

IN THE SENATE

SENATE BILL NO. 1383

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE SUSPENSION OF JUDGMENT AND SENTENCE; AMENDING SECTION
2 19-2601, IDAHO CODE, TO EXTEND THE PERIOD OF TIME THE COURT RETAINS
3 JURISDICTION OVER A PRISONER AND TO PROVIDE THAT THE STATE BOARD
4 OF CORRECTION SHALL BE RESPONSIBLE FOR DETERMINING THE APPROPRIATE
5 PLACEMENT, EDUCATION, PROGRAMMING AND TREATMENT OF PRISONERS DURING
6 THE PERIOD OF RETAINED JURISDICTION.
7

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

9 SECTION 1. That Section 19-2601, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE --
12 PROBATION. Whenever any person shall have been convicted, or enter a plea
13 of guilty, in any district court of the state of Idaho, of or to any crime
14 against the laws of the state, except those of treason or murder, the court
15 in its discretion, may:

16 1. Commute the sentence and confine the defendant in the county jail,
17 or, if the defendant is of proper age, commit the defendant to the custody of
18 the state department of juvenile corrections; or

19 2. Suspend the execution of the judgment at the time of judgment or
20 at any time during the term of a sentence in the county jail and place the
21 defendant on probation under such terms and conditions as it deems necessary
22 and expedient; or

23 3. Withhold judgment on such terms and for such time as it may prescribe
24 and may place the defendant on probation; or

25 4. Suspend the execution of the judgment at any time during the
26 first ~~one~~ three hundred ~~eighty~~ sixty-five (~~180~~365) days of a sentence
27 to the custody of the state board of correction. The court shall retain
28 jurisdiction over the prisoner for a period of up to the first one three
29 hundred eighty sixty-five (~~180~~365) days or, if the prisoner is a juvenile,
30 until the juvenile reaches twenty-one (21) years of age. During the
31 period of retained jurisdiction, the state board of correction shall
32 be responsible for determining the placement of the prisoner and such
33 education, programming and treatment as it determines to be appropriate.
34 The prisoner will remain committed to the board of correction if not
35 affirmatively placed on probation by the court. In extraordinary
36 circumstances, where the court concludes that it is unable to obtain
37 and evaluate the relevant information within the ~~one hundred eighty~~ (~~180~~)
38 ~~day~~ period of retained jurisdiction, or where the court concludes that a
39 hearing is required and is unable to obtain the defendant's presence for
40 such a hearing within such period, the court may decide whether to place the
41 defendant on probation or release jurisdiction within a reasonable time, not
42 to exceed thirty (30) days, after the ~~one hundred eighty~~ (~~180~~) day period of

1 retained jurisdiction has expired. Placement on probation shall be under
2 such terms and conditions as the court deems necessary and expedient. The
3 court in its discretion may sentence a defendant to more than one (1) period
4 of retained jurisdiction after a defendant has been placed on probation in a
5 case. In no case shall the board of correction or its agent, the department
6 of correction, be required to hold a hearing of any kind with respect to a
7 recommendation to the court for the grant or denial of probation. Probation
8 is a matter left to the sound discretion of the court. Any recommendation
9 made by the department to the court regarding the prisoner shall be in the
10 nature of an addendum to the presentence report. The board of correction and
11 its agency, the department of correction, and their employees shall not be
12 held financially responsible for damages, injunctive or declaratory relief
13 for any recommendation made to the district court under this section.

14 5. If the crime involved is a felony and if judgment is withheld as
15 provided in subsection 3. of this section or if judgment and a sentence
16 of custody to the state board of correction is suspended at the time of
17 judgment in accordance with subsection 2. of this section or as provided
18 by subsection 4. of this section and the court shall place the defendant
19 upon probation, it shall be to the board of correction, to a county juvenile
20 probation department, or any other person or persons the court, in its
21 discretion, deems appropriate.

22 6. If the crime involved is a misdemeanor, indictable or otherwise, or
23 if the court should suspend any remaining portion of a jail sentence already
24 commuted in accordance with subsection 1. of this section, the court, if it
25 grants probation, may place the defendant on probation. If the convicted
26 person is a juvenile held for adult criminal proceedings, the court may
27 order probation under the supervision of the county's juvenile probation
28 department.

29 7. The period of probation ordered by a court under this section under a
30 conviction or plea of guilty for a misdemeanor, indictable or otherwise, may
31 be for a period of not more than two (2) years; and under a conviction or plea
32 of guilty for a felony the period of probation may be for a period of not more
33 than the maximum period for which the defendant might have been imprisoned.