

IN THE SENATE

SENATE BILL NO. 1298

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO CODIFIER'S CORRECTIONS IN STATUTES; AMENDING SECTION 8-507C,
3 IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE A TECHNICAL COR-
4 RECTION; AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE A CORRECT
5 CODE REFERENCE; AMENDING SECTION 39-302, IDAHO CODE, TO REMOVE REFER-
6 ENCE TO ARCHAIC LANGUAGE; AMENDING SECTION 39-303A, IDAHO CODE, TO RE-
7 MOVE REFERENCE TO ARCHAIC LANGUAGE AND TO MAKE A TECHNICAL CORRECTION;
8 AMENDING SECTION 39-304, IDAHO CODE, TO REMOVE REFERENCE TO ARCHAIC
9 LANGUAGE; AMENDING SECTION 41-1941, IDAHO CODE, TO MAKE A TECHNICAL
10 CORRECTION; AMENDING SECTIONS 56-234, 56-234A, 56-235A, 56-235B AND
11 56-235C, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION
12 56-264, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-
13 TION 57-813, IDAHO CODE, TO INCREASE THE AMOUNT OF COUNTY DEDUCTIBLE;
14 AND AMENDING SECTION 67-821, IDAHO CODE, TO REMOVE REFERENCE TO ARCHAIC
15 LANGUAGE.

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

17 SECTION 1. That Section 8-507C, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 8-507C. FORMS. The notice of exemptions, instructions to debtors and
20 third parties, and the claim of exemption shall be in a form substantially
21 similar to the form hereinafter provided. The forms shall be made available
22 in English and Spanish language translations in the offices of each county
23 sheriff. Notice, written in Spanish, of the availability of these documents
24 in Spanish translation shall be set forth on the notice of exemptions.

25 IMPORTANT LEGAL NOTICE/NOTICIA LEGAL IMPORTANTE

26 MONEY/PERSONAL PROPERTY BELONGING TO YOU MAY HAVE BEEN TAKEN OR
27 HELD IN ORDER TO SATISFY A COURT JUDGMENT. YOU MAY BE ABLE TO GET
28 YOUR MONEY/PROPERTY BACK SO READ THIS NOTICE CAREFULLY.

29 SI SOLAMENTE HABLA ESPANOL PUEDE OBTENER UNA FORMA EN ESPANOL EN EL
30 DEPARTAMENTO DEL SHERIFE.

31 The enclosed writ of execution and/or notice of garnishment has directed the
32 sheriff to take custody by levying on your money and/or personal property in
33 order to satisfy a court judgment.

34 The sheriff has levied on your money and/or personal property. You have
35 FOURTEEN (14) DAYS after the date of mailing or personal service of these
36 documents to file a claim of exemption with the sheriff. An exemption from

1 levy entitles you to obtain the release of your money and personal property.

2 The following is a partial list of money and personal property that may be ex-
 3 empt from levy. EXEMPTIONS ARE PROVIDED BY IDAHO AND FEDERAL LAW AND CAN BE
 4 FOUND IN THE IDAHO CODE AND IN THE UNITED STATES CODE. MOST OF THE EXEMPTIONS
 5 PROVIDED BY THE STATE ARE CONTAINED IN CHAPTER 6, TITLE 11, IDAHO CODE. GOV-
 6 ERNMENTAL BENEFITS SUCH AS SOCIAL SECURITY, SSI, VETERANS, RAILROAD RETIRE-
 7 MENT, MILITARY, AND WELFARE ARE EXEMPT FROM LEVY IN MOST CASES UNDER FEDERAL
 8 LAW.

9 This list may not be complete and may not include all exemptions that apply
 10 in your case because of periodic changes in the law. Additionally, some of
 11 the exemptions may not apply in full or under all circumstances. There may be
 12 special requirements for child support. You or your attorney should read the
 13 exemption statutes which apply to you.

14 If you believe the money or personal property that ~~are~~ is being levied upon is
 15 exempt, you should immediately file a claim of exemption. If you fail to make
 16 a timely claim of exemption, the sheriff will release money to the plaintiff,
 17 or the property may be sold at an execution sale, perhaps at a price substan-
 18 tially below its value, and you may have to bring further court action to re-
 19 cover the money and property.

20 The sheriff cannot give you legal advice. Therefore, if you have any ques-
 21 tions concerning your rights in this action, you should consult an attorney
 22 as soon as possible. You may contact the nearest office of Idaho legal aid
 23 services, inc. to inquire if you are eligible for their assistance.

24 SOME EXEMPTIONS TO WHICH YOU MAY BE ENTITLED

25 Type of Money and Property

- 26 1. Alimony, support, maintenance (money or property)
- 27 2. Appliances (household) (~~\$500~~750 per item, up to ~~\$5,000~~7,500 gross)
- 28 3. Annuity contract payments
- 29 4. Bodily injury and wrongful death awards*
- 30 5. Books (professional) up to ~~\$1~~2,500
- 31 6. Burial plots
- 32 7. Child support payments*
- 33 8. Disability or illness benefits*
- 34 9. Furnishings (household) (~~\$500~~750 per item, up to ~~\$5,000~~7,500 gross)
- 35 10. Health aids
- 36 11. Homestead, house, mobile home, and related structures
- 37 12. Jewelry (up to \$1,000)
- 38 13. Life insurance benefits payable to spouse or dependent*
- 39 14. Medical and/or hospital benefits
- 40 15. Military retirement and survivor's benefits
- 41 16. Motor vehicle: car, truck, motorcycle with a value of up to ~~\$3~~7,000
- 42 per person
- 43 17. Pension: stock bonus, profit sharing annuity, or similar plans

- 1 18. Personal property: (~~\$500~~750 per item, up to ~~\$5,000~~7,500 gross)
2 (furnishings, appliances, one firearm, animals, musical instruments,
3 books, clothes, family portraits and heirlooms)
4 19. Public assistance: federal, state, or local including: Aid to
5 Aged, Blind and Disabled (AABD); Aid to Dependent Children (AFDC); Aid
6 to Permanently and Totally Disabled (APTD)
7 20. Public Employee's Benefits including Federal Civil Service Retirement,
8 Idaho Retirement and Disability
9 21. Railroad Retirement Benefits
10 22. Retirement, pension or profit sharing plan qualified by IRS
11 23. Social Security Disability and Retirement Benefits
12 24. SSI (Supplemental Security Insurance Benefits)
13 25. Tools of trade and implements up to \$~~1~~2,500
14 26. Unemployment benefits
15 27. Veterans benefits and insurance
16 28. Wages or salary:
17 Consumer debts primarily for personal or household purposes: ex-
18 emption is 30 times the federal minimum wage or 25% of disposable
19 income, whichever is greater
20 Nonconsumer debts: exemption is 30 times the federal minimum wage
21 or 25% of disposable income, whichever is greater
22 29. Worker's compensation
23 30. An unmatured life insurance contract other than a credit life in-
24 surance contract
25 31. An aggregate interest, not to exceed \$5,000, in any accrued divi-
26 dend or interest under, or loan value of, an unmatured life insurance
27 contract under which the insured is the individual or a person of whom
28 the individual is a dependent
29 32. An aggregate interest in any tangible personal property, not to ex-
30 ceed the value of \$800

31 *To the extent reasonably necessary for support of family and if not commin-
32 gled with other funds.

33 INSTRUCTIONS TO DEFENDANTS AND THIRD PARTIES

34 In order to claim an exemption from execution and garnishment under
35 Idaho and federal law, you, the defendant, judgment debtor, or a third party,
36 holding or known to have an interest in the money and/or personal property,
37 must:

- 38 1. DELIVER OR MAIL A CLAIM OF EXEMPTION TO THE SHERIFF WHO LEVIED
39 UPON YOUR MONEY AND/OR PERSONAL PROPERTY AT (SHERIFF'S
40 STREET ADDRESS) , WITHIN FOURTEEN (14) DAYS AFTER MAILING OR
41 PERSONAL SERVICE OF THESE INSTRUCTIONS, NOTICE OF EXEMPTIONS
42 AND FORM FOR FILING A CLAIM OF EXEMPTION. IF YOU MAIL A CLAIM
43 OF EXEMPTION, IT MUST BE RECEIVED BY THE SHERIFF WITHIN THE
44 FOURTEEN (14) DAY PERIOD.
45 2. The sheriff has to notify the plaintiff or judgment creditor
46 within one (1) business day, excluding weekends and holidays,
47 that you filed a claim of exemption. The judgment creditor

- 1 has five (5) business days, excluding weekends and holidays,
 2 after the date notice was provided that a claim of exemption
 3 was filed with the sheriff, to file a motion with the court
 4 contesting the claim of exemption.
- 5 3. If the judgment creditor notifies the sheriff that he will not
 6 object to the claim of exemption or does not file a motion with
 7 the court contesting the claim of exemption, the sheriff will
 8 immediately return the money and/or personal property or no-
 9 tify the bank or depository institution to release the money
 10 and/or personal property which has been levied upon.
- 11 4. IF THE JUDGMENT CREDITOR DOES FILE A MOTION WITH THE COURT CON-
 12 TESTING THE CLAIM OF EXEMPTION, YOU, THE JUDGMENT DEBTOR OR
 13 ANY INTERESTED THIRD PARTY, WILL RECEIVE A COPY OF THE MOTION
 14 AND NOTICE OF HEARING. A HEARING WILL BE HELD WITHIN NOT LESS
 15 THAN FIVE (5) NOR MORE THAN TWELVE (12) DAYS AFTER THE FIL-
 16 ING DATE OF THE MOTION. YOU SHOULD BE PREPARED TO EXPLAIN THE
 17 GROUNDS FOR CLAIMING THE EXEMPTION IN COURT ON THE DATE AND
 18 TIME SET FOR THE HEARING. YOU SHOULD BRING WHATEVER DOCUMENTS
 19 YOU HAVE TO SUPPORT YOUR CLAIM.
- 20 5. This is a notice, not legal advice. If you have any questions
 21 concerning your rights in this action, you should contact an
 22 attorney as soon as possible. If you are low income and cannot
 23 afford an attorney you may contact the nearest office of Idaho
 24 Legal Aid Services, Inc. to inquire if they can assist you.

25 IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF THE STATE
 26 OF IDAHO, IN AND FOR THE COUNTY OF

27 ,)
 28 Plaintiff(s),) CASE NO.
 29 vs.) CLAIM OF EXEMPTION
 30 ,)
 31 Defendant(s).)
 32 )

33 I claim an exemption from levy for the following described money and/or
 34 property:
 35 a. Money, including money in a bank account, which was paid to me or my
 36 family as:

- 37 Public assistance of any kind
 38 Social security or SSI
 39 Worker's compensation
 40 Unemployment benefits
 41 Child support
 42 Retirement, pension, or profit sharing benefits
 43 Military or veterans benefits
 44 Life insurance or other insurance
 45 Disability, illness, medical or hospital benefits

- 1 Alimony, support or maintenance
- 2 Annuity contract benefits
- 3 Bodily injury or wrongful death awards
- 4 Other money (describe)
- 5 Wages (Do not check this box until you have first talked to
- 6 your employer to see if he correctly calculated your ex-
- 7 emption according to the formula under item 28 on the form
- 8 entitled "SOME EXEMPTIONS TO WHICH YOU MAY BE ENTITLED."
- 9 Then check this box only if you believe your employer's
- 10 calculation is incorrect.)

11 b. Property:

- 12 Professional books
- 13 Burial plots
- 14 Health aids
- 15 Homestead, house, mobile home and related structures
- 16 Jewelry
- 17 Car, truck or motorcycle
- 18 Tools and implements
- 19 Appliances, furnishings, firearms, animals, musical instru-
- 20 ments, books, clothes, family portraits and heirlooms
- 21 Other property (describe)

.....
 Defendant or
 Representative

25 SECTION 2. That Section 36-1401, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 36-1401. VIOLATIONS. (a) Infractions. Any person who pleads guilty to
 28 or is found guilty of a violation of the following provisions of the fish
 29 and game code or the following rules or proclamations promulgated pursuant
 30 thereto is guilty of an infraction:

31 1. Statutes.

- 32 (A) Take, transport, use or have in possession bait fish as set
- 33 forth in section 36-902(d), Idaho Code.
- 34 (B) Chumming as set forth in section 36-902(e), Idaho Code.
- 35 (C) Nonresident child under the age of fourteen (14) years fish-
- 36 ing without a valid license and not accompanied by a valid license
- 37 holder as set forth in section 36-401(a)2., Idaho Code.
- 38 (D) Use or cut a hole larger than ten (10) inches in the ice for ice
- 39 fishing as set forth in section 36-1509(a), Idaho Code.
- 40 (E) Store fish without required tags/permits/statements as set
- 41 forth in section 36-503, Idaho Code.
- 42 (F) Own, possess or harbor any dog found running loose and which
- 43 is tracking, pursuing, harassing or attacking a big game animal as
- 44 set forth in section 36-1101(b) ~~6~~7. (B), Idaho Code.
- 45 (G) Hunt migratory waterfowl without having in possession a
- 46 signed federal migratory bird hunting stamp as set forth in sec-
- 47 tion 36-1102(b)2., Idaho Code.

1 (H) Hunt migratory game birds without having in possession a li-
 2 cense validated for the federal migratory bird harvest informa-
 3 tion program permit as set forth in section 36-409(k), Idaho Code.

4 (I) Trap in or on, destroy or damage any muskrat house as provided
 5 in section 36-1103(c), Idaho Code.

6 (J) Hunt migratory game birds with a shotgun capable of holding
 7 more than three (3) shells as provided and incorporated in section
 8 36-1102(b), Idaho Code.

9 2. Rules or Proclamations.

10 (A) Fish from a raft or boat with motor attached in waters where
 11 motors are prohibited.

12 (B) Fish with hooks larger than allowed in that water.

13 (C) Fish with barbed hooks in waters where prohibited.

14 (D) Exceed any established bag limit for fish by one (1) fish, ex-
 15 cept bag limits for anadromous fish, landlocked chinook salmon,
 16 kamloops rainbow trout, lake trout, or bull trout.

17 (E) Fish with more than the approved number of lines or hooks.

18 (F) Fail to leave head and/or tail on fish while fish are in pos-
 19 session or being transported.

20 (G) Snag or hook fish other than in the head and fail to release,
 21 excluding anadromous fish.

22 (H) Fail to attend fishing line and keep it under surveillance at
 23 all times.

24 (I) Fail to comply with mandatory check and report requirements.

25 (J) Fail to leave evidence of sex or species attached as required
 26 on game birds.

27 (K) Hunt or take migratory game birds or upland game birds with
 28 shot exceeding the allowable size.

29 (L) Fail to release, report or turn in nontarget trapped animals.

30 (M) Fail to complete required report on trapped furbearer.

31 (N) Fail to present required furbearer animal parts for inspec-
 32 tion.

33 (O) Fail to attach identification tags to traps.

34 (P) Possess not more than one (1) undersized bass.

35 (Q) Park or camp in a restricted area, except length of stay viola-
 36 tions.

37 (R) Fail to leave evidence of sex attached as required on game ani-
 38 mals.

39 (b) Misdemeanors. Any person who pleads guilty to, is found guilty
 40 or is convicted of a violation of the provisions of this title or rules or
 41 proclamations promulgated pursuant thereto, or orders of the commission,
 42 except where an offense is expressly declared to be an infraction or felony,
 43 shall be guilty of a misdemeanor.

44 (c) Felonies. Any person who pleads guilty to, is found guilty or
 45 is convicted of a violation of the following offenses shall be guilty of a
 46 felony:

47 1. Knowingly and intentionally selling or offering for sale or
 48 exchange, or purchasing or offering to purchase or exchange, any
 49 wildlife, or parts thereof, which has been unlawfully killed, taken or
 50 possessed.

1 2. Releasing into the wild, without a permit from the director, any of
2 the following wildlife, whether native or exotic: ungulates, bears,
3 wolves, large felines, swine, or peccaries.

4 3. Unlawfully killing, possessing or wasting of any combination of
5 numbers or species of wildlife within a twelve (12) month period which
6 has a single or combined reimbursable damage assessment of more than one
7 thousand dollars (\$1,000), as provided in section 36-1404, Idaho Code.

8 4. Conviction within ten (10) years of three (3) or more violations of
9 the provisions of this title, penalties for which include either or both
10 a mandatory license revocation or a reimbursable damage assessment.

11 SECTION 3. That Section 39-302, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 39-302. DEFINITIONS. As used in this chapter, the terms defined in
14 this section shall have the following meanings, unless the context clearly
15 indicates another meaning:

16 (1) "Addiction" or "alcoholism" means a primary, chronic, neurobiolog-
17 ical disease with genetic, psychosocial and environmental factors influenc-
18 ing its development and manifestations. It is characterized by behaviors
19 that include one (1) or more of the following: impaired control over drug or
20 alcohol use, compulsive use, continued use despite harm, and craving.

21 (2) "Alcoholic" means a person who has the disease of alcoholism, which
22 is characterized by behaviors that include one (1) or more of the follow-
23 ing: impaired control over alcohol use, compulsive use, continued use de-
24 spite harm, and craving.

25 (3) "Approved private treatment facility" means a private agency meet-
26 ing the standards prescribed in section 39-305(1), Idaho Code, and approved
27 under the provisions of section 39-305(3), Idaho Code, and rules promulgated
28 by the board of health and welfare pursuant to this chapter.

29 (4) "Approved public treatment facility" means a treatment agency op-
30 erating under the provisions of this chapter through a contract with the de-
31 partment of health and welfare pursuant to section 39-304(7), Idaho Code,
32 and meeting the standards prescribed in section 39-305(1), Idaho Code, and
33 approved pursuant to section 39-305(3), Idaho Code, and rules promulgated by
34 the board of health and welfare pursuant to this chapter.

35 (5) "Department" means the Idaho department of health and welfare.

36 (6) "Director" means the director of the Idaho department of health and
37 welfare.

38 (7) "Drug addict" means a person who has the disease of addiction, which
39 is characterized by behaviors that include one (1) or more of the following:
40 impaired control over drug use, compulsive use, continued use despite harm,
41 and craving.

42 (8) "Incapacitated by alcohol or drugs" means that a person, as a result
43 of the use of alcohol or drugs, is unconscious or has his judgment otherwise
44 so impaired that he is incapable of realizing and making a rational decision
45 with respect to his need for treatment.

46 (9) "Incompetent person" means a person who has been adjudged incompe-
47 tent by an appropriate court within this state.

1 (10) ~~"Interagency committee" means the interagency committee on sub-~~
 2 ~~stance abuse prevention and treatment as provided for in section 39-303,~~
 3 ~~Idaho Code.~~

4 ~~(11) "Intoxicated person" means a person whose mental or physical func-~~
 5 ~~tioning is substantially impaired as a result of the use of drugs or alcohol.~~

6 (12~~1~~) "Recovery support services" means those ancillary, nonclinical
 7 services needed for a client to maintain substance abuse or addiction recov-
 8 ery. These services may include transportation, childcare, drug testing,
 9 safe and sober housing and care management.

10 (13~~2~~) "Substance abuse" means the misuse or excessive use of alcohol or
 11 other drugs or substances.

12 (14~~3~~) "Treatment" means the broad range of emergency, outpatient, in-
 13 tensive outpatient, and inpatient services and care, including diagnostic
 14 evaluation, medical, psychiatric, psychological, and social service care,
 15 vocational rehabilitation and career counseling, which may be extended to
 16 alcoholics and intoxicated persons and/or drug addicts.

17 SECTION 4. That Section 39-303A, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 39-303A. REGIONAL ADVISORY COMMITTEES. ~~(1)~~ Regional advisory commit-
 20 tees that address substance abuse issues shall be established by the depart-
 21 ment of health and welfare. The regional advisory committees shall be com-
 22 posed of regional directors of the department or their designees, regional
 23 substance abuse program staff and representatives of other appropriate pub-
 24 lic and private agencies. Members shall be appointed by the respective re-
 25 gional directors for terms determined by the regional director. The commit-
 26 tees shall meet at least quarterly at the call of the chair, who shall also be
 27 appointed by the regional director. The committees shall provide for the co-
 28 ordination of, and exchange of information on, all programs relating to al-
 29 coholism and drug addiction, and shall act as liaison among the departments
 30 engaged in activities affecting alcoholics and intoxicated persons.

31 ~~(2) The chairpersons of each regional advisory committee shall collec-~~
 32 ~~tively meet at least annually and elect one (1) of its members to serve as the~~
 33 ~~regional advisory committees' representative on the interagency committee.~~
 34 ~~Each regional advisory committee shall provide to the regional advisory~~
 35 ~~committees' representative, before each regular meeting of the interagency~~
 36 ~~committee, a report addressing local substance abuse program needs and other~~
 37 ~~information as it pertains to the treatment and prevention of alcoholism and~~
 38 ~~other drug addiction or as required by the chairperson of the interagency~~
 39 ~~committee. The regional advisory committees' representative shall be re-~~
 40 ~~sponsible for communicating information from these reports at each regular~~
 41 ~~meeting of the interagency committee.~~

42 SECTION 5. That Section 39-304, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 39-304. COMPREHENSIVE PROGRAM FOR TREATMENT. The Idaho department of
 45 health and welfare is hereby designated as the state substance abuse author-
 46 ity.

1 (1) The department shall establish a comprehensive and coordinated pro-
 2 gram for the treatment of alcoholics, intoxicated persons and drug addicts.
 3 ~~The interagency committee shall direct the department in the establishment~~
 4 ~~and in the content of this program.~~

5 (2) The program shall include:

6 (a) Emergency detoxification treatment and medical treatment directly
 7 related thereto provided by a facility affiliated with or part of the
 8 medical service of a general hospital;

9 (b) Inpatient treatment;

10 (c) Intensive outpatient treatment;

11 (d) Outpatient treatment;

12 (e) Community detoxification provided by an approved facility; and

13 (f) Recovery support services.

14 (3) The department shall provide for adequate and appropriate treat-
 15 ment for persons admitted pursuant to section 39-307, Idaho Code. Treatment
 16 shall not be provided at a correctional institution except for inmates.

17 (4) The department shall maintain, supervise, and control all facili-
 18 ties operated by it. The administrator of each such facility shall make an
 19 annual report of its activities to the director in the form and manner the di-
 20 rector specifies.

21 (5) All appropriate public and private resources shall be coordinated
 22 with and utilized in the program whenever possible.

23 (6) The department shall prepare, publish and distribute annually a
 24 list of all approved public and private treatment facilities.

25 (7) The department may contract for the use of any facility as an ap-
 26 proved public treatment facility if the director considers this to be an ef-
 27 fective and economical course to follow.

28 (8) The program shall include an individualized treatment plan pre-
 29 pared and maintained for each client.

30 SECTION 6. That Section 41-1941, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 41-1941. ANNUITY SALES TO CONSUMERS -- DISCLOSURES. (1) In this sec-
 33 tion, the following definitions shall apply unless the context otherwise re-
 34 quires:

35 (a) "Contract owner" means the owner named in the annuity contract or
 36 certified holder in the case of a group annuity contract.

37 (b) "Determinable elements" means elements that are derived from pro-
 38 cesses or methods that are guaranteed at issue and that are not subject
 39 to company discretion, but where the values or amounts cannot be deter-
 40 mined until some point after issue. These elements may include the pre-
 41 miums, credited interest rates (including any bonus), benefits, val-
 42 ues, noninterest based credits, charges or elements of formulas used to
 43 determine any of these. An element is considered determinable if it is
 44 calculated from underlying determinable elements only or from both de-
 45 terminable and guaranteed elements.

46 (c) "Generic name" means a short title descriptive of the annuity con-
 47 tract being applied for or illustrated such as "single premium deferred
 48 annuity."

1 (d) "Guaranteed elements" means the premiums, credited interest rates
2 (including any bonus), benefits, values, noninterest based credits,
3 charges or elements of formulas used to determine any of these, that are
4 promised and determined at issue. An element is considered guaranteed
5 if all of the underlying elements that go into its calculation are guar-
6 anteed.

7 (e) "Insurance producer" or "producer" has the same meaning as in chap-
8 ter 10, title 41, Idaho Code.

9 (f) "Nonguaranteed elements" means the premiums, credited interest
10 rates (including any bonus), benefits, values, noninterest based cred-
11 its, charges or elements of formulas used to determine any of these,
12 that are subject to company discretion and that are not guaranteed at
13 issue. An element is considered nonguaranteed if any of the underlying
14 nonguaranteed elements are used in its calculation.

15 (g) "Structured settlement annuity" means a qualified funding asset
16 as defined in section 130(d) of the Internal Revenue Code or an annuity
17 that would be a qualified funding asset under section 130(d) of the In-
18 ternal Revenue Code but for the fact that it is not owned by an assignee
19 under a qualified assignment.

20 (2) The provisions of this section shall apply to all group and individ-
21 ual annuity contracts and certificates except:

22 (a) Registered or nonregistered variable annuities or other registered
23 products;

24 (b) Immediate and deferred annuities that contain no nonguaranteed el-
25 ements;

26 (c) Annuities used to fund:

27 (i) An employee pension plan that is covered by the employee re-
28 tirement income security act of 1974, title 29, U.S.C. sections
29 1001 through 1461;

30 (ii) A plan described in section 401(a), 401(k) or 403(b) of the
31 Internal Revenue Code, where the plan, for purposes of the em-
32 ployee retirement income security act of 1974, is established or
33 maintained by an employer;

34 (iii) A governmental or church plan as defined in section 414 of
35 the Internal Revenue Code or a deferred compensation plan of a
36 state or local government or a tax exempt organization pursuant to
37 section 457 of the Internal Revenue Code; or

38 (iv) A nonqualified deferred compensation arrangement estab-
39 lished or maintained by an employer or plan sponsor.

40 (d) Structured settlement annuities.

41 (3) If the application for an annuity contract is taken in a face-to-
42 face meeting, the applicant, at or before the time of application, shall be
43 given both the disclosure document and the buyer's guide in the form pre-
44 scribed by the director. The disclosure document shall be dated and signed
45 by the prospective annuity owner and producer and the company shall maintain
46 a signed copy for the life of the contract.

47 (4) If the application for an annuity contract is taken by means other
48 than in a face-to-face meeting, the applicant shall be sent both the disclo-
49 sure document and the buyer's guide in the manner and form prescribed by the

1 director no later than five (5) business days after the completed applica-
2 tion is received by the insurer.

3 (5) A solicitation for an annuity contract provided in other than a
4 face-to-face meeting shall include a statement that the proposed applicant
5 may contact the insurer for a free annuity buyer's guide.

6 (6) If the disclosure document and buyer's guide are not provided at or
7 before the time of application, a free look period of not less than twenty
8 (20) days shall be provided for the applicant to return the annuity contract
9 without penalty. This free look period shall run concurrently with any other
10 free look period provided in statute.

11 (7) At minimum, the following information shall be included in the dis-
12 closure document required to be provided under this section:

13 (a) The generic name of the contract, the company product name, if dif-
14 ferent, the form number and the fact that it is an annuity;

15 (b) The insurer's name and address;

16 (c) A description of the contract and its benefits, emphasizing its
17 long-term nature and including the following examples where appropri-
18 ate:

19 (i) The guaranteed, nonguaranteed and determinable elements of
20 the contract, their limitations, if any, and an explanation of how
21 they operate;

22 (ii) An explanation of the initial crediting rate, specifying any
23 bonus or introductory portion, the duration of the rate and the
24 fact that rates may change from time to time and are not guaran-
25 teed;

26 (iii) The periodic income options both on a guaranteed and
27 nonguaranteed basis;

28 (iv) Any value reductions caused by withdrawals from or surrender
29 of the contract;

30 (v) How values in the contract can be accessed;

31 (vi) The death benefit, if available, and how it will be calcu-
32 lated;

33 (vii) A summary of the federal tax status of the contract and any
34 penalties applicable on withdrawal of values from the contract;
35 and

36 (viii) The impact of any rider, such as a long-term care rider.

37 (d) The specific dollar amount or percentage charges and fees shall be
38 listed with an explanation of how they apply;

39 (e) Information about the current guaranteed rate for new contracts
40 that contains a clear notice that the rate is subject to change;

41 (f) Whenever projections for nonguaranteed elements of a contract are
42 provided in the disclosure document, equal prominence shall be given to
43 guaranteed elements; and

44 (g) Terms used in the disclosure document shall be defined in clear and
45 concise language that facilitates the understanding of a typical person
46 within the segment of the public to which the disclosure document is di-
47 rected.

48 (8) For annuities in the payout period with changes in nonguaranteed
49 elements and for the accumulation period of a deferred annuity, the insurer
50 shall provide each contract owner with a report, at least annually, on the

1 status of the contract. Such report shall contain at minimum the following
2 information:

3 (a) The beginning and end dates of the current report period;

4 (b) The accumulation and cash surrender value, if any, at the end of the
5 previous report period and at the end of the current report period;

6 (c) The total amounts, if any, that have been credited, charged to the
7 contract value or paid during the current report period; and

8 (d) The amount of outstanding loans, if any, as of the end of the current
9 report period.

10 (9) The director may promulgate rules pursuant to this section includ-
11 ing, but not limited to, more fully implementing model rules or laws devel-
12 oped by the national association of insurance commissioners that provide
13 standards for the disclosure of certain minimum information in connection
14 with the sale of annuity contracts.

15 (10) Nothing in this section shall be construed to create or imply a pri-
16 vate cause of action for a violation of the provisions of this section or
17 rules promulgated pursuant to this section.

18 SECTION 7. That Section 56-234, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 56-234. LEGISLATIVE INTENT. It is hereby declared by the legislature
21 that, in keeping with current state and national goals and best practice, in-
22 creasing numbers of persons with developmental disabilities are being dis-
23 charged to community facilities or private residences as an alternative to
24 large public institutions licensed as intermediate care facilities for per-
25 sons with intellectual disabilities. Such deinstitutionalization is highly
26 desirable since it can lead to a fuller, richer and more independent life for
27 persons with developmental disabilities. Recognizing that every individual
28 has unique needs and differing abilities, the purpose of the following pro-
29 visions is to clarify the department of health and welfare's duties and re-
30 sponsibilities with respect to persons with developmental disabilities, who
31 are or may become residents of the southwest Idaho state school and hospital
32 treatment center, a public institution licensed for nine (9) or more beds as
33 an intermediate care facility for persons with intellectual disabilities.
34 The following provisions shall be liberally construed to accomplish these
35 purposes.

36 SECTION 8. That Section 56-234A, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 56-234A. DEFINITIONS. As used in sections 56-234 through 56-235E,
39 Idaho Code:

40 (1) "Admission-discharge committee" means an interdisciplinary team
41 of at least three (3) individuals designated by the director to evaluate per-
42 sons as required by the provisions of sections 56-234 through 56-235E, Idaho
43 Code. Each committee member must be specially qualified by training and ex-
44 perience in the diagnosis and treatment of persons with a developmental dis-
45 ability.

46 (2) "Certified family home" means a family home as defined in section
47 39-3502, Idaho Code.

1 (3) "Community facility" means a privately owned or operated nursing
2 facility, intermediate care facility for persons with intellectual disabili-
3 ties, licensed residential or assisted living facility, other organization
4 licensed, recognized, or certified by the department to provide care or
5 treatment to persons with developmental disabilities, or a publicly owned or
6 operated facility licensed for eight (8) beds or less as an intermediate care
7 facility for persons with intellectual disabilities.

8 (4) "Department" means the Idaho department of health and welfare.

9 (5) "Developmental disabilities" means a chronic disability of a per-
10 son as defined in section 66-402, Idaho Code.

11 (6) "Director" means the director of the Idaho department of health and
12 welfare or his designee.

13 (7) "Discharge" means an admission-discharge committee has determined
14 that there is an available community facility or private residence that is
15 least restrictive, appropriate and consistent with the needs of the individ-
16 ual.

17 (8) "Medically fragile" means an individual with a developmental dis-
18 ability and a chronic medical condition that is characterized by periods of
19 acute exacerbation or potentially life-threatening episodes and that may
20 require frequent hospitalizations or prolonged recuperation periods and
21 ongoing monitoring and assistance by a licensed registered nurse.

22 (9) "Private residence" means a certified family home or a single fam-
23 ily dwelling or apartment in a multiple dwelling or apartment complex that is
24 used by an individual as a place of abode and that is not used for commercial
25 purposes.

26 (10) "Resident" means an individual who is admitted to or resides at the
27 southwest Idaho state school and hospital treatment center.

28 (11) "Transfer" means relocating and moving a person who is a resident
29 of the southwest Idaho state school and hospital treatment center from that
30 institution to a community facility or private residence or from one (1)
31 community facility or private residence to another. Transfer does not in-
32 clude relocating or moving a resident of the southwest Idaho state school and
33 hospital treatment center between rooms or beds within the southwest Idaho
34 state school and hospital treatment center.

35 SECTION 9. That Section 56-235A, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 56-235A. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON ADMIS-
38 SION. (1) The southwest Idaho state school and hospital treatment center
39 shall not admit, accept or receive any person unless an admission-discharge
40 committee determines that:

41 (a) The individual has a developmental disability;

42 (b) The individual meets the level of care requirements and active
43 treatment requirements for admission to an intermediate care facility
44 for persons with intellectual disabilities;

45 (c) All community facilities, options and supports have been ex-
46 hausted, and there is no available community facility or private res-
47 idence that is least restrictive, appropriate and consistent with the
48 needs of the individual; and

1 (d) The southwest Idaho state school and hospital treatment center is
2 the least restrictive available residential placement consistent with
3 the needs of the individual after considering all available and appro-
4 priate community facilities and private residences.

5 (2) The director may limit admissions and establish admission pri-
6 orities to the southwest Idaho state school and hospital treatment center
7 through rulemaking in order to ensure that expenditures for services do
8 not exceed amounts appropriated by the legislature and allocated by the
9 department to the facility. The southwest Idaho state school and hospital
10 treatment center may refuse any applicant for voluntary admission.

11 (3) Subsections (1) and (2) of this section do not apply to:

12 (a) Temporary emergency admissions or placements for crisis stabiliza-
13 tion only, for up to ninety (90) days, that are preauthorized by the di-
14 rector; or

15 (b) Admissions or placements made by the director pursuant to section
16 66-406, Idaho Code.

17 SECTION 10. That Section 56-235B, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 56-235B. DISCHARGE PLANNING -- AUTHORIZATION TO DISCHARGE. The direc-
20 tor may discharge a resident of the southwest Idaho state school and hospital
21 treatment center on such terms and conditions as the director may determine
22 whenever an admission-discharge committee determines there is an available
23 community facility or private residence that is least restrictive, appro-
24 priate and consistent with the individual's needs. The director shall use
25 reasonable efforts to discharge a resident to a community facility or pri-
26 vate residence where the individual can be readily visited by those persons
27 interested in his well-being.

28 SECTION 11. That Section 56-235C, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 56-235C. NOTICE OF DISCHARGE -- REQUEST FOR HEARING. (1) Before a
31 discharge plan is implemented, the resident and the resident's spouse,
32 guardian, adult next of kin or friend, if any, shall be given an opportunity
33 to participate in the development and review of the admission-discharge com-
34 mittee's discharge plan.

35 (2) If, after reasonable efforts have been exhausted, the resident or
36 the resident's spouse, guardian, adult next of kin or friend, if any, does
37 not agree with the admission-discharge committee's discharge plan, ninety
38 (90) days prior to discharge, written notice shall be filed with the com-
39 mitting court, if any, and served by registered or certified mail upon the
40 resident, resident's attorney, and either the resident's spouse, guardian,
41 adult next of kin or friend, if any. The written notice must include a state-
42 ment advising the resident of the right to request a hearing by the director
43 and must also include a statement advising the resident of the right to judi-
44 cial review.

45 (3) Within fifteen (15) days from receipt of the notice of discharge,
46 the resident may serve a written request for hearing upon the director. Upon
47 receipt of such request, the director shall fix a date for hearing, which

1 date shall not be more than thirty (30) days from receipt of the request, and
 2 shall give the resident at least fifteen (15) days' written notice of said
 3 hearing date. Within thirty (30) days after the conclusion of the hearing,
 4 the director shall notify the resident in writing by registered or certified
 5 mail of his decision. A transfer shall not be implemented during any period
 6 in which a request for hearing is pending and undecided by the director. If
 7 no request for hearing is made within fifteen (15) days from receipt of the
 8 notice of discharge, the director may discharge the resident.

9 (4) The director shall periodically monitor the adjustment of the for-
 10 mer resident to his transfer to a community facility or private residence.
 11 If within ninety (90) days following a transfer to a community facility or
 12 private residence, an admission-discharge committee determines that the
 13 former resident is not adjusting to the transfer and there is no other avail-
 14 able community facility or private residence least restrictive, appropriate
 15 and consistent with the needs of the former resident, the director may make
 16 the determination that the former resident be readmitted to the southwest
 17 Idaho state school and hospital treatment center in accordance with section
 18 56-235A, Idaho Code.

19 SECTION 12. That Section 56-264, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 56-264. RULEMAKING AUTHORITY. In addition to the rulemaking authority
 22 granted to the department in this chapter and elsewhere in Idaho Code regard-
 23 ing the medicaid program and notwithstanding any other Idaho law to the con-
 24 trary, the department shall have the authority to promulgate rules regard-
 25 ing:

26 (1) Medical services to:

27 (a) Change the primary case management paid to providers to a tiered
 28 payment based on the health needs of the populations that are managed. A
 29 lower payment is to be made for healthier populations and a higher pay-
 30 ment is to be made for individuals with special needs, disabilities or
 31 are otherwise at risk. An incentive payment is to be provided to prac-
 32 tices that provide extended hours beyond the normal business hours that
 33 help reduce unnecessary higher-cost emergency care;

34 (b) Provide that a healthy connections referral is no longer required
 35 for urgent care as an alternative to higher cost but unnecessary emer-
 36 gency services; and

37 (c) Eliminate payment for collateral contact;

38 (2) Mental health services to:

39 (a) Eliminate administrative requirements for a functional and intake
 40 assessment and add a comprehensive diagnostic assessment addendum;

41 (b) Restrict duplicative skill training from being provided by a men-
 42 tal health provider when the individual has chosen to receive skill
 43 training from a developmental disability provider. The individual may
 44 choose to receive skill training from a mental health provider but can
 45 not receive skill building simultaneously from two (2) providers;

46 (c) Increase the criteria for accessing the partial care benefit and
 47 restrict to those individuals who have a diagnosis of serious and per-
 48 sistent mental illness;

49 (d) Eliminate the requirement for new annual plans; and

- 1 (e) Direct the department to develop an effective management tool for
 2 psychosocial rehabilitation services;
- 3 (3) In-home care services to:
- 4 (a) Eliminate personal care service coordination; and
- 5 (b) Restrict duplicative nursing services from a home health agency
 6 when nursing services are being provided through the aged and disabled
 7 waiver;
- 8 (4) Vision services to:
- 9 (a) Align coverage requirements for contact lenses with commercial in-
 10 surers and other state medicaid programs; and
- 11 (b) Limit coverage for adults based on chronic care criteria;
- 12 (5) Audiology services to eliminate audiology benefits for adults;
- 13 (6) Developmental disability services to:
- 14 (a) Eliminate payment for collateral contact;
- 15 (b) Eliminate supportive counseling benefit;
- 16 (c) Reduce annual assessment hours from twelve (12) to four (4) hours
 17 and exclude psychological and neuropsychological testing services
 18 within these limits;
- 19 (d) Reduce plan development payment from twelve (12) to six (6) hours
 20 and reduce requirements related to adult developmental disabilities
 21 plan development;
- 22 (e) Restrict duplicative skill training from being provided by a devel-
 23 opmental disabilities provider when an individual has chosen to receive
 24 skill training from his mental health provider;
- 25 (f) Implement changes to certified family homes pursuant to chapter
 26 345, title 39, Idaho Code, to:
- 27 (i) Create approval criteria and process for approving new certi-
 28 fied family homes;
- 29 (ii) Recertify current certified family homes; and
- 30 (iii) Develop applicant and licensing fees to cover certifying and
 31 recertifying costs;
- 32 (g) Move individualized adult budgets to a tiered approach as currently
 33 used by the department for children's developmental therapy; and
- 34 (7) Institutional care services to discharge individuals from institu-
 35 tional settings where such services are no longer necessary.

36 SECTION 13. That Section 57-813, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 57-813. CATASTROPHIC HEALTH CARE COST ACCOUNT. (1) There is hereby
 39 created in the state treasury an account to be designated the "Catastrophic
 40 Health Care Cost Account." The account shall be used solely for payment
 41 of insurance premiums, payment of eligible claims beyond the ~~ten~~ eleven
 42 thousand dollar (\$101,000) county deductible or payment of the expenses of
 43 administering the catastrophic health care cost account.

44 (2) The administrator of the catastrophic health care cost program may
 45 retain counsel.

46 (3) All moneys placed in the account are hereby perpetually appropri-
 47 ated to the administrator of the catastrophic health care cost program for
 48 purposes of this program. All expenditures from the account shall be paid
 49 out in warrants drawn by the state controller upon presentation of proper

1 vouchers from the administrator. Pending use, surplus moneys in the account
2 shall be invested by the state treasurer in the same manner as prescribed in
3 section 67-1210, Idaho Code, with respect to surplus or idle moneys in the
4 state treasury. Interest earned on the investments shall be returned to the
5 account.

6 SECTION 14. That Section 67-821, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 67-821. COORDINATION OF POLICY AND PROGRAMS RELATED TO DRUG AND SUB-
9 STANCE ABUSE. (1) There is hereby established in the office of the governor
10 the "Office of Drug Policy." The administrator of the office of drug pol-
11 icy shall be the official in the state designated to oversee and execute the
12 coordination of all drug and substance abuse programs within the state of
13 Idaho. The administrator shall be appointed by and shall serve at the plea-
14 sure of the governor, and shall be subject to confirmation by the state sen-
15 ate.

16 (2) The office of drug policy shall:

17 (a) Cooperate and consult with counties, cities and local law enforce-
18 ment on programs, policies and issues in combating Idaho's illegal drug
19 and substance abuse problem;

20 (b) Serve as a repository of agreements, contracts and plans concern-
21 ing programs for combating illegal drug and substance abuse from commu-
22 nity organizations and other relevant local, state and federal agencies
23 and shall facilitate the exchange of this information and data with rel-
24 evant interstate and intrastate entities;

25 (c) Provide input and comment on community, tribal and federal plans,
26 agreements and policies relating to illegal drug and substance abuse;
27 and

28 (d) Coordinate public and private entities to develop, create and pro-
29 mote statewide campaigns to reduce or eliminate substance abuse.

30 ~~(3) The administrator shall act as chairperson of the interagency com-~~
31 ~~mittee on substance abuse prevention and treatment, as created in section~~
32 ~~39-303, Idaho Code, to ensure that the interagency committee coordinates and~~
33 ~~directs all state entities regarding substance abuse prevention and treat-~~
34 ~~ment delivery services statewide.~~