

IN THE SENATE

SENATE BILL NO. 1382

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE JUDICIAL COUNCIL; AMENDING SECTION 1-2101, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING MEMBERSHIP OF AND APPOINTMENTS TO THE JU-
3 DICIAL COUNCIL, TO REMOVE A PROVISION REGARDING AN ADJUNCT MEMBER, AND
4 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2102, IDAHO CODE, TO
5 REVISE A PROVISION REGARDING A DUTY OF THE COUNCIL, TO PROVIDE FOR A DUTY
6 OF THE COUNCIL, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
7 74-104, IDAHO CODE, TO PROVIDE FOR CERTAIN RECORDS OF THE JUDICIAL COUN-
8 CIL; AMENDING SECTION 48-1509, IDAHO CODE, TO PROVIDE A CORRECT CODE
9 REFERENCE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 1-2101, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 1-2101. JUDICIAL COUNCIL -- CREATION -- MEMBERSHIP -- APPOINTMENTS --
15 VACANCIES. ~~(1)~~ There is hereby created a judicial council ~~which that~~ shall
16 consist of ~~seven~~ eight (78) permanent members, ~~and one (1) adjunct member.~~
17 ~~Three (3) There shall be four (4) permanent attorney members, one (1) of whom~~
18 ~~shall be a district judge, shall be appointed by the board of commissioners~~
19 ~~of the Idaho state bar one (1) of whom shall be a magistrate judge, and two~~
20 ~~(2) of whom shall be members of the Idaho state bar. The district judge and~~
21 ~~magistrate judge members shall be nominated by the Idaho supreme court from~~
22 ~~the roster of judges currently serving as full-time judges in the state of~~
23 ~~Idaho and submitted to the governor for appointment with the consent of the~~
24 ~~senate. For the two (2) nonjudicial attorney members, the Idaho state bar~~
25 ~~shall nominate and submit to the governor, from its membership, three (3) at-~~
26 ~~torneys whose practice has consisted of more than fifty percent (50%) civil~~
27 ~~law within the past five (5) years and three (3) attorneys whose practice has~~
28 ~~consisted of more than fifty percent (50%) criminal law within the past five~~
29 ~~(5) years. The governor shall select one (1) such civil attorney and one (1)~~
30 ~~such criminal attorney for appointment to the judicial council with the con-~~
31 ~~sent of the senate. There shall be tThree (3) permanent non-attorney mem-~~
32 ~~bers that shall be appointed by the governor from the residents of the state~~
33 ~~of Idaho with the consent of the senate. If any of the above appointments be~~
34 ~~are made during a recess of the senate, they shall be subject to consent of~~
35 ~~the senate at its next session. The term of office for a permanent appointed~~
36 ~~member of the judicial council shall be ~~six~~ four (64) years. Vacancies shall~~
37 ~~be filled for the unexpired term in like manner. Appointments shall be made~~
38 ~~with due consideration for area representation and not more than three (3) of~~
39 ~~the permanent appointed nonjudicial members shall be from one (1) political~~
40 ~~party. The chief justice of the ~~S~~supreme ~~C~~court shall be the ~~seventh~~ eighth~~
41 ~~member and chairman of the judicial council. No permanent member of the ju-~~
42 ~~dicial council, except a judge or justice or a prosecuting attorney, public~~

1 defender, or a member of their staff appointed to the criminal attorney posi-
 2 tion, may hold any other office or position of profit under the United States
 3 or the state of Idaho. The judicial council shall act by concurrence of ~~four~~
 4 five (45) or more members and according to rules ~~which~~ that it adopts.

5 ~~(2) In addition to the permanent members of the judicial council, when-~~
 6 ~~ever there is an issue before the council which involves the removal, disci-~~
 7 ~~pline or recommendation for retirement of a district court magistrate, the~~
 8 ~~chief justice shall appoint an adjunct member of the judicial council, who~~
 9 ~~shall be a district court magistrate. For all purposes for which the adjunct~~
 10 ~~appointment is made, the adjunct member shall be a full voting member of the~~
 11 ~~judicial council.~~

12 SECTION 2. That Section 1-2102, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 1-2102. DUTIES OF COUNCIL. The judicial council shall:

15 (1) Conduct studies for the improvement of the administration of jus-
 16 tice;

17 (2) Make reports to the supreme court and legislature at intervals of
 18 not more than two (2) years;

19 (3) Submit to the governor the names of not less than ~~two~~ three (23) ~~nor~~
 20 and not more than four (4) qualified persons for each vacancy in the office
 21 of justice of the supreme court, judge of the court of appeals, or district
 22 judge, one (1) of whom shall be appointed by the governor; provided, that the
 23 council shall submit only the names of those qualified persons who are eli-
 24 gible to stand for election pursuant to section 1-2404, 34-615, or 34-616,
 25 Idaho Code; and provided further that the governor may reject one (1) list of
 26 names submitted for any vacancy, in which case the council shall solicit in-
 27 terest in the vacancy a second time and submit a second list of not less than
 28 three (3) and not more than four (4) qualified applicants for the vacant po-
 29 sition. No person whose name was submitted initially shall be submitted a
 30 second time for the same vacancy;

31 (4) Recommend the removal, discipline, and retirement of judicial of-
 32 ficers, including magistrates;

33 (5) Prepare an annual budget request in the form prescribed in section
 34 67-3502, Idaho Code, and submit such request to the supreme court, which
 35 shall include such request as submitted by the judicial council in the annual
 36 budget request of the judicial department; ~~and~~

37 (6) Not less than forty-eight (48) hours prior to an interview of an ap-
 38 plicant by the judicial council, disclose to the applicant any written in-
 39 formation or comments provided to the judicial council as part of or to be
 40 considered in the application and interview process, including the source of
 41 any such information. Such information shall not be publicly disclosed in
 42 any manner by either the judicial council or the applicant; and

43 (7) Such other duties as may be assigned by law.

44 SECTION 3. That Section 74-104, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

1 74-104. RECORDS EXEMPT FROM DISCLOSURE -- EXEMPTIONS IN FEDERAL OR
2 STATE LAW -- COURT FILES OF JUDICIAL PROCEEDINGS -- JUDICIAL COUNCIL. (1) The
3 following records are exempt from disclosure:

4 (1a) Any public record exempt from disclosure by federal or state law or
5 federal regulations to the extent specifically provided for by such law
6 or regulation.

7 (2b) Records contained in court files of judicial proceedings, the
8 disclosure of which is prohibited by or under rules adopted by the Idaho
9 supreme court, but only to the extent that confidentiality is provided
10 under such rules, and any drafts or other working memoranda related to
11 judicial decision-making, provided the provisions of this subsection
12 making records exempt from disclosure shall not apply to the extent that
13 such records or information contained in those records are necessary
14 for a background check on an individual that is required by federal law
15 regulating the sale of firearms, guns or ammunition.

16 (2) The judicial council rating of candidates for a judicial vacancy
17 whose names are submitted to the governor and the tabulated scores from
18 attorney questionnaires on the qualifications of those candidates shall be
19 public.

20 SECTION 4. That Section 48-1509, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 48-1509. PUBLIC RECORDS. All documents submitted to the attorney gen-
23 eral by any person, including nonprofit hospital entities giving notice un-
24 der section 48-1503, Idaho Code, in connection with the attorney general's
25 review of the proposed nonprofit hospital conversion transaction pursuant
26 to this chapter shall be deemed records contained in court files of judicial
27 proceedings, as provided for in section 74-104 (21) (b), Idaho Code, and shall
28 only be subject to public disclosure, pursuant to a public document request,
29 in the same manner as set forth in that section.

30 SECTION 5. An emergency existing therefor, which emergency is hereby
31 declared to exist, this act shall be in full force and effect on and after
32 July 1, 2022.