

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 192

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC DEFENSE; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION
2 19-849, IDAHO CODE, TO REDESIGNATE THE STATE PUBLIC DEFENSE COMMIS-
3 SION AS THE STATE BOARD OF PUBLIC DEFENSE AND TO PROVIDE FOR ADDITIONAL
4 MEMBERS OF THE BOARD; AMENDING SECTION 19-850, IDAHO CODE, TO REVISE
5 PROVISIONS REGARDING POWERS AND DUTIES OF THE STATE BOARD OF PUBLIC DE-
6 FENSE; AMENDING SECTION 19-851, IDAHO CODE, TO REVISE DEFINITIONS AND
7 TO REMOVE DEFINITIONS; REPEALING SECTION 19-859, IDAHO CODE, RELAT-
8 ING TO JOINT COUNTY PUBLIC DEFENDERS; REPEALING SECTION 19-860, IDAHO
9 CODE, RELATING TO PUBLIC DEFENDERS; AMENDING CHAPTER 8, TITLE 19, IDAHO
10 CODE, BY THE ADDITION OF A NEW SECTION 19-860, IDAHO CODE, TO ESTAB-
11 LISH DISTRICT OFFICES OF PUBLIC DEFENSE AND DISTRICT PUBLIC DEFENDERS;
12 AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
13 TION 19-860A, IDAHO CODE, TO ESTABLISH JUDICIAL DISTRICT OVERSIGHT
14 BOARDS AND TO PROVIDE FOR MEMBERSHIP AND DUTIES OF THE BOARDS; AMENDING
15 SECTION 19-861, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE OFFICES,
16 FACILITIES, AND EMPLOYEES OF THE DISTRICT OFFICES OF PUBLIC DEFENSE;
17 REPEALING SECTION 19-862, IDAHO CODE, RELATING TO APPROPRIATIONS FOR
18 PUBLIC DEFENSE; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDI-
19 TION OF A NEW SECTION 19-862, IDAHO CODE, TO PROVIDE FOR PRIVATE CONTRI-
20 BUTIONS; REPEALING SECTION 19-862A, IDAHO CODE, RELATING TO INDIGENT
21 DEFENSE FINANCIAL ASSISTANCE; REPEALING SECTION 19-863, IDAHO CODE,
22 RELATING TO DEFENSE EXPENSES AND ALLOCATION IN JOINTLY ESTABLISHED OF-
23 FICES; REPEALING SECTION 19-863A, IDAHO CODE, RELATING TO THE CAPITAL
24 CRIMES DEFENSE FUND; AMENDING SECTION 19-864, IDAHO CODE, TO REVISE
25 PROVISIONS REGARDING RECORDS OF DEFENDING ATTORNEYS; AMENDING SECTION
26 19-867, IDAHO CODE, TO REVISE A SHORT TITLE; AMENDING SECTION 19-868,
27 IDAHO CODE, TO REVISE A STATEMENT OF LEGISLATIVE INTENT; AMENDING SEC-
28 TION 19-869, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CREATION,
29 APPOINTMENT, QUALIFICATIONS, AND COMPENSATION OF THE STATE CHIEF PUB-
30 LIC DEFENDER; AMENDING SECTION 19-870, IDAHO CODE, TO REVISE THE POWERS
31 AND DUTIES OF THE STATE CHIEF PUBLIC DEFENDER; AMENDING SECTION 19-871,
32 IDAHO CODE, TO REVISE PROVISIONS REGARDING APPOINTMENT OF ADDITIONAL
33 COUNSEL; AMENDING SECTION 19-872, IDAHO CODE, TO REVISE PROVISIONS
34 REGARDING AN ANNUAL REPORT; AMENDING SECTION 63-3638, IDAHO CODE, TO
35 REVISE PROVISIONS REGARDING SALES TAX REVENUE DISTRIBUTION; AMENDING
36 SECTION 20-514, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND
37 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-2601, IDAHO CODE,
38 TO PROVIDE FOR THE STATE BOARD OF PUBLIC DEFENSE AND TO MAKE TECHNICAL
39 CORRECTIONS; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE FOR THE
40 STATE CHIEF PUBLIC DEFENDER; AMENDING SECTION 74-105, IDAHO CODE, TO
41 PROVIDE THAT CERTAIN RECORDS OF THE STATE BOARD OF PUBLIC DEFENSE SHALL
42 BE EXEMPT FROM DISCLOSURE; AND PROVIDING AN EFFECTIVE DATE.
43

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

1 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that
 2 as of October 1, 2022, the changes made in this act to the sales tax distribu-
 3 tion to the counties shall be used to fund a restructured public defense sys-
 4 tem in this state consisting of the State Board of Public Defense, the Office
 5 of the State Chief Public Defender, the District Offices of Public Defense,
 6 and the Judicial District Oversight Boards.

7 SECTION 2. That Section 19-849, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 19-849. STATE BOARD OF PUBLIC DEFENSE COMMISSION. (1) There is hereby
 10 created in the department of self-governing agencies the state board of pub-
 11 lic defense commission. The commission board shall consist of nine eighteen
 12 (918) members as follows:

13 (a) Two (2) representatives from the state legislature that shall in-
 14 clude one (1) member from the senate and one (1) member from the house of
 15 representatives;

16 (b) One (1) representative appointed by the chief justice of the Idaho
 17 supreme court; ~~and~~

18 (c) ~~Six Eight~~ (68) representatives appointed by the governor and con-
 19 firmed by the senate as follows:

20 (i) ~~Two Seven~~ (27) representatives ~~from the Idaho association of~~
 21 ~~counties with one (1) being a citizen from each judicial district~~
 22 ~~in this state and four (4) of whom shall have experience as a de-~~
 23 ~~fending attorney; and~~

24 (ii) ~~Two (2) representatives who have experience as a defending~~
 25 ~~attorney;~~

26 (iii) ~~One (1) representative from the office of the state appel-~~
 27 ~~late public defender; and~~

28 (iv) ~~One (1) representative from the Idaho juvenile justice com-~~
 29 ~~mission; and~~

30 (d) Seven (7) representatives with one (1) being appointed by each ju-
 31 dicial district oversight board.

32 (2) No individual who is currently employed as a prosecuting attorney
 33 or who is a current employee of a law enforcement agency may be a member of the
 34 ~~commission board~~.

35 (3) The nine (9) members of the state public defense commission as of
 36 September 30, 2022, shall serve the remainder of their terms as members
 37 of the state board of public defense, and thereafter t~~The members of the~~
 38 ~~commission board shall serve the following terms:~~

39 (a) The gubernatorial appointees shall serve terms of three (3) years.

40 (b) The representative appointed by the chief justice of the Idaho
 41 supreme court shall serve a term of two (2) years.

42 (c) The representatives from the state legislature shall serve terms of
 43 two (2) years as appointed by the president pro tempore of the senate and
 44 speaker of the house of representatives during their legislative terms
 45 of office.

46 (d) The representatives appointed by the judicial district oversight
 47 boards shall serve a term of two (2) years.

48 (4) A vacancy on the ~~commission board~~ shall be filled in the same manner
 49 as the original appointment and for the balance of the unexpired term.

1 (5) The ~~commission board~~ shall appoint a chairman and a vice chairman
2 from among its members for a term certain.

3 (6) The members of the ~~commission board~~ shall be compensated as pro-
4 vided for in section 59-509(b), Idaho Code.

5 SECTION 3. That Section 19-850, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 19-850. POWERS AND DUTIES OF THE STATE BOARD OF PUBLIC DEFENSE
8 ~~COMMISSION~~. (1) The state board of public defense ~~commission~~ shall:

9 (a) Promulgate rules, as proposed by the chief public defender, pur-
10 suant to section 19-870, Idaho Code, in accordance with the provisions
11 of chapter 52, title 67, Idaho Code, establishing the following:

12 (i) Training and continuing legal education requirements for de-
13 fending attorneys, which shall promote competency and consistency
14 in case types including, but not limited to, criminal, juvenile,
15 capital, abuse and neglect, post-conviction, civil commitment and
16 criminal contempt;

17 (ii) Uniform data reporting requirements and model forms for the
18 annual reports submitted pursuant to section 19-864, Idaho Code,
19 which shall include, but not be limited to, caseload, workload and
20 expenditures;

21 ~~(iii) Model contracts and core requirements for contracts between~~
22 ~~counties and private attorneys for the provision of indigent de-~~
23 ~~fense services, which shall include, but not be limited to, com-~~
24 ~~pliance with indigent defense standards;~~

25 ~~(iv) Procedures and forms by which counties may apply to the com-~~
26 ~~mission, pursuant to section 19-862A, Idaho Code, for funds to be~~
27 ~~used to bring their delivery of indigent defense services into~~
28 ~~compliance with applicable indigent defense standards;~~

29 ~~(v) Procedures for administrative review and fair hearings in ac-~~
30 ~~cordance with the Idaho administrative procedure act, which shall~~
31 ~~include, but not be limited to, providing for a neutral hearing of-~~
32 ~~ficer in such hearings;~~

33 ~~(iv)~~ Procedures for the oversight, implementation, enforcement
34 and modification of indigent defense standards so that the right
35 to counsel of indigent persons, as provided in section 19-852,
36 Idaho Code, is constitutionally delivered to all indigent persons
37 in this state; and

38 ~~(vi)~~ Standards for defending attorneys that utilize, to the ex-
39 tent reasonably practicable taking into consideration factors
40 such as case complexity, support services and travel, the follow-
41 ing principles:

42 1. The delivery of indigent defense services should be inde-
43 pendent of political and judicial influence, though the ju-
44 diciary is encouraged to contribute information and advice
45 concerning the delivery of indigent defense services.

46 2. Defending attorneys should have sufficient time and pri-
47 vate physical space so that attorney-client confidentiality
48 is safeguarded during meetings with clients.

1 3. Defending attorneys' workloads should permit effective
2 representation.

3 4. Economic disincentives or incentives that impair defend-
4 ing attorneys' ability to provide effective representation
5 should be avoided.

6 5. Defending attorneys' abilities, training and experience
7 should match the nature and complexity of the cases in which
8 they provide services including, but not limited to, cases
9 involving complex felonies, juveniles and child protection.

10 6. The defending attorney assigned to a particular case
11 should, to the extent reasonably practicable, continuously
12 oversee the representation of that case and personally ap-
13 pear at every substantive court hearing.

14 7. There should be reasonable equity between defending
15 attorneys and prosecuting attorneys with respect to re-
16 sources, staff and facilities.

17 8. Defending attorneys should obtain continuing legal edu-
18 cation relevant to their indigent defense cases.

19 9. Defending attorneys should be regularly reviewed and
20 supervised for compliance with indigent defense standards
21 and, if applicable, compliance with indigent defense stan-
22 dards as set forth in contractual provisions.

23 10. Defending attorneys should identify and resolve con-
24 flicts of interest in conformance with the Idaho rules of
25 professional conduct and other applicable constitutional
26 standards.

27 Violation of or noncompliance with the principles listed in this
28 subparagraph does not constitute ineffective assistance of counsel
29 under the constitution of the United States or the state of
30 Idaho and does not otherwise constitute grounds for post-convic-
31 tion relief.

32 (b) ~~On or before January 20, 2015, and b~~By January 20 of each year
33 thereafter as deemed necessary by the ~~commission board~~, make recom-
34 mendations to the Idaho legislature for legislation on public defense
35 system issues including, but not limited to:

36 ~~(i) Enforcement mechanisms; and~~

37 ~~(ii) Funding issues including, but not limited to, formulas for~~
38 ~~the calculation of local shares and state indigent defense finan-~~
39 ~~cial assistance.~~

40 (c) Review ~~indigent defense providers and defending attorneys to eval-~~
41 ~~uate compliance with indigent defense standards and the terms of state~~
42 ~~indigent defense financial assistance.~~

43 (d) ~~Notwithstanding the provisions of paragraph (a) (iv) of this sub-~~
44 ~~section, establish temporary procedures and model forms by which coun-~~
45 ~~ties may apply to the commission for state indigent defense financial~~
46 ~~assistance pursuant to section 19-862A, Idaho Code, to be utilized un-~~
47 ~~til rules promulgated pursuant to paragraph (a) (iv) of this subsection~~
48 ~~are in full force and effect. Such temporary procedures shall not be~~
49 ~~subject to administrative or judicial review.~~

50 ~~(e) Hold at least one (1) meeting in each calendar quarter.~~

1 (e) Hire a state chief public defender who shall perform his duties pur-
 2 suant to section 19-870, Idaho Code.

3 (f) Appoint a district public defender in each judicial district pur-
 4 suant to section 19-860, Idaho Code.

5 (g) Develop and propose a state public defense budget.

6 (2) The state board of public defense ~~commission~~ may:

7 (a) Hire an executive director, who shall be responsible for the per-
 8 formance of the regular administrative functions of the ~~commission~~
 9 board and other duties as the ~~commission~~ board may direct. The exec-
 10 utive director shall be a nonclassified state employee and shall be
 11 compensated as determined by the ~~commission~~ board.

12 (b) Employ persons in addition to the executive director in other po-
 13 sitions or capacities as it deems necessary to the proper conduct of
 14 ~~commission~~ board business and to the fulfillment of the ~~commission's~~
 15 board's responsibilities. The employees of the ~~commission~~ board other
 16 than the executive director shall be classified employees and shall re-
 17 ceive as compensation an annual salary payable on regular pay periods,
 18 the amount of which shall be determined by the ~~commission~~ board.

19 (c) Provide an office, office equipment and facilities as may be rea-
 20 sonably necessary for the proper performance of its duties or the duties
 21 of the executive director, the chief public defender, and other person-
 22 nel.

23 (d) Provide training and continuing legal education for ~~indigent de-~~
 24 ~~fense providers and~~ defending attorneys in order to assist them in sat-
 25 isfying requirements promulgated pursuant to subsection (1) (a) (i) of
 26 this section, and use moneys received from a grant or trust or otherwise
 27 received and appropriated to provide such training and continuing legal
 28 education.

29 (e) ~~Establish procedures by which indigent defense providers or a~~
 30 ~~county, through its board of county commissioners, may apply to the com-~~
 31 ~~mission for funds to be used for extraordinary litigation costs includ-~~
 32 ~~ing, but not limited to, expert witnesses, evidence testing and inves-~~
 33 ~~tigation, but not including expenses associated with capital crimes.~~

34 ~~(f)~~ Hire private counsel to represent the ~~commission~~ board in hearings
 35 held in accordance with the Idaho administrative procedure act and the
 36 rules promulgated pursuant to subsection (1) (a) (~~viii~~) of this section.

37 SECTION 4. That Section 19-851, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 19-851. RIGHT TO REPRESENTATION BY COUNSEL -- DEFINITIONS. In this
 40 act, the term:

41 (1) "CommissionBoard" means the state board of public defense
 42 ~~commission~~ as created pursuant to section 19-849, Idaho Code;

43 (2) "Defending attorney" means any attorney ~~employed by an indigent~~
 44 ~~defense provider or otherwise~~ assigned to represent adults or juveniles at
 45 public expense;

46 (3) "Detain" means to have in custody or otherwise deprive of freedom of
 47 action;

48 (4) "Expenses," when used with reference to representation under this
 49 act, includes the expenses of investigation, other preparation and trial;

1 ~~(5) "Indigent defense provider" means any agency, entity, organization~~
 2 ~~or person selected by a board of county commissioners in accordance with sec-~~
 3 ~~tion 19-859, Idaho Code, or a designee of the commission if the commission's~~
 4 ~~actions to remedy specific deficiencies pursuant to section 19-862A(11)(b),~~
 5 ~~Idaho Code, involve the direct provision of indigent defense services, as a~~
 6 ~~means to provide for the representation of indigent persons and other indi-~~
 7 ~~viduals who are entitled to be represented by an attorney at public expense;~~

8 ~~(6) "Indigent defense standard" means any rule promulgated by the~~
 9 ~~commission board pursuant to section 19-850(1)(a), Idaho Code;~~

10 ~~(7) "Indigent person" means a person who, at the time his need is de-~~
 11 ~~termined pursuant to section 19-854, Idaho Code, is unable to provide for the~~
 12 ~~full payment of an attorney and all other necessary expenses of representa-~~
 13 ~~tion;~~

14 ~~(8) "Local share" means the benchmark figure calculated by the commis-~~
 15 ~~sion to determine the minimum amount of county funding that shall be main-~~
 16 ~~tained by a county and to determine the award amount of state indigent de-~~
 17 ~~fense financial assistance for which a county may be eligible pursuant to~~
 18 ~~section 19-862A, Idaho Code. For any given county fiscal year, a county's~~
 19 ~~local share shall be the median of the annual amount in county funds expended~~
 20 ~~by that county for indigent defense during each of the first three (3) of the~~
 21 ~~preceding five (5) county fiscal years, as certified by the county clerk. In~~
 22 ~~calculating this amount, county indigent defense expenditures shall not in-~~
 23 ~~clude:~~

24 ~~(a) Amounts received from the public defense commission; and~~

25 ~~(b) Amounts expended for capital cases by those counties participat-~~
 26 ~~ing in the capital crimes defense program in excess of premiums and de-~~
 27 ~~ductibles required by guidelines approved by the Idaho capital crimes~~
 28 ~~defense fund board of directors;~~

29 ~~(9) "Serious crime" means any offense, the penalty for which includes~~
 30 ~~the possibility of confinement, incarceration, imprisonment or detention in~~
 31 ~~a correctional facility, regardless of whether actually imposed;~~

32 ~~(10) "State indigent defense financial assistance" means the state~~
 33 ~~funding a county may be awarded pursuant to section 19-862A, Idaho Code.~~

34 SECTION 5. That Section [19-859](#), Idaho Code, be, and the same is hereby
 35 repealed.

36 SECTION 6. That Section [19-860](#), Idaho Code, be, and the same is hereby
 37 repealed.

38 SECTION 7. That Chapter 8, Title 19, Idaho Code, be, and the same is
 39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 40 ignated as Section 19-860, Idaho Code, and to read as follows:

41 19-860. DISTRICT OFFICE OF PUBLIC DEFENSE -- DISTRICT PUBLIC DE-
 42 FENDER. (1) There is hereby created in each judicial district in this state
 43 a district office of public defense to provide for the defense of indigent
 44 persons in the judicial district pursuant to the provisions of this chapter.

45 (2) Each district office of public defense shall be directed by a dis-
 46 trict public defender.

1 (3) The district public defender shall be appointed by the state board
2 of public defense pursuant to section 19-850, Idaho Code.

3 SECTION 8. That Chapter 8, Title 19, Idaho Code, be, and the same is
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
5 ignated as Section 19-860A, Idaho Code, and to read as follows:

6 19-860A. JUDICIAL DISTRICT OVERSIGHT BOARDS. (1) There is hereby cre-
7 ated in each judicial district in this state a judicial district oversight
8 board. Each judicial district oversight board shall be comprised of one (1)
9 member from each county contained in the judicial district who shall be ap-
10 pointed by the board of county commissioners in each county.

11 (2) The members of the judicial district oversight boards shall serve
12 terms of three (3) years.

13 (3) Each judicial district oversight board shall:

14 (a) Coordinate with the boards of county commissioners in the judicial
15 district regarding the provision of suitable and adequate facilities
16 and equipment for the district office of public defense in accordance
17 with the provisions of section 19-861(2), Idaho Code;

18 (b) Oversee and review the provision of indigent defense in the judi-
19 cial district and make any recommendations to the district public de-
20 fender; and

21 (c) Hold at least one (1) meeting in each calendar quarter.

22 (4) A vacancy on the judicial district oversight boards shall be filled
23 in the same manner as the original appointment and for the balance of the un-
24 expired term.

25 (5) Each judicial district oversight board shall appoint a chairman and
26 a vice chairman from among its members for a term certain.

27 (6) The members of the judicial district oversight boards shall be com-
28 pensated as provided for in section 59-509(b), Idaho Code.

29 SECTION 9. That Section 19-861, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 19-861. DISTRICT OFFICE OF PUBLIC DEFENDER'S DEFENSE'S OFFICE -- EM-
32 PLOYEES -- COMPENSATION -- FACILITIES. (1) ~~If an office of public defender or~~
33 ~~a joint office of public defender has been established, t~~The district public
34 defender in each district office of public defense may employ, in the manner
35 and at the compensation prescribed by the board of county commissioners, as
36 many assistant public defenders, clerks, investigators, stenographers, and
37 other persons as the board considers necessary for carrying out his respon-
38 sibilities under this act. A person employed under this section serves at
39 the pleasure of the district public defender.

40 (2) ~~If an office of public defender or a joint office of public defender~~
41 ~~has been established, the board of county commissioners shall:~~ Each county
42 in the state shall provide suitable and adequate facilities for the district
43 office of public defense, including the facilities and equipment necessary
44 to make the space provided functional for its intended use.

45 ~~(a) Provide appropriate facilities including office space, furniture,~~
46 ~~equipment, books, postage, supplies and interviewing facilities in the~~

1 ~~jail, necessary for carrying out the public defender's responsibili-~~
 2 ~~ties under this act; or~~

3 ~~(b) Grant the public defender an allowance in place of those facili-~~
 4 ~~ties.~~

5 (3) A defending attorney is entitled to use the same state facilities
 6 for the evaluation of evidence as are available to the county prosecutor. If
 7 ~~he the defending attorney~~ considers their use impractical, the court con-
 8 cerned may authorize the use of private facilities to be paid for on court or-
 9 der by the county board of commissioners.

10 SECTION 10. That Section [19-862](#), Idaho Code, be, and the same is hereby
 11 repealed.

12 SECTION 11. That Chapter 8, 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 19-862, Idaho Code, and to read as follows:

15 19-862. PRIVATE CONTRIBUTIONS. A district office of public defense
 16 may accept private contributions toward the support of the office.

17 SECTION 12. That Section [19-862A](#), Idaho Code, be, and the same is hereby
 18 repealed.

19 SECTION 13. That Section [19-863](#), Idaho Code, be, and the same is hereby
 20 repealed.

21 SECTION 14. That Section [19-863A](#), Idaho Code, be, and the same is hereby
 22 repealed.

23 SECTION 15. That Section 19-864, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 19-864. RECORDS OF DEFENDING ATTORNEYS -- ANNUAL REPORT ~~OF DEFENDING~~
 26 ~~ATTORNEYS.~~ (1) ~~Indigent defense providers and d~~Defending attorneys shall
 27 keep appropriate records respecting each person whom they represent under
 28 this act.

29 (2) On or before November 1 of each year, ~~indigent defense providers~~
 30 ~~and any defending attorney whose information is not otherwise included in a~~
 31 ~~report from an indigent defense provider~~ each district office of public de-
 32 fense shall submit an annual report to the board of county commissioners, the
 33 appropriate administrative district judge, and the eommission chief pub-
 34 lic defender in conformance with the rules promulgated pursuant to section
 35 19-850(1) (a) (ii), Idaho Code.

36 SECTION 16. That Section 19-867, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 19-867. SHORT TITLE. Sections 19-867 through 19-872, Idaho Code,
 39 shall be known as the "State ~~Appellate~~ Chief Public Defender Act."

40 SECTION 17. That Section 19-868, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

1 19-868. STATEMENT OF LEGISLATIVE INTENT. The legislature recognizes
 2 that the cost of legal representation of indigent defendants upon the appeal
 3 of their criminal convictions, particularly convictions for first-degree
 4 murder, is an extraordinary burden on the counties of this state. In order
 5 to reduce this burden, and provide competent counsel but avoid paying high
 6 hourly rates to independent counsel to represent indigent defendants in ap-
 7 pellate proceedings, the legislature hereby creates the office of the state
 8 appellate chief public defender who, as part of his powers and duties, shall
 9 represent indigent defendants in appellate proceedings.

10 SECTION 18. That Section 19-869, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 19-869. CREATION -- APPOINTMENT -- QUALIFICATIONS -- ~~TERM~~ -- COMPEN-
 13 SATION. (1) The office of state appellate public defender ~~is hereby created~~
 14 ~~in the department of self-governing agencies as of October 1, 2022, shall be~~
 15 redesignated as the office of the state chief public defender.

16 (2) The state appellate public defender as of September 30, 2022, shall
 17 assume the role of state chief public defender.

18 (3) Thereafter, tThe state appellate chief public defender shall be
 19 appointed by the governor, with the advice and consent of the senate state
 20 board of public defense.

21 (34) The state appellate chief public defender shall be an attorney li-
 22 censed to practice law in the state of Idaho and shall have a minimum of five
 23 (5) years' experience as a practicing attorney. The ~~governor board~~ may pre-
 24 scribe such further qualifications as ~~he~~ it deems necessary for the posi-
 25 tion.

26 (45) The state appellate chief public defender ~~shall serve for a term of~~
 27 ~~four (4) years, during which term he may be removed only for good cause, and~~
 28 shall be compensated in an amount determined by the ~~governor board~~.

29 (56) The state appellate chief public defender may adopt policies or
 30 rules necessary to give effect to the purposes of this act.

31 SECTION 19. That Section 19-870, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 19-870. POWERS AND DUTIES. (1) ~~Subject to the provisions of subsection~~
 34 ~~(2) of this section, the state appellate~~ The state chief public defender,
 35 upon appointment by the court, shall provide representation for indigent de-
 36 fendants in the following cases:

37 (a) Appeals from convictions or post-judgment orders in district
 38 court;

39 (b) Interlocutory criminal appeals from district court;

40 (c) Appeals from the district court of misdemeanor cases where the no-
 41 tice of appeal was filed on or after October 1, 2020;

42 (d) Appeals from the district court of orders or final judgments af-
 43 fecting a juvenile offender under the juvenile corrections act, chapter
 44 5, title 20, Idaho Code, where the order or final judgment was entered on
 45 or after October 1, 2020;

1 (e) Appeals from the district court in post-conviction relief proceed-
2 ings brought pursuant to the uniform post-conviction procedure act,
3 chapter 49, title 19, Idaho Code;

4 (f) Appeals from the district court in habeas corpus proceedings
5 brought pursuant to chapter 42, title 19, Idaho Code; and

6 (g) Post-conviction relief proceedings in district court in capital
7 cases.

8 ~~(2) The services of the state appellate public defender shall be avail-~~
9 ~~able only to those counties participating in the capital crimes defense fund~~
10 ~~established pursuant to section 19-863A, Idaho Code.~~

11 ~~(3) The state appellate chief public defender may employ deputy state~~
12 ~~appellate public defenders and other employees necessary to carry out the~~
13 ~~responsibilities of the office. The state appellate chief public defender,~~
14 ~~in his discretion, may contract with private attorneys to provide represen-~~
15 ~~tation on a case-by-case basis when such contracts would conserve budgetary~~
16 ~~resources.~~

17 (a) A deputy state appellate public defender must be licensed to prac-
18 tice law in the state of Idaho and possess any other qualifications re-
19 quired by the state appellate public defender.

20 (b) The state appellate chief public defender shall fix the compensa-
21 tion of all employees of the office and they shall serve at his pleasure.

22 (c) The state appellate chief public defender, deputy state appellate
23 public defenders and all employees of the office of the state appellate
24 chief public defender shall be nonclassified employees pursuant to sec-
25 tion 67-5303, Idaho Code.

26 (3) The state chief public defender shall propose rules to be approved
27 and promulgated by the state board of public defense pursuant to section
28 19-850, Idaho Code.

29 (4) The state chief public defender shall supervise and monitor each
30 district office of public defense.

31 (5) The state chief public defender shall ensure compliance with any
32 rules or standards as set by the board pursuant to section 19-850, Idaho
33 Code, and may bring any issues requiring action before the board.

34 (46) The state appellate chief public defender shall have any and all
35 other powers and duties necessary to carry out the purposes of this act, in-
36 cluding the authority to promulgate rules in accordance with the provisions
37 of chapter 52, title 67, Idaho Code.

38 SECTION 20. That Section 19-871, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 19-871. APPOINTMENT OF ADDITIONAL COUNSEL. Should the state appellate
41 chief public defender be unable to carry out the appellate duties required
42 in this act because of a conflict of interest or any other reason, the state
43 appellate chief public defender shall arrange for counsel for indigent de-
44 fendants to be compensated out of the state public defense budget of as set
45 by the state appellate board of public defender defense pursuant to section
46 19-850, Idaho Code.

47 SECTION 21. That Section 19-872, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 19-872. ANNUAL REPORT. The state ~~appellate~~ chief public defender
2 shall make an annual report to the state board of examiners, the supreme
3 court, the legislature, the state board of public defense, and all counties
4 for ~~whom~~ which the office has provided services concerning the cases handled
5 by his office during the preceding year.

6 SECTION 22. That Section 63-3638, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
9 chapter, except as may otherwise be required in sections 63-3203, 63-3620F,
10 and 63-3709, Idaho Code, and except as provided in subsection (16) of this
11 section, shall be distributed by the state tax commission as follows:

12 (1) An amount of money shall be distributed to the state refund account
13 sufficient to pay current refund claims. All refunds authorized under this
14 chapter by the state tax commission shall be paid through the state refund
15 account, and those moneys are continuously appropriated.

16 (2) Five million dollars (\$5,000,000) per year is continuously appro-
17 priated and shall be distributed to the permanent building fund, provided by
18 section 57-1108, Idaho Code.

19 (3) Four million eight hundred thousand dollars (\$4,800,000) per year
20 is continuously appropriated and shall be distributed to the water pollution
21 control fund established by section 39-3628, Idaho Code.

22 (4) An amount equal to the sum required to be certified by the chair-
23 man of the Idaho housing and finance association to the state tax commis-
24 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
25 appropriated and shall be paid to any capital reserve fund established by
26 the Idaho housing and finance association pursuant to section 67-6211, Idaho
27 Code. Such amounts, if any, as may be appropriated hereunder to the capital
28 reserve fund of the Idaho housing and finance association shall be repaid for
29 distribution under the provisions of this section, subject to the provisions
30 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
31 tion, as soon as possible, from any moneys available therefor and in excess
32 of the amounts the association determines will keep it self-supporting.

33 (5) An amount equal to the sum required by the provisions of sections
34 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
35 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
36 paid as provided by sections 63-709 and 63-717, Idaho Code.

37 (6) An amount required by the provisions of chapter 53, title 33, Idaho
38 Code.

39 (7) An amount required by the provisions of chapter 87, title 67, Idaho
40 Code.

41 (8) For fiscal year 2011 and each fiscal year thereafter, four million
42 one hundred thousand dollars (\$4,100,000), of which two million two hundred
43 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four
44 (44) counties in equal amounts and one million nine hundred thousand dol-
45 lars (\$1,900,000) shall be distributed to the forty-four (44) counties in
46 the proportion that the population of the county bears to the population of
47 the state. For fiscal year 2012 and for each fiscal year thereafter, the
48 amount distributed pursuant to this subsection shall be adjusted annually
49 by the state tax commission in accordance with the consumer price index for

1 all urban consumers (CPI-U) as published by the U.S. department of labor,
 2 bureau of labor statistics, but in no fiscal year shall the total amount
 3 allocated for counties under this subsection be less than four million one
 4 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-
 5 justment required in this section shall be distributed to each county in the
 6 proportion that the population of the county bears to the population of the
 7 state. Each county shall establish a special election fund to which shall
 8 be deposited all revenues received from the distribution pursuant to this
 9 subsection. All such revenues shall be used exclusively to defray the costs
 10 associated with conducting elections as required of county clerks by the
 11 provisions of section 34-1401, Idaho Code.

12 (9) One dollar (\$1.00) on each application for certificate of title
 13 or initial application for registration of a motor vehicle, snowmobile,
 14 all-terrain vehicle or other vehicle processed by the county assessor or the
 15 Idaho transportation department, excepting those applications in which any
 16 sales or use taxes due have been previously collected by a retailer, shall be
 17 a fee for the services of the assessor of the county or the Idaho transporta-
 18 tion department in collecting such taxes and shall be paid into the current
 19 expense fund of the county or state highway account established in section
 20 40-702, Idaho Code.

21 (10) ~~Eleven and five-tenths percent (11.5%)~~ Nine and seven-tenths per-
 22 cent (9.7%) is continuously appropriated and shall be distributed to the
 23 revenue-sharing account, which is hereby created in the state treasury, and
 24 the moneys in the revenue-sharing account will be paid in installments each
 25 calendar quarter by the state tax commission on and after ~~July~~ October 1,
 26 ~~2020~~2, as follows:

27 (a) ~~Forty-five and two-tenths percent (45.2%)~~ Fifty-one and four-
 28 tenths percent (51.4%) shall be paid to the various cities as follows:

29 (i) The revenue-sharing amount calculated by the state tax com-
 30 mission for the various cities for each quarter of fiscal year 2020
 31 shall be the base amount for current quarterly revenue distribu-
 32 tion amounts. The state tax commission shall calculate the per
 33 capita distribution for each city resulting from the previous fis-
 34 cal year's distributions.

35 (ii) If there is no change in the amount of the revenue-sharing
 36 account from the same quarter of the previous fiscal year, then the
 37 various cities shall receive the same amount received for the same
 38 quarter of the previous fiscal year.

39 (iii) If the balance of the revenue-sharing account for the cur-
 40 rent quarter is greater than the balance of the revenue-sharing
 41 account for the same quarter of the previous fiscal year, then:

42 1. If the distributions made to the cities during the same
 43 quarter of the previous fiscal year were below the base
 44 amount established in fiscal year 2020, then the various
 45 cities shall first receive a proportional increase up to the
 46 base amount for each city and up to a one percent (1%) in-
 47 crease over such base amount. Any remaining moneys shall be
 48 distributed to cities with a below-average per capita dis-
 49 tribution in the proportion that the population of that city

1 bears to the population of all cities with below-average per
2 capita distributions within the state.

3 2. If the distributions made to the cities during the same
4 quarter of the previous fiscal year were at or above the
5 base amount established in fiscal year 2020, then the cities
6 shall receive the same distribution they received during the
7 same quarter of the previous fiscal year plus a proportional
8 increase up to one percent (1%). Any remaining moneys shall
9 be distributed to the cities with a below-average per capita
10 distribution in the proportion that the population of that
11 city bears to the population of all cities with a below-aver-
12 age per capita distribution within the state.

13 (iv) If the balance of the revenue-sharing account for the cur-
14 rent quarter is less than the balance of the revenue-sharing ac-
15 count for the same quarter of the previous fiscal year, then the
16 cities shall first receive a proportional reduction down to the
17 base amount established in fiscal year 2020. If further reduc-
18 tions are necessary, the cities shall receive reductions based on
19 the proportion that each city's population bears to the population
20 of all cities within the state.

21 (b) ~~Forty-seven and one-tenth percent (47.1%)~~ Thirty-nine and eight-
22 tenths percent (39.8%) shall be paid to the various counties as follows:

23 (i) Fifty-nine and eight-tenths percent (59.8%) of the amount to
24 be distributed under this paragraph (b) of this subsection shall
25 be distributed as follows:

26 1. One million three hundred twenty thousand dollars
27 (\$1,320,000) annually shall be distributed one forty-fourth
28 (1/44) to each of the various counties; and

29 2. The balance of such amount shall be paid to the various
30 counties, and each county shall be entitled to an amount in
31 the proportion that the population of that county bears to
32 the population of the state; and

33 (ii) Forty and two-tenths percent (40.2%) of the amount to be dis-
34 tributed under this paragraph (b) of this subsection shall be dis-
35 tributed as follows:

36 1. Each county that received a payment under the provisions
37 of section 63-3638(e), Idaho Code, as that subsection ex-
38 isted immediately prior to July 1, 2000, during the fourth
39 quarter of calendar year 1999, shall be entitled to a like
40 amount during succeeding calendar quarters.

41 2. If the dollar amount of money available under this sub-
42 section (10) (b) (ii) in any quarter does not equal the amount
43 paid in the fourth quarter of calendar year 1999, each
44 county's payment shall be reduced proportionately.

45 3. If the dollar amount of money available under this sub-
46 section (10) (b) (ii) in any quarter exceeds the amount paid
47 in the fourth quarter of calendar year 1999, each county
48 shall be entitled to a proportionately increased payment,
49 but such increase shall not exceed one hundred five percent

1 (105%) of the total payment made in the fourth quarter of
2 calendar year 1999.

3 4. If the dollar amount of money available under this sub-
4 section (10) (b) (ii) in any quarter exceeds one hundred five
5 percent (105%) of the total payment made in the fourth quar-
6 ter of calendar year 1999, any amount over and above such
7 one hundred five percent (105%) shall be paid to the various
8 counties in the proportion that the population of the county
9 bears to the population of the state; and

10 (c) ~~Seven and seven-tenths percent (7.7%)~~ Eight and eight-tenths per-
11 cent (8.8%) of the amount appropriated in this subsection shall be paid
12 to the several counties for distribution to special purpose taxing dis-
13 tricts as follows:

14 (i) Each such district that received a payment under the provi-
15 sions of section 63-3638(e), Idaho Code, as such subsection ex-
16 isted immediately prior to July 1, 2000, during the fourth quarter
17 of calendar year 1999, shall be entitled to a like amount during
18 succeeding calendar quarters.

19 (ii) If the dollar amount of money available under this subsec-
20 tion (10) (c) in any quarter does not equal the amount paid in the
21 fourth quarter of calendar year 1999, each special purpose taxing
22 district's payment shall be reduced proportionately.

23 (iii) If the dollar amount of money available under this subsec-
24 tion (10) (c) in any quarter exceeds the amount distributed under
25 paragraph (c) (i) of this subsection, each special purpose tax-
26 ing district shall be entitled to a share of the excess based on
27 the proportion each such district's current property tax budget
28 bears to the sum of the current property tax budgets of all such
29 districts in the state. The state tax commission shall calculate
30 district current property tax budgets to include any unrecovered
31 forgone amounts as determined under section 63-802(1) (e), Idaho
32 Code. When a special purpose taxing district is situated in more
33 than one (1) county, the state tax commission shall determine the
34 portion attributable to the special purpose taxing district from
35 each county in which it is situated.

36 (iv) If special purpose taxing districts are consolidated, the
37 resulting district is entitled to a base amount equal to the sum of
38 the base amounts received in the last calendar quarter by each dis-
39 trict prior to the consolidation.

40 (v) If a special purpose taxing district is dissolved or disin-
41 corporated, the state tax commission shall continuously distrib-
42 ute to the board of county commissioners an amount equal to the
43 last quarter's distribution prior to dissolution or disincorpora-
44 tion. The board of county commissioners shall determine any re-
45 distribution of moneys so received.

46 (vi) Taxing districts formed after January 1, 2001, are not en-
47 titled to a payment under the provisions of this paragraph (c) of
48 this subsection.

1 (vii) For purposes of this paragraph (c) of this subsection, a spe-
2 cial purpose taxing district is any taxing district that is not a
3 city, a county, or a school district.

4 (11) Amounts calculated in accordance with section 2, chapter 356, laws
5 of 2001, for annual distribution to counties and other taxing districts be-
6 ginning in October 2001 for replacement of property tax on farm machinery and
7 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
8 districts, the state tax commission shall distribute one-fourth (1/4) of
9 this amount certified quarterly to each county. For school districts, the
10 state tax commission shall distribute one-fourth (1/4) of the amount certi-
11 fied quarterly to each school district. For nonschool districts, the county
12 auditor shall distribute to each district within thirty (30) calendar days
13 from receipt of moneys from the state tax commission. Moneys received by
14 each taxing district for replacement shall be utilized in the same manner
15 and in the same proportions as revenues from property taxation. The moneys
16 remitted to the county treasurer for replacement of property exempt from
17 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
18 counties and other taxing districts and budgeted at the same time, in the
19 same manner and in the same year as revenues from taxation on personal prop-
20 erty which these moneys replace. If taxing districts are consolidated, the
21 resulting district is entitled to an amount equal to the sum of the amounts
22 received in the last calendar quarter by each district pursuant to this
23 subsection prior to the consolidation. If a taxing district is dissolved
24 or disincorporated, the state tax commission shall continuously distribute
25 to the board of county commissioners an amount equal to the last quarter's
26 distribution prior to dissolution or disincorporation. The board of county
27 commissioners shall determine any redistribution of moneys so received. If
28 a taxing district annexes territory, the distribution of moneys received
29 pursuant to this subsection shall be unaffected. Taxing districts formed
30 after January 1, 2001, are not entitled to a payment under the provisions
31 of this subsection. School districts shall receive an amount determined by
32 multiplying the sum of the year 2000 school district levy minus .004 times
33 the market value on December 31, 2000, in the district of the property exempt
34 from taxation pursuant to section 63-602EE, Idaho Code, provided that the
35 result of these calculations shall not be less than zero (0). The result of
36 these school district calculations shall be further increased by six per-
37 cent (6%). For purposes of the limitation provided by section 63-802, Idaho
38 Code, moneys received pursuant to this section as property tax replacement
39 for property exempt from taxation pursuant to section 63-602EE, Idaho Code,
40 shall be treated as property tax revenues.

41 (12) Amounts necessary to pay refunds as provided in section 63-3641,
42 Idaho Code, to a developer of a retail complex shall be remitted to the demon-
43 stration pilot project fund created in section 63-3641, Idaho Code.

44 (13) Amounts calculated in accordance with subsection (4) of section
45 63-602KK, Idaho Code, for annual distribution to counties and other taxing
46 districts for replacement of property tax on personal property tax exemp-
47 tions pursuant to subsection (2) of section 63-602KK, Idaho Code, which
48 amounts are continuously appropriated unless the legislature enacts a dif-
49 ferent appropriation for a particular fiscal year. For purposes of the
50 limitation provided by section 63-802, Idaho Code, moneys received pursuant

1 to this section as property tax replacement for property exempt from taxa-
2 tion pursuant to section 63-602KK, Idaho Code, shall be treated as property
3 tax revenues. If taxing districts are consolidated, the resulting district
4 is entitled to an amount equal to the sum of the amounts that were received in
5 the last calendar year by each district pursuant to this subsection prior to
6 the consolidation. If a taxing district or revenue allocation area annexes
7 territory, the distribution of moneys received pursuant to this subsection
8 shall be unaffected. Taxing districts and revenue allocation areas formed
9 after January 1, 2013, are not entitled to a payment under the provisions of
10 this subsection.

11 (14) Amounts collected from purchasers and paid to the state of Idaho by
12 retailers that are not engaged in business in this state and which retailer
13 would not have been required to collect the sales tax, less amounts other-
14 wise distributed in subsections (1) and (10) of this section, shall be dis-
15 tributed to the tax relief fund created in section 57-811, Idaho Code. The
16 state tax commission will determine the amounts to be distributed under this
17 subsection.

18 (15) Any moneys remaining over and above those necessary to meet and
19 reserve for payments under other subsections of this section shall be dis-
20 tributed to the general fund.

21 (16) One percent (1%), but not less than fifteen million dollars
22 (\$15,000,000), is continuously appropriated and shall be distributed to the
23 transportation expansion and congestion mitigation fund established in sec-
24 tion 40-720, Idaho Code. The distribution provided for in this subsection
25 must immediately follow the distribution provided for in subsection (10) of
26 this section.

27 SECTION 23. That Section 20-514, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 20-514. REPRESENTATION AT ALL STAGES OF PROCEEDINGS -- APPOINTMENT OF
30 COUNSEL -- WAIVER -- PAYMENT OF COST OF LEGAL SERVICES. (1) A juvenile who
31 is being detained by a law enforcement officer or who is under formal charge
32 of having committed, or who has been adjudicated for commission of, an act,
33 omission, or status that brings him under the purview of this act, is enti-
34 tled:

35 (a) To be represented by an attorney to the same extent as an adult
36 having his own counsel is so entitled pursuant to section 19-852, Idaho
37 Code; and

38 (b) To be provided with the necessary services and facilities of repre-
39 sentation, including investigation and other preparation.

40 (2) A juvenile who is entitled to be represented by an attorney under
41 subsection (1) of this section is entitled:

42 (a) To be counseled and defended at all stages of the matter beginning
43 with the earliest time and including revocation of probation or recom-
44 mitment;

45 (b) To be represented in any appeal; and

46 (c) To be represented in any other post-adjudication or review proceed-
47 ing that the attorney or the juvenile considers appropriate, unless the
48 court in which the proceeding is brought determines that it is not a pro-

1 ceeding that a reasonable person with adequate means would be willing to
2 bring at his own expense and is therefore a frivolous proceeding.

3 (3) A juvenile's right to a benefit under subsection (1) or (2) of this
4 section is unaffected by his having provided a similar benefit at his own ex-
5 pense, or by his having waived it, at an earlier stage.

6 (4) As early as possible in the proceedings, and in any event before
7 the hearing of the petition on the merits, the juvenile and his parents, or
8 guardian, shall be notified of their right to have counsel represent them.
9 When it appears to the court that the juvenile or his parents or guardian
10 desire counsel but are financially unable to pay for such legal services,
11 the court shall appoint counsel to represent the juvenile and his parents
12 or guardian; provided that in the event the court shall find that there is
13 a conflict of interest between the interests of the juvenile and his parents
14 or guardian, then the court shall appoint separate counsel for the juvenile,
15 whether or not he or his parents or guardian are able to afford counsel, un-
16 less there is an intelligent waiver of the right of counsel by the juvenile,
17 except as provided in subsection (6) of this section, and the court further
18 determines that the best interest of the juvenile does not require the ap-
19 pointment of counsel. Counsel appointed under this section shall initially
20 receive reasonable compensation from the county and the county shall have
21 the right to be reimbursed for the cost thereof by the parents or guardian as
22 hereafter provided in this section.

23 (5) Any waiver of the right to counsel by a juvenile under this act shall
24 be made in writing, on the record and upon a finding by the court that:

25 (a) The juvenile has been informed of the right to counsel and the dan-
26 gers and disadvantages of self-representation; and

27 (b) The waiver is intelligently made after consideration of the total-
28 ity of the circumstances including, but not limited to:

29 (i) The age, maturity, intelligence, education, competency and
30 comprehension of the juvenile;

31 (ii) The presence of the juvenile's parents or guardian;

32 (iii) The seriousness of the offense;

33 (iv) The collateral consequences of adjudication of the offense;
34 and

35 (v) Whether the interests of the juvenile and his parents or
36 guardian conflict.

37 (6) A juvenile shall not be permitted to waive the assistance to counsel
38 in any of the following circumstances:

39 (a) If the juvenile is under the age of fourteen (14) years;

40 (b) In sentencing proceedings in which it has been recommended that the
41 juvenile be committed to the legal custody of the department of juvenile
42 corrections;

43 (c) In proceedings in which the juvenile is being adjudicated for com-
44 mission of a crime of a sexual nature;

45 (d) In proceedings in which the juvenile is being adjudicated for com-
46 mission of a felony;

47 (e) In hearings upon a motion to waive jurisdiction under the juvenile
48 corrections act pursuant to section 20-508, Idaho Code;

49 (f) In hearings upon a motion to examine the juvenile to determine if he
50 is competent to proceed pursuant to section 20-519A, Idaho Code; or

1 (g) In recommitment proceedings.

2 (7) Upon the entry of an order finding the juvenile is within the
3 purview of this act, the parents, spouse or other person liable for the
4 support of the juvenile, or the estates of such persons, and the estate of
5 such juvenile, may be required by the court to reimburse the county for all
6 or a portion of the cost of those legal services rendered to the juvenile by
7 counsel appointed pursuant to this section that are related to the finding
8 that the juvenile is within the purview of this act, unless the court finds
9 such persons or estate to be indigent as defined in section 19-851(e), Idaho
10 Code, and the requirement would impose a manifest hardship on those persons
11 responsible for the juvenile or the estates. The current inability of those
12 persons or entities to pay the reimbursement shall not, in and of itself,
13 restrict the court from ordering reimbursement.

14 (8) The prosecuting attorney of each county may, on behalf of the
15 county, recover payment or reimbursement, as the case may be, from each per-
16 son or estate who is liable for the payment or reimbursement of the cost of
17 court appointed counsel for the juvenile, as provided in subsection (7) of
18 this section. In the event such payment or reimbursement is not made upon
19 demand by the prosecuting attorney, suit may be brought against such persons
20 by the prosecuting attorney within five (5) years after the date on which
21 such counsel was appointed by the court.

22 SECTION 24. That Section 67-2601, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 67-2601. DEPARTMENT CREATED -- ORGANIZATION. (1) There is hereby cre-
25 ated the department of self-governing agencies. The department shall, for
26 the purposes of section 20, article IV, of the constitution of the state of
27 Idaho, be an executive department of the state government.

28 (2) The department shall consist of the following:

29 (a) Agricultural commodity commissions: Idaho apple commission, as
30 provided by chapter 36, title 22, Idaho Code; Idaho bean commission,
31 as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as
32 provided by chapter 29, title 25, Idaho Code; Idaho cherry commission,
33 as provided by chapter 37, title 22, Idaho Code; Idaho dairy products
34 commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea
35 and lentil commission, as provided by chapter 35, title 22, Idaho Code;
36 Idaho potato commission, as provided by chapter 12, title 22, Idaho
37 Code; the Idaho wheat commission, as provided by chapter 33, title 22,
38 Idaho Code; and the Idaho alfalfa and clover seed commission, as pro-
39 vided in chapter 42, title 22, Idaho Code.

40 (b) Professional and occupational licensing boards: Idaho state board
41 of accountancy, as provided by chapter 2, title 54, Idaho Code; board
42 of acupuncture, as provided by chapter 47, title 54, Idaho Code; board
43 of architectural examiners, as provided by chapter 3, title 54, Idaho
44 Code; state athletic commission, as provided by chapter 4, title 54,
45 Idaho Code; board of commissioners of the Idaho state bar, as provided
46 by chapter 4, title 3, Idaho Code; board of chiropractic physicians,
47 as provided by chapter 7, title 54, Idaho Code; Idaho state licensing
48 board of professional counselors and marriage and family therapists, as
49 provided by chapter 34, title 54, Idaho Code; state board of dentistry,

1 as provided by chapter 9, title 54, Idaho Code; state board of dentu-
2 ristry, as provided by chapter 33, title 54, Idaho Code; Idaho board of
3 licensure of professional engineers and professional land surveyors,
4 as provided by chapter 12, title 54, Idaho Code; state board of regis-
5 tration for professional geologists, as provided by chapter 28, title
6 54, Idaho Code; speech and hearing and communication services licen-
7 sure board, as provided by chapter 29, title 54, Idaho Code; Idaho phys-
8 ical therapy licensure board, as provided by chapter 22, title 54, Idaho
9 Code; Idaho state board of landscape architects, as provided by chap-
10 ter 30, title 54, Idaho Code; liquefied petroleum gas safety board, as
11 provided by chapter 53, title 54, Idaho Code; state board of medicine,
12 as provided by chapter 18, title 54, Idaho Code; state board of mortici-
13 cians, as provided by chapter 11, title 54, Idaho Code; ~~board of natur-~~
14 ~~opathic medical examiners board~~, as provided by chapter 51, title 54,
15 Idaho Code; board of nursing, as provided by chapter 14, title 54, Idaho
16 Code; board of examiners of nursing home administrators, as provided by
17 chapter 16, title 54, Idaho Code; state board of optometry, as provided
18 by chapter 15, title 54, Idaho Code; Idaho outfitters and guides licens-
19 ing board, as provided by chapter 21, title 36, Idaho Code; board of
20 pharmacy, as provided by chapter 17, title 54, Idaho Code; state board
21 of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state
22 board of psychologist examiners, as provided by chapter 23, title 54,
23 Idaho Code; Idaho real estate commission, as provided by chapter 20, ti-
24 tle 54, Idaho Code; real estate appraiser board, as provided by chapter
25 41, title 54, Idaho Code; board of social work examiners, as provided
26 by chapter 32, title 54, Idaho Code; the board of veterinary medicine,
27 as provided by chapter 21, title 54, Idaho Code; the board of examiners
28 of residential care facility administrators, as provided by chapter 42,
29 title 54, Idaho Code; the certified shorthand reporters board, as pro-
30 vided by chapter 31, title 54, Idaho Code; the driving businesses licen-
31 sure board, as provided by chapter 54, title 54, Idaho Code; the board of
32 drinking water and wastewater professionals, as provided by chapter 24,
33 title 54, Idaho Code; the board of midwifery, as provided by chapter 55,
34 title 54, Idaho Code; and the barber and cosmetology services licensing
35 board, as provided by chapter 58, title 54, Idaho Code.

36 (c) The board of examiners, pursuant to section 67-2001, Idaho Code.

37 (d) The division of building safety: building code board, chapter 41,
38 title 39, Idaho Code; electrical board, chapter 10, title 54, Idaho
39 Code; public works contractors license board, chapter 19, title 54,
40 Idaho Code; plumbing board, chapter 26, title 54, Idaho Code; public
41 works construction management, chapter 45, title 54, Idaho Code; the
42 heating, ventilation and air conditioning board, chapter 50, title 54,
43 Idaho Code; and factory built structures advisory board, chapter 43,
44 title 39, Idaho Code.

45 (e) The division of veterans services to be headed by a division ad-
46 ministrator who shall be a nonclassified employee exempt from the pro-
47 visions of chapter 53, title 67, Idaho Code. The administrator of the
48 division shall administer the provisions of chapter 2, title 65, Idaho
49 Code, and chapter 9, title 66, Idaho Code, with the advice of the vet-
50 erans affairs commission established under chapter 2, title 65, Idaho

1 Code, and shall perform such additional duties as are imposed upon him
2 by law.

3 (f) The board of library commissioners, pursuant to section 33-2502,
4 Idaho Code.

5 (g) The Idaho state historical society, pursuant to section 67-4123,
6 Idaho Code.

7 (h) The state board of public defense ~~commission~~, pursuant to section
8 19-849, Idaho Code.

9 (3) The division of occupational and professional licenses is hereby
10 created within the department of self-governing agencies.

11 (4) Notwithstanding any other provision of law to the contrary, the
12 governor shall have the authority to assign entities listed in subsection
13 (2) of this section to divisions, sections, or units in such a manner as will
14 tend to provide an orderly arrangement in the administrative organization of
15 state government.

16 SECTION 25. That Section 67-5303, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state
19 of Idaho and all employees in such departments, except those employees
20 specifically defined as nonclassified, shall be classified employees, who
21 are subject to this chapter and to the system of personnel administration
22 which it prescribes. Nonclassified employees shall be:

23 (a) Members of the state legislature and all other officers of the state
24 of Idaho elected by popular vote, and persons appointed to fill vacancies in
25 elective offices, and employees of the state legislature.

26 (b) Members of statutory boards and commissions and heads of depart-
27 ments appointed by and serving at the pleasure of the governor, deputy direc-
28 tors appointed by the director and members of advisory boards and councils
29 appointed by the departments.

30 (c) All employees and officers in the office, and at the residence, of
31 the governor; and all employees and officers in the offices of the lieutenant
32 governor, secretary of state, attorney general, state treasurer, state con-
33 troller, and state superintendent of public instruction who are appointed on
34 and after the effective date of this chapter.

35 (d) Except as otherwise provided by law, not more than one (1) declared
36 position for each board or commission and/or head of a participating depart-
37 ment, in addition to those declared to be nonclassified by other provisions
38 of law.

39 (e) Part-time professional consultants who are paid on a fee basis for
40 any form of legal, medical or other professional service, and who are not en-
41 gaged in the performance of administrative duties for the state.

42 (f) Judges, temporary referees, receivers and jurors.

43 (g) All employees of the Idaho supreme court, Idaho court of appeals and
44 district courts.

45 (h) All employees of the Idaho state bar.

46 (i) Assistant attorneys general attached to the office of the attorney
47 general.

48 (j) Officers, members of the teaching staffs of state educational in-
49 stitutions, the professional staff of the Idaho department of education

1 administered by the board of regents and the board of education, and the
2 professional staffs of the Idaho division of career technical education
3 and vocational rehabilitation administered by the state board for career
4 technical education. "Teaching staff" includes teachers, coaches, resident
5 directors, librarians and those principally engaged in academic research.
6 The word "officer" means presidents, vice presidents, deans, directors, or
7 employees in positions designated by the state board who receive an annual
8 salary of not less than step "A" of the pay grade equivalent to three hundred
9 fifty-five (355) Hay points in the state compensation schedule. A nonclas-
10 sified employee who is designated as an "officer" on July 5, 1991, but does
11 not meet the requirements of this subsection, may make a one (1) time irrev-
12 ocable election to remain nonclassified. Such an election must be made not
13 later than August 2, 1991. When such positions become vacant, these posi-
14 tions will be reviewed and designated as either classified or nonclassified
15 in accordance with this subsection.

16 (k) Employees of the military division.

17 (l) Patients, inmates or students employed in a state institution.

18 (m) Persons employed in positions established under federal grants,
19 which, by law, restrict employment eligibility to specific individuals or
20 groups on the basis of nonmerit selection requirements. Such employees
21 shall be termed "project exempt" and the tenure of their employment shall
22 be limited to the length of the project grant, or twenty-four (24) months,
23 or four thousand one hundred sixty (4,160) hours of credited state service,
24 whichever is of the shortest duration. No person hired on a project-exempt
25 appointment shall be employed in any position allocated to the classified
26 service.

27 (n) Temporary employees.

28 (o) All employees and officers of the following named commodity commis-
29 sions, and all employees and officers of any commodity commission created
30 hereafter: the Idaho potato commission, as provided in chapter 12, title 22,
31 Idaho Code; the Idaho honey commission, as provided in chapter 28, title 22,
32 Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22,
33 Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, ti-
34 tle 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33,
35 title 22, Idaho Code; the Idaho pea and lentil commission, as provided in
36 chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in
37 chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in
38 chapter 37, title 22, Idaho Code; the Idaho mint commission, as provided in
39 chapter 38, title 22, Idaho Code; the Idaho sheep and goat health board, as
40 provided in chapter 1, title 25, Idaho Code; the state brand inspector, and
41 all district supervisors, as provided in chapter 11, title 25, Idaho Code;
42 the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and
43 the Idaho dairy products commission, as provided in chapter 31, title 25,
44 Idaho Code.

45 (p) All inspectors of the fresh fruit and vegetable inspection service
46 of the Idaho department of agriculture, except those positions involved in
47 the management of the program.

48 (q) All employees of correctional industries within the department of
49 correction.

1 (r) All deputy administrators and wardens employed by the department of
2 correction. Deputy administrators are defined as only the deputy adminis-
3 trators working directly for the nonclassified division administrators un-
4 der the director of the department of correction.

5 (s) All public information positions, with the exception of secretar-
6 ial positions, in any department.

7 (t) Any division administrator.

8 (u) Any regional administrator or division administrator in the de-
9 partment of environmental quality.

10 (v) All employees of the division of financial management, all employ-
11 ees of the STEM action center, all employees of the office of species conser-
12 vation, all employees of the office of drug policy and all employees of the
13 office of energy resources.

14 (w) All employees of the Idaho food quality assurance institute.

15 (x) The state ~~appellate~~ chief public defender, deputy state appellate
16 public defenders and all other employees of the office of the state ~~appellate~~
17 chief public defender.

18 (y) All quality assurance specialists or medical investigators of the
19 Idaho board of medicine.

20 (z) All pest survey and detection employees and their supervisors hired
21 specifically to carry out activities under the Idaho plant pest act, chapter
22 20, title 22, Idaho Code, including but not limited to pest survey, detec-
23 tion and eradication, except those positions involved in the management of
24 the program.

25 (aa) All medical directors employed by the department of health and
26 welfare who are engaged in the practice of medicine, as defined by section
27 54-1803, Idaho Code, at an institution named in section 66-115, Idaho Code.

28 SECTION 26. That Section 74-105, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS,
31 INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS,
32 WORKER'S COMPENSATION. The following records are exempt from disclosure:

33 (1) Investigatory records of a law enforcement agency, as defined in
34 section 74-101(7), Idaho Code, under the conditions set forth in section
35 74-124, Idaho Code.

36 (2) Juvenile records of a person maintained pursuant to chapter 5,
37 title 20, Idaho Code, except that facts contained in such records shall be
38 furnished upon request in a manner determined by the court to persons and
39 governmental and private agencies and institutions conducting pertinent
40 research studies or having a legitimate interest in the protection, welfare
41 and treatment of the juvenile who is thirteen (13) years of age or younger.
42 If the juvenile is petitioned or charged with an offense which would be a
43 criminal offense if committed by an adult, the name, offense of which the
44 juvenile was petitioned or charged and disposition of the court shall be sub-
45 ject to disclosure as provided in section 20-525, Idaho Code. Additionally,
46 facts contained in any records of a juvenile maintained under chapter 5,
47 title 20, Idaho Code, shall be furnished upon request to any school district
48 where the juvenile is enrolled or is seeking enrollment.

1 (3) Records of the custody review board of the Idaho department of ju-
2 venile corrections, including records containing the names, addresses and
3 written statements of victims and family members of juveniles, shall be ex-
4 empt from public disclosure pursuant to section 20-533A, Idaho Code.

5 (4) (a) The following records of the department of correction:

6 (i) Records of which the public interest in confidentiality, pub-
7 lic safety, security and habilitation clearly outweighs the pub-
8 lic interest in disclosure as identified pursuant to the authority
9 of the Idaho board of correction under section 20-212, Idaho Code;

10 (ii) Records that contain any identifying information, or any in-
11 formation that would lead to the identification of any victims or
12 witnesses;

13 (iii) Records that reflect future transportation or movement of a
14 prisoner;

15 (iv) Records gathered during the course of the presentence inves-
16 tigation;

17 (v) Records of a prisoner, as defined in section 74-101(10),
18 Idaho Code, or probationer shall not be disclosed to any other
19 prisoner or probationer.

20 (b) Records, other than public expenditure records, related to pro-
21 posed or existing critical infrastructure held by or in the custody
22 of any public agency only when the disclosure of such information is
23 reasonably likely to jeopardize the safety of persons, property or the
24 public safety. Such records may include emergency evacuation, escape
25 or other emergency response plans, vulnerability assessments, oper-
26 ation and security manuals, plans, blueprints or security codes. For
27 purposes of this paragraph, "system" includes electrical, computer
28 and telecommunication systems, electric power (including production,
29 generating, transportation, transmission and distribution), heating,
30 ventilation, and air conditioning. For purposes of this subsection,
31 "critical infrastructure" means any system or asset, whether physical
32 or virtual, so vital to the state of Idaho, including its political sub-
33 divisions, that the incapacity or destruction of such system or asset
34 would have a debilitating impact on state or national economic secu-
35 rity, state or national public health or safety or any combination of
36 those matters.

37 (c) Records of the commission of pardons and parole shall be exempt from
38 public disclosure pursuant to section 20-213A, Idaho Code, and section
39 20-223, Idaho Code. Records exempt from disclosure shall also include
40 those containing the names, addresses and written statements of vic-
41 tims.

42 (5) Voting records of the sexual offender management board. The writ-
43 ten record of the vote to classify an offender as a violent sexual predator by
44 each board member in each case reviewed by that board member shall be exempt
45 from disclosure to the public and shall be made available upon request only
46 to the governor, the chairman of the senate judiciary and rules committee,
47 and the chairman of the house of representatives judiciary, rules and admin-
48 istration committee, for all lawful purposes.

49 (6) Records of the sheriff or Idaho state police received or maintained
50 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating

1 to an applicant or licensee except that any law enforcement officer and law
2 enforcement agency, whether inside or outside the state of Idaho, may access
3 information maintained in the license record system as set forth in section
4 18-3302K(16), Idaho Code.

5 (7) Records of investigations prepared by the department of health and
6 welfare pursuant to its statutory responsibilities dealing with the protec-
7 tion of children, the rehabilitation of youth, adoptions and the commitment
8 of mentally ill persons. For reasons of health and safety, best interests of
9 the child or public interest, the department of health and welfare may pro-
10 vide for the disclosure of records of investigations associated with actions
11 pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by
12 the department of health and welfare pursuant to its statutory responsibili-
13 ties dealing with the protection of children except any such records regard-
14 ing adoptions shall remain exempt from disclosure.

15 (8) Records including, but not limited to, investigative reports,
16 resulting from investigations conducted into complaints of discrimination
17 made to the Idaho human rights commission unless the public interest in
18 allowing inspection and copying of such records outweighs the legitimate
19 public or private interest in maintaining confidentiality of such records.
20 A person may inspect and copy documents from an investigative file to which
21 he or she is a named party if such documents are not otherwise prohibited from
22 disclosure by federal law or regulation or state law. The confidentiality of
23 this subsection will no longer apply to any record used in any judicial pro-
24 ceeding brought by a named party to the complaint or investigation, or by the
25 Idaho human rights commission, relating to the complaint of discrimination.

26 (9) Records containing information obtained by the manager of the Idaho
27 state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on
28 behalf of employers or employees contained in underwriting and claims for
29 benefits files.

30 (10) The worker's compensation records of the Idaho industrial commis-
31 sion provided that the industrial commission shall make such records avail-
32 able:

33 (a) To the parties in any worker's compensation claim and to the indus-
34 trial special indemnity fund of the state of Idaho; or

35 (b) To employers and prospective employers subject to the provisions of
36 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
37 tory limitations, who certify that the information is being requested
38 with respect to a worker to whom the employer has extended an offer of
39 employment and will be used in accordance with the provisions of the
40 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
41 limitations; or

42 (c) To employers and prospective employers not subject to the provi-
43 sions of the Americans with disabilities act, 42 U.S.C. 12112, or other
44 statutory limitations, provided the employer presents a written autho-
45 rization from the person to whom the records pertain; or

46 (d) To others who demonstrate that the public interest in allowing in-
47 spection and copying of such records outweighs the public or private in-
48 terest in maintaining the confidentiality of such records, as deter-
49 mined by a civil court of competent jurisdiction; or

1 (e) Although a claimant's records maintained by the industrial commis-
2 sion, including medical and rehabilitation records, are otherwise ex-
3 empt from public disclosure, the quoting or discussing of medical or re-
4 habilitation records contained in the industrial commission's records
5 during a hearing for compensation or in a written decision issued by the
6 industrial commission shall be permitted; provided further, the true
7 identification of the parties shall not be exempt from public disclo-
8 sure in any written decision issued and released to the public by the in-
9 dustrial commission.

10 (11) Records of investigations compiled by the commission on aging in-
11 volving vulnerable adults, as defined in section 18-1505, Idaho Code, al-
12 leged to be abused, neglected or exploited.

13 (12) Criminal history records and fingerprints, as defined in section
14 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
15 shall be released only in accordance with chapter 30, title 67, Idaho Code.

16 (13) Records furnished or obtained pursuant to section 41-1019, Idaho
17 Code, regarding termination of an appointment, employment, contract or
18 other insurance business relationship between an insurer and a producer.

19 (14) Records of a prisoner or former prisoner in the custody of any state
20 or local correctional facility, when the request is made by another prisoner
21 in the custody of any state or local correctional facility.

22 (15) Except as provided in section 72-1007, Idaho Code, records of the
23 Idaho industrial commission relating to compensation for crime victims un-
24 der chapter 10, title 72, Idaho Code.

25 (16) Records or information identifying a complainant maintained by the
26 department of health and welfare pursuant to section 39-3556, Idaho Code,
27 relating to certified family homes, unless the complainant consents in writ-
28 ing to the disclosure or the disclosure of the complainant's identity is re-
29 quired in any administrative or judicial proceeding.

30 (17) Records of any certification or notification required by federal
31 law to be made in connection with the acquisition or transfer of a firearm,
32 including a firearm as defined in 26 U.S.C. 5845(a).

33 ~~(18) The following records of the state public defense commission:~~

34 ~~(a) Records of the state board of public defense containing informa-~~
35 ~~tion protected or exempted from disclosure under the rules adopted by the~~
36 ~~Idaho supreme court, attorney work product, attorney-client privileged com-~~
37 ~~munication, records containing confidential information from an individual~~
38 ~~about his criminal case or performance of his attorney, or confidential in-~~
39 ~~formation about an inquiry into an attorney's fitness to represent indigent~~
40 ~~defendants.~~

41 ~~(b) Records related to the administration of the extraordinary litiga-~~
42 ~~tion fund by the state public defense commission, pursuant to section~~
43 ~~19-850(2)(e), Idaho Code, to the extent that such records contain in-~~
44 ~~formation protected or exempted from disclosure under rules adopted~~
45 ~~by the Idaho supreme court, attorney work product or attorney-client~~
46 ~~privileged communication. This exemption does not include the amount~~
47 ~~awarded based upon an application for extraordinary litigation funds.~~

48 (19) Records and information received by the office of the state con-
49 troller from any local government, state agency and department, or volunteer
50 nongovernmental entity for purposes of entry into the criminal justice

1 integrated data system pursuant to section 19-4803, Idaho Code, and all
2 records created by persons authorized to research and analyze information
3 entered into the criminal justice integrated data system, regardless of
4 whether such records were previously exempted from disclosure or redacted
5 pursuant to state or federal law or court order. This exemption does not
6 apply to projects, reports, and data analyses approved for release by the
7 data oversight council and issued by persons authorized to conduct research
8 and analysis as set forth in chapter 48, title 19, Idaho Code. Records and
9 information relating to the management of the criminal justice integrated
10 data system shall not be exempt from disclosure except as otherwise provided
11 in law.

12 SECTION 27. This act shall be in full force and effect on and after Octo-
13 ber 1, 2022.