a penalty for a riot that results in physical injury to a person**. **Representative Crane** explained that this legislation addressed rioting as defined in Idaho Code Title 18, Chapter 64, § 186401. The code outlined three aspects: physical injury to any person, damage or destruction of public or private property, and disturbance of the peace. While penalties existed for damage or destruction of property, there were none for physical injury to a person. This legislation was introduced following concerns raised by a Nampa police officer.

DISCUSSION: **Senator Wintrow** queried if there had been riots in Nampa. **Representative Crane** stated those examples were going to be shared later in the presentation.

Vice Chairman Shippy queried if there was any case law or examples of what constituted an injury. Upon reading the bill, he discovered that a riot was classified as a felony. He inquired whether the felony charge applied to all individuals involved in the injury or only to the person who caused it. **Representative Crane** explained that he and Senator Lakey had discussed a possible amendment to better define what constituted an injury, rather than minor incidents like a bumped elbow.

Chairman Lakey remarked that a felony was a traumatic injury or serious bodily harm. **Representative Crane** expressed openness to this clarification.

Senator Keyser raised a concern and sought more clarification on whether anyone participating in a riot could be charged if a lawful assembly or protest was declared unlawful. He pointed out that all participants could potentially be considered felons for an injury that occurred, rather than just the individual who committed a battery during the event.

TESTIMONY: **Sergeant Richardson**, Nampa Police Department, testified in support of the bill. He explained that the current riot code prioritized property destruction over human life. He provided several examples, noting that most interpretations had been applied to gangs, such as bar fights or larger altercations at the Idaho Center. He shared a personal experience from the Buffalo Wild Wings homicide, where a stray bullet hit a metal-reinforced door, leading him to charge some gang members with felony riot. Without this, he would have been left with misdemeanor riot charges for some agitators. He mentioned a bar fight where a woman was injured, but video footage helped identify the person who threw the first punch. This code would be useful in incidents where the police could not identify the person who caused the injury, as anyone involved in the fight would be charged with felony riot if the injury statute applied. Hospital records could be used in such cases. He also referred to sentencing guidelines: 15 years for aggravated battery, up to 10 years for domestic battery, and up to 5 years for physical injury.

DISCUSSION: **Senator Lakey** and **Sergeant Richardson** discussed that, instead of using the aggravated battery definition, felony domestic violence involved traumatic injury, which could be major or minor but fit the definition. **Senator Lakey** asked if Sergeant Richardson preferred this approach over the aggravated battery approach. **Sergeant Richardson** stated that the police considered permanent disfigurement, such as scars or lasting effects, as criteria for a felony. He noted that using the term "domestic" was likely better language.

Senator Wintrow queried why the addition of physical injury was not already in the statute since the 1980s. **Sergeant Richardson** explained that his research indicated the bill was originally written for prisons and jails. **Senator Wintrow** sought clarification on the battery statute. She and **Sergeant Richardson** discussed the appropriate use of the battery charge versus identifying the actual suspect in gang-related fights. **Sergeant Richardson** noted that the battery statute was applied when it fit, but sometimes it did not due to unwilling victims, identified victims, and suspects. In response to **Senator Wintrow's** question, **Sergeant Richardson** stated that everyone involved in fighting would be charged with felony riot. When asked how the law would apply to the January 6 rioters, **Sergeant Richardson** said he did not have all the facts about that case.

Vice Chairman Shippy wanted clarity on how the statute would apply in a bar fight, questioning how police determined who was part of the riot and whether someone trying to avoid the fight would be charged with a felony. **Sergeant Richardson** explained that it would involve traditional police work, such as interviews and video analysis, and he did not think there was anything supporting charging someone with a felony who was trying to avoid the riot.

Chairman Lakey remarked that law enforcement still had to prove guilt beyond a reasonable doubt, and a person was innocent until proven guilty. If a person's statement showed innocence and there was no other evidence, that person would not be charged.

Vice Chairman Shippy described a scenario involving a large crowd of protestors, where some became violent while others did not. He asked whether the law would result in only the unruly individuals being arrested or everyone. **Sergeant Richardson** explained that the police focused on the area where the disturbance occurred.

Senator Lent expressed a concern that this bill left way too much subjectivity and that this was added into a system and laws that worked for many years.

Senator Keyser noted that his concerns had not been alleviated and urged the Committee to exercise extreme caution when enhancing the penalty to a felony.

Senator Foreman shared that he had been present at four riots, not as a participant but as a police officer. He emphasized that the role of a police officer was to impose order on chaotic situations. He believed the code would be a valuable tool but needed refinement, suggesting that the 14th Order of Business might be a good starting point for amendments.

Vice Chairman Shippy noted that the existing code had been in place for 50 years and many scenarios remained unchanged. He suggested that "injury" or further defining it as serious bodily injury should be treated on par with destruction or damage to property.

Senator Lenney pointed out that the discussion was not about serious bodily injury. He did not share the same concerns as some other Senators and believed the bill should be sent to the amending order

Chairman Lakey remarked that the bill addressed the consequences of certain actions. He supported changing the term to "traumatic physical injury" in the amending order, rather than just physical injury.

MOTION: **Senator Foreman** moved to send **H 125** to the 14th Order of Business for possible amendment. **Vice Chairman Shippy** seconded the motion.

DISCUSSION: **Senator Wintrow** asked if the definition of traumatic injury differed from the regular battery code. **Chairman Lakey** mentioned he had considered using the traumatic injury definition from the domestic violence statute since there was existing case law for it.

Senator Ruchti and **Chairman Lakey** discussed the differences between traumatic physical injury and serious bodily injury in the code. They considered whether someone could be charged with two felonies if there was both property destruction and traumatic physical injury, noting that the decision was up to the prosecutor and the answer was unclear. **Senator Ruchti** stated he would vote no on the motion due to many unanswered questions about the bill. He felt it was inappropriate to provide law enforcement with multiple charges that could be used in negotiations with accused citizens, as it made it easier for law enforcement to charge someone. He did not believe in sending more people to prison as a solution.

Chairman Lakey raised the question of whether multiple aspects of a felony riot, such as property damage and injury, would result in multiple charges or a single charge. **Sergeant Richardson** clarified that there would only be one charge.

Senator Foreman remarked that when he was a law enforcement officer, there was a situation just like that in the county where he worked. There was one felony charge, not multiple.

Senator Lent commented that Item B of the bill included a $500 fine for something like a broken window, which he felt was too low. He expressed concern that many people in the State had low-level felonies that effectively became life sentences in terms of employment and housing, as they never went away. He worried that this legislation could put some people in very difficult situations for the rest of their lives.

Vice Chairman Shippy stated he was comfortable with sending the bill to the 14th Order of Business for possible amendment but suggested that a better, more thorough definition of the physical injury portion would be wise..

Senator Lenney stated he was unsure if he could support the motion and would prefer to see the entire bill fixed and brought back in the next session.

ROLL CALL VOTE: **Chairman Lakey** called for a roll call vote on the motion to send **H 125** to the **14th Order** of Business for possible amendment. **Senators Foreman**, **Vice Chairman Shippy**, and **Chairman Lakey** voted aye. **Senators Ricks**, **Lent**, **Lenney**, **Keyser**, **Wintrow**, and **Ruchti** voted nay. The motion having failed, **Chairman Lakey** stated that **H 125** would be held subject to Call of the Chair.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Shippy.

H 322 **SALARIES OF JUDGES - Amends existing law to revise a provision regarding the salary of the justices of the supreme court**. **Chairman Lakey** explained that the bill addressed judicial compensation, responding to a larger request from the judiciary to increase judges' salaries. The salary increase aimed to address recruitment challenges in attracting candidates to become judges in Idaho. Typically, judges were experienced attorneys capable of handling complex cases involving people's lives and significant financial disputes. The Supreme Court, being the highest court, dealt with very important matters. The number of applicants had declined, prompting the bill to adjust salaries for Supreme Court justices, Court of Appeals judges, District judges, and Magistrate judges.

TESTIMONY: **Jason Spillman**, Idaho Supreme Court Legal Counsel, Administrative Office of the Courts, testified in support of the bill. He explained that materials provided to the Committee included a market-based study on the compensation of judges and experienced attorneys in Idaho. Judicial compensation in Idaho lagged behind both public and private sector rates and the salaries of judges in neighboring states. Non-competitive compensation was often cited as a reason experienced attorneys were not applying for judicial positions. Five years ago, there were an average of 11 applicants per vacant district judge position, but today that number had dropped to 4.6. Sitting judges were leaving the bench to return to other work, with four of the nine retiring judges not seeking to continue as senior judges but instead returning to other careers. The court proposed a salary increase of slightly over $45,000 per judicial position to make salaries competitive with the market. **H 322** provided a $17,000 increase per position, which the court identified as falling short of the market-based target. **Mr. Spillman** noted that the State compensated its head public defender and university counsel at levels higher than all judicial positions in Idaho, including the Chief Justice. Additionally, some district attorneys and deputy prosecutors would still be paid more than district judges even after the proposed increase. The hope was that recruitment struggles would lessen and retention issues would be eliminated with the passage of this bill

DISCUSSION: **Senator Wintrow** asked about the original request from the court. **Mr. Spillman** reported that a magistrate judge was currently compensated $147,508. H 322 provided a $17,000 increase, bringing the salary to $165,000, an 11.5 percent increase. The original proposal of a $45,000 increase would have raised the salary to $193,000. This bill represented slightly over a third of what the court identified as the market-based level needed to resolve the issues encountered.

In response to a question posed by **Senator Wintrow**, **Mr. Spillman** noted that the bill did not seek to change the current differentials: an $8,000 difference between the Supreme Court and the Court of Appeals, with the Court of Appeals compensated $8,000 less. District judges were compensated $6,000 less than Court of Appeals judges, and magistrate judges $8,000 less than district judges.

Chairman Lakey explained that the judicial branch was one of the three critical branches of government: legislative, executive, and judicial. He emphasized the need for the Legislature to ensure there were qualified candidates and asked for the Committee's support of the bill.

MOTION: **Senator Foreman** moved to send **H 322** to the floor with a **do pass** recommendation. **Senator Lent** seconded the motion.

DISCUSSION: **Senator Ricks** commented that the discussion about raising salary compensation had been ongoing for years. He emphasized the importance of having good judges on the bench and hoped the increase would attract more applicants.

Senator Foreman noted his long involvement in the criminal justice system and recognized the daily contributions of judges. He regretted that the increase was not three times higher than what was proposed in the bill.

Vice Chairman Shippy appreciated the bill, noting that the judicial branch was an essential function of government. He emphasized that the people of Idaho needed qualified judges.

VOICE VOTE: The motion to send **H 322** to the floor with a **do pass** recommendation, carried by **voice vote**. **Senator Lenney** asked to be recorded as voting nay.

PASSED THE GAVEL: Vice Chairman Shippy passed the gavel back to Chairman Lakey.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:10 p.m.

_____
Senator Lakey
Chair

_____
Sharon Pennington
Secretary

_____
Linda Kambeitz
Assistant Secretary