

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 475

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1  
2 RELATING TO SUSPENSION OF JUDGMENT AND SENTENCE; AMENDING SECTION 19-2601,  
3 IDAHO CODE, TO PROVIDE THE COURT AUTHORITY TO EXTEND A PERIOD OF PROBA-  
4 TION FOR CERTAIN PERSONS; AND AMENDING SECTION 19-3921, IDAHO CODE, TO  
5 PROVIDE THE COURT AUTHORITY TO EXTEND A PERIOD OF PROBATION FOR CERTAIN  
6 PERSONS.

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

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

10 19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PRO-  
11 BATION. Whenever any person shall have been convicted, or enter a plea of  
12 guilty, in any district court of the state of Idaho, of or to any crime  
13 against the laws of the state, except those of treason or murder, the court  
14 in its discretion, may:

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

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

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

24 4. Suspend the execution of the judgment at any time during the first  
25 three hundred sixty-five (365) days of a sentence to the custody of the state  
26 board of correction. The court shall retain jurisdiction over the prisoner  
27 for a period of up to the first three hundred sixty-five (365) days or, if  
28 the prisoner is a juvenile, until the juvenile reaches twenty-one (21) years  
29 of age. During the period of retained jurisdiction, the state board of cor-  
30 rection shall be responsible for determining the placement of the prisoner  
31 and such education, programming and treatment as it determines to be appro-  
32 priate. The prisoner will remain committed to the board of correction if  
33 not affirmatively placed on probation by the court. In extraordinary cir-  
34 cumstances, where the court concludes that it is unable to obtain and evalu-  
35 ate the relevant information within the period of retained jurisdiction, or  
36 where the court concludes that a hearing is required and is unable to obtain  
37 the defendant's presence for such a hearing within such period, the court  
38 may decide whether to place the defendant on probation or release jurisdic-  
39 tion within a reasonable time, not to exceed thirty (30) days, after the pe-  
40 riod of retained jurisdiction has expired. Placement on probation shall be  
41 under such terms and conditions as the court deems necessary and expedient.  
42 The court in its discretion may sentence a defendant to more than one (1) pe-

1 rioid of retained jurisdiction after a defendant has been placed on probation  
2 in a case. In no case shall the board of correction or its agent, the depart-  
3 ment of correction, be required to hold a hearing of any kind with respect to  
4 a recommendation to the court for the grant or denial of probation. Proba-  
5 tion is a matter left to the sound discretion of the court. Any recommenda-  
6 tion made by the department to the court regarding the prisoner shall be in  
7 the nature of an addendum to the presentence report. The board of correction  
8 and its agency, the department of correction, and their employees shall not  
9 be held financially responsible for damages, injunctive or declaratory re-  
10 lief for any recommendation made to the district court under this section.

11 5. If the crime involved is a felony and if judgment is withheld as pro-  
12 vided in subsection 3. of this section or if judgment and a sentence of cus-  
13 tody to the state board of correction is suspended at the time of judgment in  
14 accordance with subsection 2. of this section or as provided by subsection  
15 4. of this section and the court shall place the defendant upon probation, it  
16 shall be to the board of correction, to a county juvenile probation depart-  
17 ment, or any other person or persons the court, in its discretion, deems ap-  
18 propriate.

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

26 7. The period of probation ordered by a court under this section under a  
27 conviction or plea of guilty for a misdemeanor, indictable or otherwise, may  
28 be for a period of not more than two (2) years; ~~and~~ provided that the court  
29 may extend the period of probation to include the period of time during which  
30 the defendant is a participant in a problem solving court program and for a  
31 period of up to one (1) year after a defendant's graduation or termination  
32 from a problem solving court program. Under a conviction or plea of guilty  
33 for a felony the period of probation may be for a period of not more than the  
34 maximum period for which the defendant might have been imprisoned.

35 SECTION 2. That Section 19-3921, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 19-3921. PROCEEDINGS ON PLEA OF GUILTY. When the defendant pleads  
38 guilty, or is convicted either by the court or by a jury, the court must ren-  
39 der judgment thereon of fine or imprisonment, or both, as the case may be:  
40 provided, however, it appearing to the court that it is a proper case, the  
41 court may, in its discretion, suspend the execution of judgment, and at such  
42 time, or any time during the period of sentence in a county jail, may put the  
43 defendant on probation on such terms and for such time as it may prescribe.  
44 The period of probation ordered by the court under this section under a con-  
45 viction or plea of guilty for a misdemeanor, indictable or otherwise, may  
46 be for a period of not more than two (2) years; provided that the court may  
47 extend the period of probation to include the period of time during which  
48 the defendant is a participant in a problem solving court program and for a  
49 period of up to one (1) year after a defendant's graduation or termination

1 from a problem solving court program. The court may withhold judgment on  
2 such terms and conditions as it deems necessary or expedient.