

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTY-SEVENTH LEGISLATURE

FIFTY-SECOND LEGISLATIVE DAY
WEDNESDAY, FEBRUARY 28, 2024

Senate Chamber

President Bedke called the Senate to order at 11 a.m.

Roll call showed all members present except Senator Den Hartog, absent and excused.

Prayer was offered by Chaplain Doug Armstrong.

The Pledge of Allegiance was led by Ashley Richardson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 27, 2024, was read and approved as corrected.

LAKEY, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Den Hartog was recorded present at this order of business.

February 27, 2024

The HEALTH AND WELFARE Committee reports out [S 1288](#) with the recommendation that it do pass.

VANORDEN, Chairman

[S 1288](#) was filed for second reading.

February 28, 2024

The STATE AFFAIRS Committee reports out [H 498](#) and [S 1252](#) with the recommendation that they do pass.

GUTHRIE, Chairman

[H 498](#) and [S 1252](#) were filed for second reading.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

February 27, 2024

The Honorable Scott Bedke
President of the Senate
Idaho State Senate

Dear Mr. President:

I have the honor to inform you that Joseph Medeiros of Idaho Falls, Idaho, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing February 23, 2024, and expiring February 23, 2027.

This appointment is subject to confirmation by the Senate, and notice of appointment is hereby given.

Sincerely,
/s/ Brad Little
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Health and Welfare Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

February 27, 2024

Dear Mr. President:

I transmit herewith [H 543](#), [H 571](#), [H 576](#), [H 540](#), [H 592](#), [H 575](#), [H 464](#), [H 583](#), [H 610](#), [H 591](#), and [H 588](#), which have passed the House.

MCGINNIS, Chief Clerk

[H 543](#), [H 571](#), [H 576](#), [H 540](#), [H 592](#), [H 575](#), [H 464](#), [H 583](#), [H 610](#), [H 591](#), and [H 588](#) were filed for first reading.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1379

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CONGREGATE CARE; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1619B, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE PLACEMENT OF A CHILD IN A CONGREGATE CARE SETTING; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

S 1380

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE HEALTH AND SOCIAL SERVICES OMBUDSMAN; AMENDING SECTION 67-2601, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 182, LAWS OF 2023, AND BY SECTION 33, CHAPTER 220,

LAWS OF 2023, TO PROVIDE FOR THE OFFICE OF HEALTH AND SOCIAL SERVICES OMBUDSMAN WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 19, TITLE 56, IDAHO CODE, TO DEFINE A TERM, TO ESTABLISH PROVISIONS REGARDING THE HEALTH AND SOCIAL SERVICES OMBUDSMAN, TO PROVIDE FOR POWERS AND DUTIES, TO ESTABLISH PROVISIONS REGARDING COMPLAINTS, TO ESTABLISH PROVISIONS REGARDING COMPLAINT REVIEW AND EXAMINATION, TO ESTABLISH PROVISIONS REGARDING THE OBLIGATIONS OF STATE AGENCIES AND DEPARTMENTS, TO ESTABLISH PROVISIONS REGARDING PENALTIES FOR OBSTRUCTION OR RETALIATION, TO ESTABLISH PROVISIONS REGARDING ACCESS TO RECORDS, AND TO ESTABLISH PROVISIONS REGARDING DISCLOSURE OF COMPLAINTS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

S 1381
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO LIQUOR; AMENDING CHAPTER 9, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-903c, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING LICENSES ISSUED TO RESORT CITY RESTAURANTS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

[S 1379](#), [S 1380](#), and [S 1381](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 543](#), by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

[H 571](#), by Ways and Means Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

[H 576](#), by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

[H 540](#), by Resources and Conservation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

[H 592](#), by Ways and Means Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

[H 575](#) and [H 464](#), by State Affairs Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

[H 583](#), by State Affairs Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

[H 610](#), by Ways and Means Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

[H 591](#), by Ways and Means Committee, was introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

[H 588](#), by Ways and Means Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[H 393](#), by Health and Welfare Committee, was read the second time at length and filed for third reading.

[H 531](#), [H 532](#), and [H 533](#), by Transportation and Defense Committee, were read the second time at length and filed for third reading.

[H 466](#), by Business Committee, was read the second time at length and filed for third reading.

[S 1298](#) and [S 1299](#), by Commerce and Human Resources Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Anthon, granted by unanimous consent, [S 1283](#) retained its place on the Third Reading Calendar for one legislative day.

Having been held, [S 1294](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Ricks arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Adams, Anthon, Bernt, Bjerke, Burtenshaw, Cook, Foreman, Forsmann (Carlson), Grow, Guthrie, Harris, Hart, Hartgen, Herndon, Just, Lakey, Lee, Lent, Nichols, Okuniewicz, Rabe, Ricks, Ruchti, Schroeder, Semmelroth, Taylor, Toews, Trakel, VanOrden, Ward-Engelking, Wintrow. Total - 31.

NAYS—Den Hartog, Lenney, Zuiderveld. Total - 3.

Absent and excused—Winder. Total - 1.

Total - 35.

Whereupon the President declared [S 1294](#) passed, title was approved, and the bill ordered transmitted to the House.

Having been held, [S 1301](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lakey arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Adams, Anthon, Bernt, Bjerke, Burtenshaw, Cook, Den Hartog, Foreman, Forsmann (Carlson), Grow, Guthrie, Harris, Hart, Hartgen, Herndon, Just, Lakey, Lee, Lenney, Lent, Nichols, Okuniewicz, Rabe, Ricks, Ruchti, Schroeder, Semmelroth, Taylor, Toews, Trakel, VanOrden, Ward-Engelking, Wintrow, Zuiderveld. Total - 34.

NAYS—None.

Absent and excused—Winder. Total - 1.

Total - 35.

Whereupon the President declared [S 1301](#) passed, title was approved, and the bill ordered transmitted to the House.

Having been held, [S 1352](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bjerke arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Hartgen disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Adams, Anthon, Bernt, Bjerke, Burtenshaw, Cook, Den Hartog, Foreman, Forsmann (Carlson), Grow, Guthrie, Hart, Herndon, Lakey, Lenney, Lent, Nichols, Okuniewicz, Ricks, Toews, Trakel, VanOrden, Zuiderveld. Total - 23.

NAYS—Harris, Hartgen, Just, Lee, Rabe, Ruchti, Schroeder, Semmelroth, Taylor, Ward-Engelking, Wintrow. Total - 11.

Absent and excused—Winder. Total - 1.

Paired and voting included in roll call:

AYE - Burtenshaw NAY - Semmelroth

Total - 35.

Whereupon the President declared [S 1352](#) passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Anthon, granted by unanimous consent, the Senate returned to the Third Order of Business.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Fourth Order of Business.

Reading of Communications

On motion by Senator Anthon, seconded by Senator Wintrow, by voice vote the Senate recessed at 12:20 p.m. until the hour of 4:30 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 4:30 p.m., pursuant to recess, President Bedke presiding.

Roll call showed all members present except Senator Semmelroth, absent and formally excused.

Prior to recess the Senate was at the Fourth Order of Business, Reading of Communications.

February 26, 2024

Dear President Pro Tempore,

I have the honor to inform you that pursuant to Title 67-412, I have designated Lindsay Moser of Boise, Idaho, 83706, as a qualified substitute for Legislative District 17, Ada County, State of Idaho.

This appointment is effective Wednesday, February 28, 2024, at 12:00 PM and will continue through Friday, March 1, 2024. I will resume the duties of my office on Monday, March 4, 2024.

Sincerely,
/s/ Senator Semmelroth

Having previously received the Oath of Office, Acting Senator Moser was recorded present at this order of business.

The correspondence was ordered filed in the office of the Secretary of the Senate.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Lee to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

Report of the Committee of the Whole

Senator Lee, Chairman of the Committee of the Whole, reported out [S 1305](#), [S 1293](#), [S 1303](#), [S 1365](#), [S 1362](#), [S 1328](#), [S 1361](#), [S 1247](#), [S 1364](#), [H 403](#), and [S 1337](#), without recommendation, amended as follows:

SENATE AMENDMENT TO S 1305

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 23 through 25, and insert: "beautify neighborhoods."

SENATE AMENDMENT TO S 1293

AMENDMENT TO SECTION 2

On page 3 of the printed bill, in line 1, delete "two-thirds (2/3)" and insert: "sixty percent (60%)".

SENATE AMENDMENT TO S 1303

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 15, delete "fifty thousand dollars (\$50,000)" and insert: "thirty thousand dollars (\$30,000)".

AMENDMENT TO SECTION 2

On page 1, in line 38, delete "fifty thousand dollars (\$50,000)" and insert: "thirty thousand dollars (\$30,000)".

SENATE AMENDMENT TO S 1365

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 27, following "report" insert: "only"; and in line 40, following "section" insert: "only".

SENATE AMENDMENT TO S 1362

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 10 through 22, and insert:

"33-142. DISPLAY OF FLAGS AND BANNERS ON PUBLIC SCHOOL PROPERTY. (1) No public elementary school or public secondary school in the state of Idaho shall display any flag or banner on such school's property other than the following flags and banners:

- (a) The United States flag;
- (b) The official flag of the state of Idaho, or any county, municipality, public university or community college, school district, special district, or any other political subdivision or governmental instrumentality of or within the state;
- (c) Official flags of any state in the United States;
- (d) Official flags of recognized foreign nations;
- (e) Official school flags;
- (f) Official flags of any of the military branches and units of the United States;
- (g) Official flags of Indian tribes;
- (h) Flags or banners recognized by the Idaho department of education that are awarded for achievements; or

(i) Flags or banners representing official school mascots and colors.

(2) No flags or banners shall be displayed by a public elementary school or public secondary school that represent a political viewpoint, including but not limited to flags or banners regarding a political party, race, sexual orientation, gender, or a political ideology."

CORRECTION TO TITLE

On page 1, in line 4, following "FLAGS" insert: "AND BANNERS"; in line 5, following "ERTY" insert: "AND PROHIBITING THE DISPLAY OF CERTAIN FLAGS AND BANNERS ON SCHOOL PROPERTY".

SENATE AMENDMENT TO S 1328 AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 25, delete "and" and insert: ", registered children's institutions, and"; in line 30, delete "shelter" and insert: "facility attempts to contact and"; in line 36, delete "and" and insert: ", registered children's institutions, and"; and following line 38, insert:

"(c) As used in this subsection:

- (i) "Behavioral health youth crisis center" means a voluntary outpatient facility operated twenty-four (24) hours a day, seven (7) days a week, and three hundred sixty-five (365) days a year to provide evaluation, intervention, and referral for youth seventeen (17) years of age or younger who are experiencing a crisis due to a behavioral health condition. The facility may not provide services to a youth client for more than twenty-three (23) hours and fifty-nine (59) minutes in a single episode of care.
- (ii) "Licensed children's residential care facility" has the same meaning as in section 39-1202, Idaho Code.
- (iii) "Registered children's institution" has the same meaning as in section 39-1202, Idaho Code."

CORRECTION TO TITLE

On page 1, in line 4, delete "AND" and insert: ", REGISTERED CHILDREN'S INSTITUTIONS, AND"; and in line 5, following "SERVICES" insert: "AND TO DEFINE TERMS".

SENATE AMENDMENT TO S 1361 AMENDMENT TO THE BILL

On page 2 of the printed bill, delete lines 16 through 49; delete pages 3 through 6; on page 7, delete lines 1 through 29; and renumber the subsequent section accordingly.

CORRECTION TO TITLE

On page 1, in line 4, delete "AMENDING SECTION 33-5206, IDAHO CODE, TO REQUIRE"; delete line 5; and in line 6, delete "BOARD OF TRUSTEES MEETINGS;".

SENATE AMENDMENT TO S 1247 AMENDMENT TO THE BILL

On page 1 of the printed bill, delete lines 9 through 40; and delete pages 2 and 3, and insert:

"SECTION 1. That title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known as designated as Chapter 19, Title 56, Idaho Code, and to read as follows:

CHAPTER 19 CRISIS RESPONSE FOR PERSONS WITH A NEUROCOGNITIVE DISORDER

56-1901. LEGISLATIVE INTENT. It is the intent of the legislature that persons with a neurocognitive disorder who are in acute crisis due to an unidentified underlying medical condition can get the care they need and return home once the underlying medical condition is resolved. The legislature further intends that state agencies and community partners will collaborate to provide the most dignified care for persons with a neurocognitive disorder.

56-1902. GOVERNMENTAL LIABILITY. All provisions of chapter 9, title 6, Idaho Code, shall apply to any claim of tortious conduct on the part of a person action or refusing to act in conformance with this chapter.

56-1903. DEFINITIONS. As used in this chapter:

- (1) "Department" means the state department of health and welfare.
- (2) "Health care provider" means a person licensed, certified, or otherwise authorized by law to administer health care services in the ordinary course of business or practice of a profession, including a physician, physician assistant, and advanced practice registered nurse.
- (3) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.
- (4) "Hospital" means a medical hospital as defined in section 39-1301, Idaho Code, including freestanding emergency departments.
- (5) "Likely to injure themselves or others" means:
 - (a) A substantial risk that serious physical harm will be inflicted by the person upon their own person, as evidenced by threats of suicide or threats to inflict serious physical harm on themselves;
 - (b) A substantial risk that serious physical harm will be inflicted by the person upon another as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or
 - (c) The person lacks insight into the need for treatment and is unable or unwilling to comply with treatment based on the person's medical history, clinical observation, or other clinical evidence, and if the person does not receive and comply with treatment, there is a substantial risk that the person will continue to physically, emotionally, or cognitively deteriorate to the point that the person will, in the reasonably near future, inflict serious physical harm on themselves or another person.
- (6) "Neurocognitive disorder" has the same meaning as provided in section 66-317(13), Idaho Code, except that for purposes of this chapter neurocognitive disorder does not include decreased mental function due to inappropriate use or abuse of substances or medications.
- (7) "Peace officer" means an employee of a law enforcement agency that is a part of or administered by the state or any political subdivision of the state and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic, or highway laws of the state or any political subdivision of the state. Peace officer also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and

has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho.

(8) "Protective custody" means when a peace officer detains a person and takes such person to a hospital. The peace officer shall make every reasonable effort to protect the person's health and safety while the peace officer takes reasonable steps to protect the peace officer's safety. Protective custody under this section is not an arrest.

56-1904. PROTECTIVE CUSTODY WITHOUT HEARING.

(1) No person shall be taken into protective custody or detained as an alleged emergency patient for observation, diagnosis, evaluation, care or treatment of a neurocognitive disorder unless and until the court has ordered such apprehension and custody pursuant to section 56-1905, Idaho Code; provided, however, that a person may be taken into custody by a peace officer and placed in a hospital, or the person may be detained at a hospital at which the person presented or was brought to receive medical care, if the peace officer or a health care provider in such hospital has reason to believe that person has a neurocognitive disorder and the person is likely to injure themselves or others; provided, under no circumstances shall the person be detained in a nonmedical unit used for the detention of persons charged with or convicted of penal offenses. Whenever a person is taken into custody or detained pursuant to this section without a court order, the evidence supporting the claim that the person with the neurocognitive disorder is likely to injure themselves or others must be presented to a duly authorized court within twenty-four (24) hours from the time the person was placed in custody or detained.

(2) If the court finds there is reason to believe the person is likely to have a neurocognitive disorder and likely to injure themselves or others pursuant to subsection (1) of this section, the court shall issue a temporary protective placement custody order requiring the person to be held in a hospital and requiring an examination of the person by a health care provider in such hospital within twenty-four (24) hours of the entry of the order of the court. Under no circumstances shall the person be detained in a nonmedical unit used for the detention of persons charged with or convicted of penal offenses.

(3) Where an examination is required pursuant to subsection (2) of this section, the health care provider in such hospital shall make findings and report to the court within twenty-four (24) hours of the examination.

(4) If at any time after the person is placed in protective custody the health care provider in such hospital conducting the examination determines the person no longer meets criteria for protective custody, the person shall be deemed to be a voluntary patient and subject to release.

(5) If the health care provider in such hospital finds, in an examination pursuant to this section, that the person is likely to have a neurocognitive disorder and is likely to injure themselves or others, the prosecuting attorney shall file, within twenty-four (24) hours of the examination of the person, a petition with the court requesting the person's continued protective placement pending review proceedings pursuant to section 56-1905, Idaho Code.

(6) Upon the receipt of such a petition, the court shall order the person's detention to await hearing, which shall be within five (5) days, including Saturdays, Sundays, and legal holidays, of the protective placement order. If no petition is filed within twenty-four (24) hours of the examination described in subsection (5) of this section, the person shall be released from the protective placement.

(7) Upon taking a person into custody, a good faith effort shall be made to provide notice to the person's legal guardian,

parent, spouse, or adult next of kin of the person's physical whereabouts and the reasons for taking the person into custody.

(8) Nothing in this section shall preclude a hospital from transferring a person who has been detained pursuant to this section to another hospital that is willing to accept the transferred person for purposes of observation, diagnosis, evaluation, care, or treatment.

56-1905. PROTECTIVE CUSTODY UPON COURT ORDER – JUDICIAL PROCEDURE.

(1) Proceedings by a hospital for the involuntary care and treatment of persons likely to have a neurocognitive disorder who are in acute crisis due to an underlying medical condition may be commenced by the filing of a written application for emergency protective placement with a court of competent jurisdiction by a friend, relative, spouse, or guardian of the person, by a health care provider practicing in a hospital, by a prosecuting attorney or other public official of a municipality, county, or the state of Idaho, or by the director of any facility in which such person may be located.

(2) The application for emergency protective placement shall state the name and last known address of the person; the name and address of the spouse, guardian, next of kin, or friend of the person; whether the person can be cared for privately in the event a hold is not ordered; whether the person is, at the time of the application, a voluntary patient; whether the person has applied for release; and a simple and precise statement of the facts showing that the person is likely to have a neurocognitive disorder and is either likely to injure themselves or others.

(3) Any such application for emergency protective placement shall be accompanied by a certificate of a health care provider practicing in such hospital stating that a health care provider practicing in such hospital has personally examined the person within the last fourteen (14) days and is of the opinion that the person has a neurocognitive disorder and is likely to injure themselves or others and lacks capacity to make informed decisions about treatment or by a written statement by the applicant that the person has refused to submit to examination by a health care provider practicing in such hospital.

(4) Upon receipt of an application for emergency protective placement, the court shall, within forty-eight (48) hours, order another health care provider practicing in such hospital to make a personal examination of the person, or if the person has not been examined, the court shall appoint two (2) health care providers practicing in such hospital to make individual personal examinations of the person and may order the person to submit to an immediate examination. If neither is a physician, the court shall order a physical examination of the person. The health care provider practicing in such hospital shall report to the court findings within the following seventy-two (72) hours as to the medical condition of the person and the need for custody, care, or treatment by a hospital. The reports shall be in the form of written certificates that shall be filed with the court. The court may terminate the proceedings and dismiss the application without taking any further action in the event the reports are to the effect that the person is not likely to injure themselves or others due to a neurocognitive disorder. If the proceedings are terminated, the person shall be released immediately.

(5) If the health care provider practicing in such hospital certifies a belief that the person is likely to injure themselves or others due to a neurocognitive disorder, the judge shall issue an order authorizing any health officer, peace officer, or director of a facility to take the person to a hospital in the community in which the person is residing or to the nearest hospital to await the hearing, and for good cause, may authorize treatment during such period. Under no circumstances shall the person be detained

in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(6) Upon receipt of such application for emergency protective placement by the health care provider practicing in such hospital, the court shall appoint a time and place for a hearing not more than seven (7) days from the receipt of such certificates and thereupon give written notice of such time and place of such hearing, together with a copy of the application, the health care provider's certificates, and notice of the person's right to be represented by an attorney or, if indigent, to be represented by a court-appointed attorney to the applicant, and to the person and the person's spouse, guardian, next of kin, or friend. With the consent of the person and the person's attorney, the hearing may be held immediately. Upon motion of the petitioner, or upon motion of the person and the person's attorney, and for good cause shown, the court may continue the hearing up to an additional seven (7) days during which time, for good cause shown, the court may authorize treatment.

(7) An opportunity to be represented by counsel shall be afforded to every person and, if neither the person nor others provide counsel, the court shall appoint counsel in accordance with chapter 8, title 19, Idaho Code, no later than the time the application for emergency protective placement is received by the court.

(8) If the protective placement is commenced under this section, the hearing shall be held in a manner and at a suitable place not likely to have a harmful effect on the person's physical or mental health. Venue for the hearing shall be in the county of residence of the person or in the county where the person was found immediately prior to commencement of such proceedings.

(9) In all proceedings under this section, any existing provision of the law prohibiting the disclosure of confidential communications between the person and the health care provider practicing in such hospital shall not apply and any health care provider practicing in such hospital who shall have examined the person shall be a competent witness to testify as to the person's condition.

(10) The person, the applicant, and any other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing to testify and to present and cross-examine witnesses. The person may, after consulting with the person's attorney, request to waive the person's presence at court. The court may waive the presence of the person if the mental or physical state of the person is such that the person's presence at the hearing would be detrimental to the person's health or would unduly disrupt the proceedings. A record of the proceedings shall be made as for other civil hearings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall receive all relevant and material evidence consistent with the rules of evidence.

(11) If, upon completion of the hearing and consideration of the record, and after consideration of reasonable alternatives, the court finds by clear and convincing evidence that the person likely has a neurocognitive disorder and is likely to injure themselves or others, the court shall order the person to be placed under protective custody of a suitable medical hospital for observation, care, and treatment for an indeterminate period of time not to exceed seven (7) days.

(12) The order of protective placement shall state whether the person lacks capacity to make informed decisions about treatment and the name and address of the person's attorney, spouse, guardian, adult next of kin, or friend.

(13) If the person has no spouse or guardian and if the person has property that may not be cared for by the person while confined at a hospital, the court shall appoint a guardian ad

litem for the purpose of preserving the person's estate, pending further guardianship or conservatorship proceedings.

56-1906. DUTY TO REPORT INSTANCES OF EMERGENCY PROTECTIVE PLACEMENT. (1) Hospitals shall report all placements in which persons are placed in emergency protective placement pursuant to section 56-1904 or 56-1905, Idaho Code, or an involuntary hold pursuant to section 66-326 or 66-329, Idaho Code, but determined by a health care provider to likely have a neurocognitive disorder and not mental illness to the department every quarter. Reports shall be due to the department on the last day of the month immediately following the end of the quarter, with the first report due April 30, 2025.

(2) Any and all patient information submitted as a part of a report required under this section shall be protected and de-identified according to state and federal privacy laws.

(3) The hospital shall report:

(a) The number of emergency protective placements that were placed at a hospital by a health care provider;

(b) The number of emergency protective placements that were placed at a hospital by a peace officer;

(c) The number of emergency protective placements that were made for persons determined to have an underlying medical reason for placement in the hospital who also had a neurocognitive disorder;

(d) The number of emergency protective placements that were made for persons who did not have a neurocognitive disorder;

(e) For emergency protective placements made for persons who did not have a medical reason for placement in the hospital other than a neurocognitive disorder, how many had a length of stay after the emergency protective placement ended at the hospital that was:

(i) Between zero (0) and five (5) days;

(ii) Between six (6) and ten (10) days;

(iii) Between eleven (11) and thirty (30) days;

(iv) Between thirty-one (31) and sixty (60) days;

(v) Between sixty-one (61) and ninety (90) days; and

(vi) More than ninety (90) days; and

(f) For emergency protective placements made for persons who had a medical reason for placement in the hospital other than a neurocognitive disorder, how many had a length of stay after the emergency protective placement ended at the hospital that was:

(i) Between zero (0) and five (5) days;

(ii) Between six (6) and ten (10) days;

(iii) Between eleven (11) and thirty (30) days;

(iv) Between thirty-one (31) and sixty (60) days;

(v) Between sixty-one (61) and ninety (90) days; and

(vi) More than ninety (90) days.

(4) The department shall include a summary of all reports made pursuant to subsection (1) of this section in the annual report on Alzheimer's disease and related dementias as required in section 39-2701, Idaho Code.

56-1907. RESPONSIBILITY FOR COSTS OF PROTECTIVE CUSTODY AND CARE OF PATIENTS. (1) As used in this section:

(a) "Protective custody period" means a period that begins when a person is taken into custody pursuant to sections 56-1904 and 56-1905, Idaho Code, and ends when the patient is released from protective custody.

(b) "Routine medical care" includes care provided during the protective custody period that includes hospital costs, including routine board, room, and support services.

(c) "Third-party applicant" means a person other than a patient who completes, signs, and files an application for medicaid on behalf of the patient. A third-party applicant may be an adult who is a member of the patient's family or household, the patient's authorized representative, or, if the patient is incapacitated, someone, including an agent of a facility, who is acting responsibly for the patient.

(2) In instances where the person placed in protective custody is released with no underlying medical conditions in addition to the person's neurocognitive disorder having been identified, costs associated with the protective custody shall be the responsibility of the person placed in protective custody, subject to the department of health and welfare's determination of the person's ability to pay all or any part of such costs. The department shall:

(a) Use the state-approved fee determination form and sliding fee schedule described in rules promulgated by the department to determine the person's ability to pay;

(b) Inquire to determine if the person has insurance, including medical assistance provided under the state plan for medicaid as authorized by title XIX of the social security act, as amended; and

(c) Report its findings to the court.

(3) The court may order a person to pay costs consistent with this section.

(4) To the extent possible, the costs of routine medical care incurred during protective custody shall be assigned to a person's health insurance, including medical assistance provided under the state plan for medicaid as authorized by title XIX of the social security act, as amended. If a person may be eligible for medicaid but has not applied, a third-party applicant, including an agent at a hospital where a person is taken into custody or detained under this chapter, may submit a medicaid application to the department of health and welfare. The medical care provided while the person is in protective custody shall be presumed to be medically necessary for purposes of determining reimbursement for that care by third-party payers.

(5) Remaining costs for routine medical care shall be apportioned as follows:

(a) The department of health and welfare shall pay providers at the rate established by medicaid or its managed care organization. If, based on the department of health and welfare's determination under subsection (2) of this section, the person is able to pay a portion of the medical costs, the person shall reimburse the department consistent with the department's sliding fee schedule; or

(b) Costs for routine medical care during the protective placement period shall be paid by the department of health and welfare, consistent with the process described in paragraph (a) of this subsection.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after October 1, 2024."

CORRECTION TO TITLE

On page 1, delete lines 2 through 7, and insert:

RELATING TO HEALTH; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 19, TITLE 56, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE FOR GOVERNMENTAL LIABILITY, TO DEFINE TERMS, TO ESTABLISH PROVISIONS REGARDING PROTECTIVE CUSTODY WITHOUT HEARINGS, TO

ESTABLISH PROVISIONS REGARDING JUDICIAL PROCEDURE FOR PROTECTIVE CUSTODY UPON COURT ORDER, TO REQUIRE REPORTING OF INSTANCES OF EMERGENCY PROTECTIVE PLACEMENT, AND TO ESTABLISH PROVISIONS REGARDING RESPONSIBILITY FOR COSTS OF PROTECTIVE CUSTODY AND CARE OF PATIENTS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

SENATE AMENDMENT TO S 1364

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 37, delete "and"; in line 40, delete "." and insert: "; and

(3) Has surrendered any wholesale license."; and in line 48, delete "brew pub" and insert: "brew pub brewer's retail".

On page 3, in line 1, delete "brew pub" and insert: "brew pub brewery's".

CORRECTION TO TITLE

On page 1, in line 3, delete "A PROVISION" and insert: "PROVISIONS".

SENATE AMENDMENT TO H 403

AMENDMENT TO SECTION 1

On page 2 of the printed bill, delete lines 44 through 46, and insert: "sor to the state soil and water conservation commission. In the event supervisors fail to appoint a replacement within ninety (90) days following a vacancy, and the vacancy results in the loss of a quorum of the district board, the governor shall appoint a replacement sufficient to reestablish a quorum of the district board. The soil conservation dis-".

SENATE AMENDMENT TO S 1337

AMENDMENT TO SECTION 3

On page 4 of the printed bill, in line 14, following "property" insert: "and parties in interest"; in line 17, following "record" insert: "and parties in interest"; in line 23, following "ership" insert: "or interest"; and in line 28, following "record" insert: "or parties of interest".

LEE, Chairman

On motion by Senator Lee, seconded by Senator Wintrow, the report was adopted by voice vote.

The Committee also has [S 1224](#), [S 1354](#), and [S 1320](#) under consideration, reports progress, and begs leave to sit again.

[S 1305](#), as amended, [S 1293](#), as amended, [S 1303](#), as amended, [S 1365](#), as amended, [S 1362](#), as amended, [S 1328](#), as amended, [S 1361](#), as amended, [S 1247](#), as amended, [S 1364](#), as amended, and [S 1337](#), as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

[H 403](#), as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Anthon, granted by unanimous consent, the Senate returned to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Anthon, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 28, 2024

The JUDICIARY AND RULES Committee reports that Senate amendments to [S 1305](#), [S 1293](#), [S 1303](#), [S 1365](#), [S 1362](#), [S 1328](#), [S 1361](#), [S 1247](#), [S 1364](#), [H 403](#), and [S 1337](#) have been correctly printed.

LAKEY, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 28, 2024

The JUDICIARY AND RULES Committee reports that [S 1305](#), as amended, [S 1293](#), as amended, [S 1303](#), as amended, [S 1365](#), as amended, [S 1362](#), as amended, [S 1328](#), as amended, [S 1361](#), as amended, [S 1247](#), as amended, [S 1364](#), as amended, and [S 1337](#), as amended, have been correctly engrossed.

LAKEY, Chairman

[S 1305](#), as amended, [S 1293](#), as amended, [S 1303](#), as amended, [S 1365](#), as amended, [S 1362](#), as amended, [S 1328](#), as amended, [S 1361](#), as amended, [S 1247](#), as amended, [S 1364](#), as amended, and [S 1337](#), as amended, were filed for first reading.

February 28, 2024

The HEALTH AND WELFARE Committee reports out [H 436](#) and [H 437](#) with the recommendation that they do pass.

VANORDEN, Chairman

[H 436](#) and [H 437](#) were filed for second reading.

February 28, 2024

The JUDICIARY AND RULES Committee reports out [S 1262](#), [S 1280](#), and [S 1368](#) with the recommendation that they do pass.

LAKEY, Chairman

[S 1262](#), [S 1280](#), and [S 1368](#) were filed for second reading.

February 28, 2024

The JUDICIARY AND RULES Committee reports out [S 1309](#) and [S 1348](#) with the recommendation that they be referred to the Fourteenth Order of Business for amendment.

LAKEY, Chairman

There being no objection, [S 1309](#) and [S 1348](#) were referred to the Fourteenth Order of Business, General Calendar.

February 28, 2024

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

John D. Hayden Jr. to the State Board of Correction, term to expire January 30, 2029.

LAKEY, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

[H 403](#), as amended in the Senate, by Resources and Conservation Committee, was read the first time at length and filed for second reading.

[S 1305](#), as amended, [S 1293](#), as amended, and [S 1303](#), as amended, by Local Government and Taxation Committee, were read the first time at length and filed for second reading.

[S 1365](#), as amended, by State Affairs Committee, was read the first time at length and filed for second reading.

[S 1362](#), as amended, by Education Committee, was read the first time at length and filed for second reading.

[S 1328](#), as amended, by Judiciary and Rules Committee, was read the first time at length and filed for second reading.

[S 1361](#), as amended, by Education Committee, was read the first time at length and filed for second reading.

[S 1247](#), as amended, by Health and Welfare Committee, was read the first time at length and filed for second reading.

[S 1364](#), as amended, by State Affairs Committee, was read the first time at length and filed for second reading.

[S 1337](#), as amended, by Resources and Environment Committee, was read the first time at length and filed for second reading.

On request by Senator Anthon, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Anthon, seconded by Senator Wintrow, by voice vote, the Senate adjourned at 5:20 p.m. until the hour of 11 a.m., Thursday, February 29, 2024.

SCOTT BEDKE, President

Attest: JENNIFER NOVAK, Secretary