

IN THE SENATE

SENATE BILL NO. 1007

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO COMPENSATION OF VICTIMS OF CRIMES; AMENDING SECTION 19-4708, IDAHO CODE, TO FURTHER DEFINE A TERM; AMENDING SECTION 19-5305, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE COLLECTION OF RESTITUTION; AND AMENDING SECTION 20-520, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE COLLECTION OF RESTITUTION.

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

SECTION 1. That Section 19-4708, Idaho Code, be, and the same is hereby amended to read as follows:

19-4708. COLLECTION OF DEBTS OWED TO COURTS – CONTRACTS FOR COLLECTION. (1) The clerks of the district court, with the approval of the administrative district judge, may enter into contracts in accordance with this section for collection services for debts owed to courts. The cost of collection shall be paid by the defendant as an administrative surcharge when the defendant fails to pay any amount ordered by the court and the court utilizes the services of a contracting agent pursuant to this section.

(2) As used in this section:

(a) "Contracting agent" means a person, firm or other entity who contracts to provide collection services.

(b) "Cost of collection" means the fee specified in contracts to be paid to or retained by a contracting agent for collection services.

(c) "Debts owed to courts" means any assessment of fines, court costs, surcharges, penalties, fees, restitution, moneys expended in providing counsel and other defense services to indigent defendants or other charges which a court judgment has ordered to be paid to the court in criminal cases, and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided for in the judgment or by law.

(3) The supreme court may adopt rules as deemed appropriate for the administration of this section, including procedures to be used in the negotiation and execution of contracts pursuant to this section, procedures to be followed by courts which utilize collection services under such contracts, and procedures for the compromise of debts owed to courts in criminal cases.

(4) Each contract entered into pursuant to this section shall specify the scope of work to be performed and provide for a fee to be paid to or retained by the contracting agent for collection services. Such fee shall be designated as the cost of collection, and shall not exceed thirty-three percent (33%) of the amount collected. The cost of collection shall be deducted from the amount collected but shall not be deducted from the debts owed to courts.

1 (5) Contracts entered into shall provide for the payment of any amounts collected to the
 2 clerk of the district court for the court in which the debt being collected originated after first
 3 deducting the collection fee. In accounting for amounts collected from any person pursuant to
 4 this section, the district court clerk shall credit the person's amount owed in the amount of the
 5 net proceeds collected and shall not reduce the amount owed by any person by that portion of
 6 any payment which constitutes the cost of collection pursuant to this section.

7 (6) With the appropriate cost of collection paid to the contracting agent as agreed upon in
 8 the contract, the clerk shall then distribute the amounts collected in accordance with the law.

9 SECTION 2. That Section 19-5305, Idaho Code, be, and the same is hereby amended to
 10 read as follows:

11 19-5305. COLLECTION OF JUDGMENTS. (1) After forty-two (42) days from the
 12 entry of the order of restitution or at the conclusion of a hearing to reconsider an order of
 13 restitution, whichever occurs later, an order of restitution may be recorded as a judgment and
 14 the victim may execute as provided by law for civil judgments.

15 (2) The clerk of the district court may take action to collect on the order of restitution
 16 on behalf of the victim and, with the approval of the administrative district judge, may use the
 17 procedures set forth in section 19-4708, Idaho Code, for the collection of the restitution.

18 SECTION 3. That Section 20-520, Idaho Code, be, and the same is hereby amended to
 19 read as follows:

20 20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile is within
 21 the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed
 22 by the Idaho juvenile rules to determine the sentence that will promote accountability,
 23 competency development and community protection. Prior to the entry of an order disposing of
 24 the case, other than an order of discharge or dismissal, the court may request and, if requested,
 25 shall receive a report containing the results of an inquiry into the home environment, past
 26 history, competency development, prevention or out of home placement services provided, and
 27 the social, physical and mental condition of the juvenile. The court shall not consider or review
 28 the report prior to the entry of an order of adjudication. Upon presentation and consideration of
 29 the report by the court, the court may proceed to sentence the juvenile as follows:

30 (a) Place the juvenile on formal probation for a period not to exceed three (3) years from
 31 the date of the order, except the court may place a juvenile on formal probation for a
 32 period not to exceed the juvenile's twenty-first birthday if the court finds that the juvenile
 33 has committed a crime of a sexual nature;

34 (b) Sentence the juvenile to detention pursuant to this act for a period not to exceed
 35 thirty (30) days for each act, omission or status which is prohibited by the federal, state,
 36 local or municipal law or ordinance by reason of minority only. The sentence shall not
 37 be executed unless the act, omission or status is in violation of section 922(x) of title 18,
 38 United States Code, or the court finds that the juvenile has violated the court's decree
 39 imposing the sentence as provided below.

40 If the court, after notice and hearing, finds that a juvenile has violated the court's
 41 decree imposing the sentence under circumstances that bring the violation under the valid
 42 court order exception of the federal juvenile justice and delinquency prevention act of

1 1974, as amended, the court may commit the juvenile to detention for the period of
2 detention previously imposed at sentencing;

3 (c) Commit the juvenile to a period of detention, pursuant to this act, for a period of time
4 not to exceed ninety (90) days for each unlawful or criminal act the juvenile is found to
5 have committed, if the unlawful or criminal act would be a misdemeanor if committed by
6 an adult, or where the juvenile has been adjudicated as an habitual status offender;

7 (d) If the juvenile has committed an unlawful or criminal act which would be a felony if
8 committed by an adult, the court may commit the juvenile to detention for a period not to
9 exceed one hundred eighty (180) days for each unlawful or criminal act;

10 (e) Whenever a court commits a juvenile to a period of detention it shall notify the
11 school district where the detention facility is located. No juvenile who is found to come
12 within the purview of the act for the commission of a status offense shall be sentenced
13 to detention in a jail facility unless an adjudication has been made that the juvenile is an
14 habitual status offender;

15 (f) Commit the juvenile to detention and suspend the sentence on specific probationary
16 conditions;

17 (g) The court may suspend or restrict the juvenile's driving privileges for such periods
18 of time as the court deems necessary, and the court may take possession of the juvenile's
19 driver's license. The juvenile may request restricted driving privileges during a period
20 of suspension, which the court may allow if the juvenile shows by a preponderance of
21 evidence that driving privileges are necessary for his employment or for family health
22 needs;

23 (h) The court may order that the juvenile be examined or treated by a physician, surgeon,
24 psychiatrist or psychologist, or that he receive other special care, or that he submit to an
25 alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a
26 hospital or other suitable facility;

27 (i) The court may order that the department of health and welfare conduct a
28 comprehensive substance abuse assessment of the juvenile. After receiving the
29 comprehensive substance abuse assessment, and upon a finding by the court that treatment
30 will provide a cost-effective means of achieving the sentencing goals of accountability,
31 competency development and community protection, the court may order that the juvenile
32 receive immediate treatment for substance abuse in keeping with a plan of treatment
33 approved by the court. The initial cost of the assessment and treatment shall be borne
34 by the department of health and welfare. The director of the department of health and
35 welfare may promulgate rules consistent with this paragraph (i) to establish a schedule of
36 fees to be charged to parents by the department of health and welfare for such services
37 based upon the cost of the services and the ability of parents to pay;

38 (j) In support of an order under the provisions of this section, the court may make an
39 additional order setting forth reasonable conditions to be complied with by the parents,
40 the juvenile, his legal guardian or custodian, or any other person who has been made a
41 party to the proceedings, including, but not limited to, restrictions on visitation by the
42 parents or one (1) parent, restrictions on the juvenile's associates, occupation and other
43 activities, and requirements to be observed by the parents, guardian or custodian;

44 (k) The court may make any other reasonable order which is in the best interest of the
45 juvenile or is required for the protection of the public, except that no person under the age
46 of eighteen (18) years may be committed to jail, prison or a secure facility which does

1 not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over
2 the individual is in the process of being waived or has been waived pursuant to section
3 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes
4 of disposition where they are compatible;

5 (l) An order under the provisions of this section for probation or placement of a juvenile
6 with an individual or an agency may provide a schedule for review of the case by the
7 court;

8 (m) Order the proceeding expanded or altered to include consideration of the cause
9 pursuant to chapter 16, title 16, Idaho Code;

10 (n) Order the case and all documents and records connected therewith transferred to the
11 magistrate division of the district court for the county where the juvenile and/or parents
12 reside if different than the county where the juvenile was charged and found to have
13 committed the unlawful or criminal act, for the entry of a dispositional order;

14 (o) Order such other terms, conditions, care or treatment as appears to the court will best
15 serve the interests of the juvenile and the community;

16 (p) The court shall assess a twenty dollar (\$20.00) detention/probation training academy
17 fee against the juvenile for every petition filed where there has been an adjudication that
18 the juvenile is within the purview of this chapter. All moneys raised pursuant to this
19 paragraph shall be transmitted by the court for deposit in the juvenile corrections fund
20 which is created in section 20-542, Idaho Code;

21 (q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community
22 service against the juvenile for every petition filed where there has been an adjudication
23 that the juvenile is within the purview of this chapter and the court is ordering community
24 service. Such fee is to be remitted by the court to the state insurance fund for purposes
25 of providing worker's compensation insurance for persons performing community service
26 pursuant to this chapter;

27 (r) Commit the juvenile to the legal custody of the department of juvenile corrections for
28 an indeterminate period of time not to exceed the juvenile's nineteenth birthday, unless
29 the custody review board determines that extended time in custody is necessary to address
30 competency development, accountability, and community protection; provided however,
31 that no juvenile shall remain in the custody of the department beyond the juvenile's
32 twenty-first birthday. The department shall adopt rules implementing the custody review
33 board and operations and procedures of such board;

34 (s) Notwithstanding any other provision of this section, a court may not commit a
35 juvenile offender under the age of ten (10) years to a period of detention or to the custody
36 of the department of juvenile corrections for placement in secure confinement.

37 (2) When an order is entered pursuant to this section, the juvenile shall be transported
38 to the facility or program so designated by the court or the department, as applicable, by the
39 sheriff of the county where the juvenile resides or is committed, or by an appointed agent.
40 When committing a juvenile to the department, or another entity, the court shall at once
41 forward to the department or entity a certified copy of the order of commitment.

42 (3) Unless the court determines that an order of restitution would be inappropriate or
43 undesirable, it shall order the juvenile or his parents or both to pay restitution to or make whole
44 any victim who suffers an economic loss as a result of the juvenile's conduct in accordance
45 with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The
46 amount of restitution which may be ordered by the court shall not be subject to the limitations

1 of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other
2 court-ordered payments unless the court specifically orders otherwise. The clerk of the district
3 court, with the approval of the administrative district judge, may use the procedures set forth in
4 section 19-4708, Idaho Code, for the collection of the restitution.

5 (4) The court may order the juvenile's parents, legal guardian or custodian to pay the
6 charges imposed by community programs ordered by the court for the juvenile, or the juvenile's
7 parents, legal guardian or custodian.

8 (5) Any parent, legal guardian or custodian violating any order of the court entered
9 against the person under the provisions of this chapter shall be subject to contempt proceedings
10 under the provisions of chapter 6, title 7, Idaho Code.