

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 105

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO FEES; AMENDING SECTION 1-2303, IDAHO CODE, TO INCREASE THE
 2 FILING FEE FOR SMALL CLAIMS CASES AND TO REVISE THE DISTRIBUTION
 3 OF THE FILING FEE FOR SMALL CLAIMS CASES TO PROVIDE THAT A
 4 CERTAIN AMOUNT SHALL BE DEPOSITED IN THE SENIOR MAGISTRATE
 5 JUDGES FUND; AMENDING SECTION 31-3201A, IDAHO CODE, TO REVISE
 6 PROVISIONS RELATING TO CERTAIN DISTRICT COURT FEES, TO PROVIDE
 7 CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS;
 8 AND AMENDING SECTION 18-918, IDAHO CODE, TO PROVIDE A CORRECT
 9 CODE REFERENCE.
 10

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

12 SECTION 1. That Section 1-2303, Idaho Code, be, and the same is hereby amended to
 13 read as follows:

14 1-2303. FILING OF CLAIM – DEFAULT. Upon filing a claim, the clerk shall furnish
 15 to the plaintiff a form of answer and instructions to the defendant, which, among other matters
 16 shall advise the defendant that if the defendant desires to have a hearing on the matter, the
 17 defendant must sign, complete and file the answer with the clerk. The instructions also shall
 18 notify the defendant that if the defendant does not sign and file the answer within twenty (20)
 19 days from the date of service on the defendant, judgment will be entered as requested in the
 20 claim.

21 If no answer is filed within twenty (20) days, judgment may be entered by the court as
 22 provided in Rule 55, I.R.C.P. If an answer is filed by the defendant, the court shall set the
 23 matter for trial or mediation, by notice mailed to each party.

24 The court shall collect in advance upon each claim the sum of ~~seven~~ thirteen dollars
 25 (\$713.00), which shall be in addition to the costs necessary to effect service of the claim upon
 26 the defendant, ~~and which~~ This fee shall be distributed as follows: seven dollars (\$7.00) shall
 27 be paid to the county treasurer for deposit in the district court fund of the county and six dollars
 28 (\$6.00) shall be paid to the county treasurer who shall, within five (5) days after the end of the
 29 month, pay such fee to the state treasurer for deposit in the senior magistrate judges fund.

30 SECTION 2. That Section 31-3201A, Idaho Code, be, and the same is hereby amended
 31 to read as follows:

32 31-3201A. COURT FEES. The clerk of the district court in addition to the fees and
 33 charges imposed by chapter 20, title 1, Idaho Code, and in addition to the fee levied by
 34 chapter 2, title 73, Idaho Code, shall charge, demand and receive the following fees for services
 35 rendered by him in discharging the duties imposed upon him by law:

36 (a1) Civil cases. A fee of fifty dollars (\$50.00) for filing a civil case of any type in
 37 the district court or in the magistrate’s division of the district court ~~including cases involving~~

~~the administration of decedents' estates, whether testate or intestate, and conservatorships of the person or of the estate or both with the following exceptions:~~

~~The filing fee shall be twenty eight dollars (\$28.00) in each case where the amount of money or damages or the value of personal property claimed does not exceed three hundred dollars (\$300). The filing fee shall be thirty dollars (\$30.00) in the following types of cases:~~

~~(1a) Where the amount of money or damages or the value of personal property claimed exceeds three hundred dollars (\$300) but does not exceed one thousand dollars (\$1,000)~~

~~The fee for small claims shall be as provided in section 1-2303, Idaho Code;~~

~~(2b) Where a case is brought for forcible or unlawful entry or detainer whether brought for rent or possession or both and regardless of the amount;~~

~~(3) Where a case is brought under chapter 20, title 16, Idaho Code, for the termination of parent child relationship;~~

~~(4) Where a case is brought under chapter 2, title 32, Idaho Code, for permission to marry;~~

~~(5) Where a case involving the administration of a decedent's estate is brought under the summary administration of small estates act;~~

~~(6) In cases where a court order is issued only for a certain specific reason other than the administering of an estate, including, but not limited to, proceedings brought under sections 14 114, 15 514, 15 1401, 15 1518 and/or 15 1709, Idaho Code, or for some specific reason;~~

~~(7) In cases brought to determine heirship without administration;~~

~~(8) In cases brought to determine inheritance or transfer tax;~~

~~(9) In proceedings brought for adoption;~~

~~(10) In proceedings brought for letters of guardianship of the person or of the estate or both.~~

No filing fee shall be charged in the following types of cases:

~~(1i) In e~~Cases brought under chapter 3, title 66, Idaho Code, for commitment of mentally ill persons;

~~(2ii) In e~~Cases brought under the juvenile corrections act;

~~(3iii) In e~~Cases brought under the child protective act;

(iv) Demands for bond before a personal representative is appointed in probate;

(v) Petitions for sterilization;

(vi) Petitions for judicial consent to abortion;

(vii) Registration of trusts and renunciations;

(viii) Petitions for leave to compromise the disputed claim of a minor;

(ix) Petitions for a civil protection order or to enforce a foreign civil protection order pursuant to chapter 63, title 39, Idaho Code;

(x) Objections to the appointment of a guardian filed by a minor or an incapacitated person;

(xi) Proceedings to suspend a license for nonpayment of child support pursuant to section 7-1405, Idaho Code;

(xii) Proceedings under the uniform post-conviction procedure act as provided in chapter 49, title 19, Idaho Code;

(xiii) Filings of a custody decree from another state;

(xiv) Filings of any answer after an initial appearance fee has been paid.

1 ~~In all cases in which a~~ The filing fee of fifty dollars (\$50.00) is paid, shall be distributed
 2 as follows: seventeen dollars (\$17.00) of such filing fee shall be paid to the county treasurer
 3 for deposit in the district court fund of the county; ten dollars (\$10.00) of such filing fee shall
 4 be paid to the county treasurer who shall, within five (5) days after the end of the month,
 5 pay such fees to the state treasurer for deposit into the ISTARs technology fund; seventeen
 6 dollars (\$17.00) of such filing fee shall be paid to the county treasurer who shall pay such fees
 7 to the state treasurer for deposit in accordance with subsection (~~p~~15) of this section; and six
 8 dollars (\$6.00) of such filing fee shall be paid to the county treasurer who shall, within five (5)
 9 days after the end of the month, pay such fees to the state treasurer for deposit in the senior
 10 magistrate judges fund. ~~In all cases in which a filing fee of thirty dollars (\$30.00) is paid, four~~
 11 ~~dollars (\$4.00) of such filing fee shall be paid to the county treasurer for deposit in the district~~
 12 ~~court fund of the county; ten dollars (\$10.00) of such filing fee shall be paid to the county~~
 13 ~~treasurer who shall, within five (5) days after the end of the month, pay such fees to the state~~
 14 ~~treasurer for deposit into the ISTARs technology fund; ten dollars (\$10.00) of such filing fee~~
 15 ~~shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit~~
 16 ~~in accordance with subsection (p) of this section; and six dollars (\$6.00) of such filing fee shall~~
 17 ~~be paid to the county treasurer who shall, within five (5) days after the end of the month, pay~~
 18 ~~such fees to the state treasurer for deposit in the senior magistrate judges fund. In all cases in~~
 19 ~~which a filing fee of twenty eight dollars (\$28.00) is paid, three dollars (\$3.00) of such filing~~
 20 ~~fee shall be paid to the county treasurer for deposit in the district court fund of the county; ten~~
 21 ~~dollars (\$10.00) of such filing fee shall be paid to the county treasurer who shall, within five (5)~~
 22 ~~days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARs~~
 23 ~~technology fund; nine dollars (\$9.00) of such filing fee shall be paid to the county treasurer~~
 24 ~~who shall pay such fees to the state treasurer for deposit in accordance with subsection (p) of~~
 25 ~~this section; and six dollars (\$6.00) of such filing fee shall be paid to the county treasurer who~~
 26 ~~shall, within five (5) days after the end of the month, pay such fees to the state treasurer for~~
 27 ~~deposit in the senior magistrate judges fund.~~

28 (b2) Felonies and misdemeanors. A fee of seventeen dollars and fifty cents (\$17.50)
 29 shall be paid, but not in advance, by each person found guilty of any felony or misdemeanor,
 30 except when the court orders such fee waived because the person is indigent and unable to pay
 31 such fee. If the magistrate court facilities are provided by the county, five dollars (\$5.00) of
 32 such fee shall be paid to the county treasurer for deposit in the district court fund of the county;
 33 and twelve dollars and fifty cents (\$12.50) of such fee shall be paid to the county treasurer who
 34 shall pay such fees to the state treasurer for deposit in accordance with subsection (~~p~~15) of this
 35 section. If the magistrate court facilities are provided by a city, five dollars (\$5.00) of such fee
 36 shall be paid to the city treasurer for deposit in the city general fund, two dollars and fifty cents
 37 (\$2.50) of such fee shall be paid to the city treasurer for deposit in the city capital facilities
 38 fund for the construction, remodeling and support of magistrates court facilities, and ten dollars
 39 (\$10.00) of such fee shall be paid to the county treasurer who shall pay such fees to the state
 40 treasurer for deposit in accordance with subsection (~~p~~15) of this section.

41 (e3) Infractions. A fee of sixteen dollars and fifty cents (\$16.50) shall be paid, but
 42 not in advance, by each person found to have committed an infraction or any minor traffic,
 43 conservation or ordinance violation; provided that the judge or magistrate may in his or her
 44 discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of
 45 assessing such fee. If the magistrate court facilities are provided by the county, five dollars
 46 (\$5.00) of such fee shall be paid to the county treasurer for deposit in the district court fund

1 of the county; and eleven dollars and fifty cents (\$11.50) of such fee shall be paid to the
 2 county treasurer, who shall pay such fees to the state treasurer for deposit in accordance with
 3 subsection (~~¶15~~) of this section. If the magistrate court facilities are provided by a city, five
 4 dollars (\$5.00) of such fee shall be paid to the city treasurer for deposit in the city general fund,
 5 two dollars and fifty cents (\$2.50) of such fee shall be paid to the city treasurer for deposit
 6 in the city capital facilities fund for the construction, remodeling and support of magistrate
 7 court facilities, and nine dollars (\$9.00) of such fee shall be paid to the county treasurer who
 8 shall pay such fees to the state treasurer for deposit in accordance with subsection (~~¶15~~) of this
 9 section.

10 (~~d4~~) Initial appearance other than plaintiff. A fee of thirty dollars (\$30.00) shall be paid
 11 for any filing constituting the initial appearance by any party, except the plaintiff, ~~making an~~
 12 ~~appearance~~ in any civil action in the district court or in the magistrate's division of the district
 13 court, except small claims. If two (2) or more parties are making their initial appearance in the
 14 same filing, then only one (1) filing fee shall be collected. Of such fee, four dollars (\$4.00)
 15 shall be paid to the county treasurer for deposit in the district court fund of the county; ten
 16 dollars (\$10.00) of such fee shall be paid to the county treasurer who shall, within five (5) days
 17 after the end of the month, pay such fees to the state treasurer for deposit into the ISTARs
 18 technology fund; ten dollars (\$10.00) of such fee shall be paid to the county treasurer who
 19 shall pay such fees to the state treasurer for deposit in accordance with subsection (~~¶15~~) of
 20 this section; and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall,
 21 within five (5) days after the end of the month, pay such fees to the state treasurer for deposit
 22 in the senior magistrate judges fund.

23 (~~e5~~) Accountings. A fee of nine dollars (\$9.00) shall be paid by the person or persons
 24 required to make an account pursuant to either chapter 11 or chapter 18, title 15, Idaho Code, at
 25 the time such account is filed. All of such fee shall be paid to the county treasurer for deposit
 26 in the district court fund of the county.

27 (~~f6~~) Distribution of estate. A fee of twenty-five dollars (\$25.00) shall be paid upon the
 28 filing of a petition of the executor or administrator or of any person interested in an estate
 29 for the distribution of such estate, six dollars (\$6.00) of such fee shall be paid to the county
 30 treasurer for deposit in the district court fund of the county; thirteen dollars (\$13.00) of such
 31 fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for
 32 deposit in accordance with subsection (~~¶15~~) of this section; and six dollars (\$6.00) of such fee
 33 shall be paid to the county treasurer who shall, within five (5) days after the end of the month,
 34 pay such fees to the state treasurer for deposit in the senior magistrate judges fund.

35 (~~g7~~) ~~A fee of thirteen dollars (\$13.00) shall be paid by an intervenor upon making an~~
 36 ~~appearance in any civil action in the district court or in the magistrate's division of the district~~
 37 ~~court. Seven dollars (\$7.00) of such fee shall be paid to the county treasurer for deposit in the~~
 38 ~~district court fund of the county; and six dollars (\$6.00) of such fee shall be paid to the county~~
 39 ~~treasurer who shall, within five (5) days after the end of the month, pay such fees to the state~~
 40 ~~treasurer for deposit in the senior magistrate judges fund.~~

41 (~~h~~) Third party claim. A fee of fourteen dollars (\$14.00) shall be paid by a party filing a
 42 third party claim as defined in the Idaho ~~R~~rules of ~~C~~civil ~~P~~procedure. Eight dollars (\$8.00) of
 43 such fee shall be paid to the county treasurer for deposit in the district court fund of the county;
 44 and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five
 45 (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior
 46 magistrate judges fund.

1 ~~(8)~~ Cross-claims. A fee of fourteen dollars (\$14.00) shall be paid by any party filing a
2 cross-claim. Eight dollars (\$8.00) of such fee shall be paid to the county treasurer for deposit
3 in the district court fund of the county; and six dollars (\$6.00) of such fee shall be paid to the
4 county treasurer who shall, within five (5) days after the end of the month, pay such fees to the
5 state treasurer for deposit in the senior magistrate judges fund.

6 ~~(9)~~ Change of venue. A fee of nine dollars (\$9.00) shall be paid by a party initiating a
7 change of venue. Such fee shall be paid to the clerk of the court of the county to which venue
8 is changed. All of such fee shall be paid to the county treasurer for deposit in the district court
9 fund of the county.

10 ~~(10)~~ Reopening a case. A fee of fifteen dollars (\$15.00) shall be paid by any party
11 appearing after judgment or applying to reopen a case. Nine dollars (\$9.00) of such fee shall
12 be paid to the county treasurer for deposit in the district court fund of the county; and six
13 dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5)
14 days after the end of the month, pay such fees to the state treasurer for deposit in the senior
15 magistrate judges fund. A fee of thirty-eight dollars (\$38.00) shall be paid by a party applying
16 to reopen a divorce action or modify a divorce decree, with seventeen dollars (\$17.00) of the
17 fee to be paid to the county treasurer for deposit in the district court fund of the county; fifteen
18 dollars (\$15.00) of such fee to be paid to the county treasurer who shall pay such fees to the
19 state treasurer for deposit in accordance with subsection ~~(15)~~ of this section; and six dollars
20 (\$6.00) of such fee to be paid to the county treasurer who shall, within five (5) days after the
21 end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges
22 fund.

23 ~~(11)~~ Appeal to district court. A fee of fifteen dollars (\$15.00) shall be paid by a party
24 taking an appeal from the magistrate's division of the district court to the district court; and
25 six dollars ~~(\$6.00)~~ of such fee shall be paid to the county treasurer who shall, within five (5)
26 days after the end of the month, pay such fees to the state treasurer for deposit in the senior
27 magistrate judges fund. No additional fee shall be required if a new trial is granted. All of
28 such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

29 ~~(12)~~ Appeal to supreme court. A fee of fifteen dollars (\$15.00) shall be paid by the
30 party taking an appeal from the district court to the supreme court for comparing and certifying
31 the transcript on appeal, if such certificate is required. Nine dollars (\$9.00) of such fee shall be
32 paid to the county treasurer for deposit in the district court fund of the county; and six dollars
33 (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the
34 end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges
35 fund.

36 ~~(13)~~ Fees not covered by this section shall be set by rule or administrative order of the
37 supreme court.

38 ~~(14)~~ All fees required to be paid by this section or by rule or administrative order of the
39 supreme court shall be collected by the clerk of the district court or by a person appointed by
40 the clerk of the district court for this purpose. If it appears that there is a necessity for such
41 fees to be collected by persons other than the clerk of the district court or a person designated
42 by the clerk for such purpose, the supreme court by rule or administrative order may provide
43 for the designation of persons authorized to receive such fees. Persons so designated shall
44 account for such fees in the same manner required of the clerk of the district court and shall
45 pay such fees to the clerk of the district court of the county in which such fees are collected.

1 (~~p~~15) That portion of the filing fees required to be remitted to the state treasurer for
 2 deposit pursuant to subsections (~~a~~1), (~~b~~2), (~~c~~3), (~~d~~4), ~~and~~ (~~f~~6) and (10) of this section shall
 3 be apportioned eighty-six percent (86%) to the state general fund and fourteen percent (14%)
 4 to the peace officers standards and training fund authorized in section 19-5116, Idaho Code,
 5 within five (5) days after the end of the month in which such fees were remitted to the county
 6 treasurer. That portion of the filing fees required to be remitted to a city treasurer for deposit in
 7 the city's general fund shall be remitted within five (5) days after the end of the month in which
 8 such fees were remitted to the county treasurer.

9 (~~e~~16) Of the fees derived from the filing of any divorce action required to be transmitted
 10 to the state treasurer, the county treasurer shall retain five dollars (\$5.00), which shall be
 11 separately identified and deposited in the district court fund of the county. Such moneys
 12 shall be used exclusively for the purpose of establishing a uniform system of qualifying and
 13 approving persons, agencies or organizations to conduct evaluations of persons convicted of
 14 domestic assault or battery as provided in section 18-918, Idaho Code, and the administration
 15 of section 18-918(7), Idaho Code, relating to the evaluation and counseling or other treatment
 16 of such persons, including the payment of the costs of evaluating and counseling or other
 17 treatment of an indigent defendant. No provision of chapter 52, title 39, Idaho Code, shall
 18 apply to the moneys provided for in this subsection.

19 (~~f~~17) In consideration of the aforesaid fees the clerk of the district court shall be required
 20 to perform all lawful service that may be required of him by any party thereto; provided, that
 21 he shall not prepare and furnish any certified copy of any file or record in an action except
 22 printed transcript on appeal, without additional compensation as provided by law.

23 SECTION 3. That Section 18-918, Idaho Code, be, and the same is hereby amended to
 24 read as follows:

25 18-918. DOMESTIC VIOLENCE. (1) For the purpose of this section:

26 (a) "Household member" means a person who is a spouse, former spouse, or a person
 27 who has a child in common regardless of whether they have been married or a person
 28 with whom a person is cohabiting, whether or not they have married or have held
 29 themselves out to be husband or wife.

30 (b) "Traumatic injury" means a condition of the body, such as a wound or external or
 31 internal injury, whether of a minor or serious nature, caused by physical force.

32 (2) (a) Any household member who in committing a battery, as defined in section
 33 18-903, Idaho Code, inflicts a traumatic injury upon any other household member is
 34 guilty of a felony.

35 (b) A conviction of felony domestic battery is punishable by imprisonment in the state
 36 prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand
 37 dollars (\$10,000) or by both fine and imprisonment.

38 (3) (a) A household member who commits an assault, as defined in section 18-901, Idaho
 39 Code, against another household member which does not result in traumatic injury is
 40 guilty of a misdemeanor domestic assault.

41 (b) A household member who commits a battery, as defined in section 18-903, Idaho
 42 Code, against another household member which does not result in traumatic injury is
 43 guilty of a misdemeanor domestic battery.

44 (c) A first conviction under this subsection (3) is punishable by a fine not exceeding
 45 one thousand dollars (\$1,000) or by imprisonment in a county jail not to exceed six (6)

1 months, or both. Any person who pleads guilty to or is found guilty of a violation of
2 this subsection (3) who previously has pled guilty to or been found guilty of a violation
3 of this subsection (3), or of any substantially conforming foreign criminal violation,
4 notwithstanding the form of the judgment or withheld judgment, within ten (10) years
5 of the first conviction, shall be guilty of a misdemeanor and shall be punished by
6 imprisonment in the county jail for a term not to exceed one (1) year or by a fine not
7 exceeding two thousand dollars (\$2,000) or by both fine and imprisonment. Any person
8 who pleads guilty to or is found guilty of a violation of this subsection (3) who previously
9 has pled guilty to or been found guilty of two (2) violations of this subsection (3), or
10 of any substantially conforming foreign criminal violation or any combination thereof,
11 notwithstanding the form of the judgment or withheld judgment, within fifteen (15) years
12 of the first conviction, shall be guilty of a felony and shall be punished by imprisonment
13 in the state prison for a term not to exceed five (5) years or by a fine not to exceed five
14 thousand dollars (\$5,000) or by both fine and imprisonment.

15 (4) The maximum penalties provided in this section shall be doubled where the act of
16 domestic assault or battery for which the person is convicted or pleads guilty took place in the
17 presence of a child. For purposes of this section, "in the presence of a child" means in the
18 physical presence of a child or knowing that a child is present and may see or hear an act of
19 domestic assault or battery. For purposes of this section, "child" means a person under sixteen
20 (16) years of age.

21 (5) Notwithstanding any other provisions of this section, any person who previously has
22 pled guilty to or been found guilty of a felony violation of the provisions of this section or of
23 any substantially conforming foreign criminal felony violation, notwithstanding the form of the
24 judgment or withheld judgment, and who within fifteen (15) years pleads guilty to or is found
25 guilty of any further violation of this section, shall be guilty of a felony and shall be punished
26 by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to
27 exceed ten thousand dollars (\$10,000), or by both such fine and imprisonment.

28 (6) For the purposes of this section, a substantially conforming foreign criminal violation
29 exists when a person has pled guilty to or been found guilty of a violation of any federal
30 law or law of another state, or any valid county, city or town ordinance of another state,
31 substantially conforming with the provisions of this section. The determination of whether a
32 foreign criminal violation is substantially conforming is a question of law to be determined by
33 the court.

34 (7) (a) Any person who pleads guilty to or is found guilty of a violation of this section
35 shall undergo, at the person's own expense, an evaluation by a person, agency or
36 organization approved by the court in accordance with paragraph (c) of this subsection to
37 determine whether the defendant should be required to obtain aggression counseling or
38 other appropriate treatment. Such evaluation shall be completed prior to the sentencing
39 date if the court's list of approved evaluators, in accordance with paragraph (c) of
40 this subsection, contains evaluators who are able to perform the evaluation prior to
41 the sentencing dates. If the evaluation recommends counseling or other treatment, the
42 evaluation shall recommend the type of counseling or treatment considered appropriate
43 for the defendant, together with the estimated costs thereof, and shall recommend any
44 other suitable alternative counseling or treatment programs, together with the estimated
45 costs thereof. The defendant shall request that a copy of the completed evaluation
46 be forwarded to the court. The court shall take the evaluation into consideration in

1 determining an appropriate sentence. If a copy of the completed evaluation has not been
2 provided to the court, the court may proceed to sentence the defendant; however, in such
3 event, it shall be presumed that counseling is required unless the defendant makes a
4 showing by a preponderance of evidence that counseling is not required. If the defendant
5 has not made a good faith effort to provide the completed copy of the evaluation to
6 the court, the court may consider the failure of the defendant to provide the report as
7 an aggravating circumstance in determining an appropriate sentence. If counseling or
8 other treatment is ordered, in no event shall the person, agency or organization doing the
9 evaluation be the person, agency or organization that provides the counseling or other
10 treatment unless this requirement is waived by the sentencing court, with the exception
11 of federally recognized Indian tribes or federal military installations, where diagnosis and
12 treatment are appropriate and available. Nothing herein contained shall preclude the use
13 of funds authorized for court-ordered counseling or treatment pursuant to this section for
14 indigent defendants as provided by law. In the event that funding is provided for or on
15 behalf of the defendant by a governmental entity, the defendant shall be ordered to make
16 restitution to such governmental entity in accordance with the restitution procedure for
17 crime victims, as specified under chapter 53, title 19, Idaho Code.

18 (b) If the evaluation recommends counseling or other treatment, the court shall order
19 the person to complete the counseling or other treatment in addition to any other
20 sentence which may be imposed. If the court determines that counseling or treatment
21 would be inappropriate or undesirable, the court shall enter findings articulating the
22 reasons for such determination on the record. The court shall order the defendant to
23 complete the preferred counseling or treatment program set forth in the evaluation, or
24 a comparable alternative, unless it appears that the defendant cannot reasonably obtain
25 adequate financial resources for such counseling or treatment. In that event, the court
26 may order the defendant to complete a less costly alternative set forth in the evaluation
27 or a comparable program. Nothing contained in this subsection shall be construed as
28 requiring a court to order that counseling or treatment be provided at government expense
29 unless otherwise required by law.

30 (c) Each judicial district shall by rule establish a uniform system for the qualification
31 and approval of persons, agencies or organizations to perform the evaluations required in
32 this subsection. Only qualified evaluators approved by the court shall be authorized to
33 perform such evaluations. Funds to establish a system for approval of evaluators shall
34 be derived from moneys designated therefor and deposited in the district court fund as
35 provided in section 31-3201A(~~¶~~16), Idaho Code.

36 (d) Counseling or treatment ordered pursuant to this section shall be conducted according
37 to standards established or approved by the Idaho council on domestic violence.