

IN THE SENATE

SENATE BILL NO. 1241

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO CRIMINAL PROCEDURE; AMENDING CHAPTER 25, TITLE 19, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 19-2525, IDAHO CODE, TO PROVIDE THAT
3 CERTAIN PERSONS ARE ELIGIBLE FOR A REFUND FROM THE COURT, TO PROVIDE
4 PROCEDURES FOR A REFUND AND TO PROVIDE THAT VICTIMS SHALL NOT HAVE TO
5 REPAY RESTITUTION; AND AMENDING CHAPTER 25, TITLE 19, IDAHO CODE, BY THE
6 ADDITION OF A NEW SECTION 19-2526, IDAHO CODE, TO PROVIDE FOR THE IDAHO
7 VACATED CONVICTION FUND, TO PROVIDE THAT A FUND BALANCE MAY CARRY OVER
8 AND TO PROVIDE RULEMAKING AUTHORITY.
9

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

11 SECTION 1. That Chapter 25, Title 19, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 19-2525, Idaho Code, and to read as follows:

14 19-2525. REIMBURSEMENT OF AMOUNTS PAID FOLLOWING A VACATED CONVICTION
15 OR AMENDED ORDER OF RESTITUTION -- PETITION. (1) The following persons are
16 eligible under this section for a refund of monetary payments actually paid
17 to the clerk of a court:

18 (a) A defendant who paid, in whole or in part, court-ordered fines,
19 fees, costs, restitution, interest or other monetary amounts resulting
20 from a criminal conviction if such payments relate solely to a convic-
21 tion that:

22 (i) Is vacated on appeal or following uniform post-conviction
23 procedure act proceedings; and

24 (ii) The charge on which the conviction was based is dismissed and
25 the defendant is not retried on the charge or a different charge
26 based on the same set of facts, or the defendant is acquitted of the
27 charge or a different charge based on the same set of facts after a
28 new trial;

29 (b) A defendant who paid, in whole or in part, court-ordered restitu-
30 tion and interest resulting from a criminal conviction and:

31 (i) The restitution ordered by the court is reversed on appeal; or

32 (ii) The amount of restitution ordered by the court is reversed on
33 appeal and the restitution paid by the defendant, including inter-
34 est, is in excess of the amount upheld on appeal.

35 (2) (a) A defendant may, within two (2) years after becoming eligible
36 for a refund, file a written petition in the court in which the convic-
37 tion was entered for the refund of any monetary amounts described in
38 subsection (1) of this section. The court shall have copies of the peti-
39 tion served upon the prosecuting attorney and administrative director
40 of the courts, and there shall be no filing or service fees charged to
41 the defendant.

1 (b) The clerk of the court shall file a statement certifying all mone-
2 tary amounts paid by the defendant to the clerk which relate solely to
3 the conviction. If the court finds the defendant has established eli-
4 gibility for a refund, the court shall issue an order directing a refund
5 of the amount certified by the clerk, unless the court finds by a pre-
6 ponderance of the evidence that a different amount is due. Any such or-
7 der shall direct the administrative director of the courts to issue the
8 refund from the Idaho vacated conviction fund as set forth in section
9 19-2526, Idaho Code.

10 (3) Nothing in this section requires a victim to repay restitution re-
11 ceived as a result of a criminal conviction.

12 SECTION 2. That Chapter 25, Title 19, Idaho Code, be, and the same is
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
14 ignated as Section 19-2526, Idaho Code, and to read as follows:

15 19-2526. IDAHO VACATED CONVICTION FUND. (1) There is hereby created
16 in the office of the state treasurer the Idaho vacated conviction fund. The
17 fund shall be administered by the Idaho supreme court and shall consist of
18 moneys appropriated from the state general fund. The moneys in the fund
19 shall be expended for the purpose of issuing refunds to criminal defendants
20 for amounts previously paid to the court when the defendant's conviction is
21 later vacated as ordered pursuant to section 19-2525, Idaho Code.

22 (2) Any fund balances at the end of the state fiscal year may carry over
23 into the following fiscal year.

24 (3) The supreme court may adopt such rules as it considers appropriate
25 for the administration of the fund and the implementation of this section and
26 section 19-2525, Idaho Code.