

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 147

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO EXAMINATION OF CASE AND DISCHARGE OR COMMITMENT OF ACCUSED;  
2 AMENDING SECTION 19-851, IDAHO CODE, TO DEFINE A TERM, TO REVISE DEF-  
3 INITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-852,  
4 IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE CODE REFERENCES AND TO MAKE  
5 TECHNICAL CORRECTIONS; AMENDING SECTION 19-853, IDAHO CODE, TO REVISE  
6 TERMINOLOGY, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORREC-  
7 TIONS; AMENDING SECTION 19-854, IDAHO CODE, TO ESTABLISH PROVISIONS  
8 RELATING TO A DETERMINATION OF INDIGENCY, TO REVISE TERMINOLOGY, TO  
9 PROHIBIT THE USE OF CERTAIN INFORMATION FOR CERTAIN PURPOSES WITH EX-  
10 CEPTIONS, TO REVISE PROVISIONS RELATING TO REIMBURSEMENT FOR CERTAIN  
11 COSTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-855, IDAHO  
12 CODE, TO REVISE TERMINOLOGY; REPEALING SECTION 19-856, IDAHO CODE, RE-  
13 LATING TO THE APPOINTMENT OF A SUBSTITUTE ATTORNEY; AMENDING SECTION  
14 19-857, IDAHO CODE, TO REMOVE A REQUIREMENT THAT A CERTAIN WAIVER BE IN  
15 WRITING OR OTHER RECORD AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
16 SECTION 19-858, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REIMBURSE-  
17 MENT TO A COUNTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
18 19-859, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN DUTY OF  
19 THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY AND TO MAKE TECHNICAL  
20 CORRECTIONS; AMENDING SECTION 19-860, IDAHO CODE, TO REVISE TERMINOL-  
21 OGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-863, IDAHO  
22 CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
23 SECTION 19-864, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS  
24 RELATING TO CERTAIN RECORDS AND A REPORT AND TO MAKE TECHNICAL CORREC-  
25 TIONS; AND AMENDING SECTION 19-865, IDAHO CODE, TO REVISE TERMINOLOGY  
26 AND TO MAKE TECHNICAL CORRECTIONS.  
27

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

29 SECTION 1. That Section 19-851, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 19-851. RIGHT TO REPRESENTATION BY COUNSEL -- DEFINITIONS. In this  
32 act, the term:

33 (1) "Defending attorney" means any attorney employed by the office of  
34 public defender, contracted by the county or otherwise assigned to represent  
35 adults or juveniles at public expense;

36 (a2) "Detain" means to have in custody or otherwise deprive of freedom  
37 of action;

38 (b3) "Expenses," when used with reference to representation under this  
39 act, includes the expenses of investigation, other preparation, and trial;

40 (e4) "Needy/Indigent person" means a person who, at the time his need is  
41 determined pursuant to section 19-854, Idaho Code, is unable to provide for

1 the full payment of an attorney and all other necessary expenses of represen-  
2 tation;

3 (d5) "Serious crime" includes:

4 ~~(1) a felony;~~

5 ~~(2) any misdemeanor or offense the penalty for which, excluding impris-~~  
6 ~~onment for nonpayment of a fine, includes the possibility of confine-~~  
7 ~~ment means any offense the penalty for which includes the possibility~~  
8 ~~of confinement, incarceration, imprisonment or detention in a correc-~~  
9 ~~tional facility, regardless of whether actually imposed.~~

10 SECTION 2. That Section 19-852, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 19-852. RIGHT TO COUNSEL OF ~~NEEDY~~ INDIGENT PERSON -- REPRESENTATION AT  
13 ALL STAGES OF CRIMINAL AND COMMITMENT PROCEEDINGS -- PAYMENT. (a1) An needy  
14 indigent person who is being detained by a law enforcement officer, who is  
15 confined or is the subject of hospitalization proceedings pursuant to sec-  
16 tions 18-212, ~~18-214~~, 66-322, 66-326, 66-329, ~~or 66-4094~~ or 66-406, Idaho  
17 Code, or who is under formal charge of having committed, or is being detained  
18 under a conviction of, a serious crime, is entitled:

19 (1a) ~~to~~ To be represented by an attorney to the same extent as a person  
20 having his own counsel is so entitled; and

21 (2b) ~~to~~ To be provided with the necessary services and facilities of rep-  
22 resentation (including investigation and other preparation). The at-  
23 torney, services, and facilities and the court costs shall be provided  
24 at public expense to the extent that the person is, at the time the court  
25 determines needy indigency pursuant to section 19-854, Idaho Code, un-  
26 able to provide for their payment.

27 (b2) An needy indigent person who is entitled to be represented by an  
28 attorney under subsection (a1) of this section is entitled:

29 (1a) ~~to~~ To be counseled and defended at all stages of the matter beginning  
30 with the earliest time when a person providing his own counsel would be  
31 entitled to be represented by an attorney and including revocation of  
32 probation;

33 (2b) ~~to~~ To be represented in any appeal;

34 (3c) ~~to~~ To be represented in any other post-conviction or post-commit-  
35 ment proceeding that the attorney or the needy indigent person consid-  
36 ers appropriate, unless the court in which the proceeding is brought deter-  
37 mines that it is not a proceeding that a reasonable person with ade-  
38 quate means would be willing to bring at his own expense and is therefore  
39 a frivolous proceeding.

40 (e3) An needy indigent person's right to a benefit under subsection  
41 (a1) or (b2) of this section is unaffected by his having provided a similar  
42 benefit at his own expense, or by his having waived it, at an earlier stage.

43 SECTION 3. That Section 19-853, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 19-853. DUTY TO NOTIFY ACCUSED OR DETAINED OF RIGHT TO COUNSEL -- AP-  
46 POINTMENT OF COUNSEL. (a1) If a person who is being detained by a law en-  
47 forcement officer, or who is confined or who is the subject of hospitaliza-

tion proceedings pursuant to sections 66-322, 66-326, 66-329, ~~or~~ 66-4094 or 66-406, Idaho Code, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is not represented by an attorney under conditions in which a person having his own counsel would be entitled to be so represented, the law enforcement officers concerned, upon commencement of detention, or the court, upon formal charge or hearing, as the case may be, shall:

(1a) ~~e~~Clearly inform him of his right to counsel and of the right of an needy indigent person to be represented by an attorney at public expense; and

(2b) ~~±~~If the person detained or charged does not have an attorney, notify the ~~public defender~~ defending attorney or trial court concerned, as the case may be, that he is not so represented. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer.

(b2) Upon commencement of any later judicial proceeding relating to the same matter, including, but not limited to, preliminary hearing, arraignment, trial, any post-conviction proceeding, or post-commitment proceeding, the presiding officer shall clearly inform the person so detained or charged of his right to counsel and of the right of an needy indigent person to be represented by an attorney at public expense. Provided, the appointment of an attorney at public expense in uniform post-conviction procedure act proceedings shall be in accordance with section 19-4904, Idaho Code.

(e3) If a court determines that the person is entitled to be represented by an attorney at public expense, it shall promptly notify the ~~public defender~~ defending attorney or assign an attorney, as the case may be.

(d4) Upon notification by the court or assignment under this section, the ~~public defender or assigned attorney, as the case may be,~~ defending attorney shall represent the person with respect to whom the notification or assignment is made.

SECTION 4. That Section 19-854, Idaho Code, be, and the same is hereby amended to read as follows:

19-854. DETERMINATION OF NEED INDIGENCY -- FACTORS CONSIDERED -- PARTIAL PAYMENT BY ACCUSED -- REIMBURSEMENT. (a1) The determination of whether a person covered ~~by~~ under section 19-852, Idaho Code, is an needy indigent person shall be deferred until his first appearance in court or in a suit for payment or reimbursement under section 19-858, Idaho Code, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each proceeding, whether he is an needy indigent person.

(2) The court concerned shall presume that the following persons are indigent persons unless such a determination is contrary to the interests of justice:

(a) Persons whose current monthly income does not exceed one hundred eighty-seven percent (187%) of the federal poverty guidelines issued annually by the federal department of health and human services;

(b) Persons who receive, or whose dependents receive, public assistance pursuant to title 56, Idaho Code, in the form of food assistance, health coverage, cash assistance or child care assistance; or

1 (c) Persons who are currently serving a sentence in a correctional fa-  
 2 cility or are being housed in a mental health facility.

3 (b3) The court concerned may determine that persons other than those  
 4 described in subsection (2) of this section are indigent persons. In deter-  
 5 mining whether a person is an needy indigent person and in determining the  
 6 extent of his inability to pay, the court concerned may consider such factors  
 7 as income, property owned, outstanding obligations, and the number and ages  
 8 of his dependents and the cost of bail.

9 (4) Release on bail does not necessarily prevent ~~him~~ a person from being  
 10 an needy indigent person.

11 (5) In each case, the person shall, subject to the penalties for per-  
 12 jury, certify in writing or by other record such material factors relating to  
 13 his ability to pay as the court prescribes by rule. No information provided  
 14 by a person pursuant to this subsection may be used as substantive evidence  
 15 in any criminal or civil proceeding against the person except:

16 (a) For impeachment purposes;

17 (b) In a prosecution for perjury or contempt committed in providing the  
 18 information; or

19 (c) In an attempt to enforce an obligation to reimburse the state for  
 20 the cost of counsel.

21 (e6) To the extent that a person covered by under section 19-852, Idaho  
 22 Code, is able to provide for an attorney, the other necessary services and  
 23 facilities of representation, and court costs, the court may order him to  
 24 provide for their payment.

25 (d7) ~~A needy~~ Upon conviction, notwithstanding the form of judgment or  
 26 withheld judgment, plea of guilty or finding of guilt for any crime regard-  
 27 less of the original crime or number of counts, an indigent person who re-  
 28 ceives the services of an attorney provided by the county may be required by  
 29 the court to reimburse the county for all or a portion of the cost of those  
 30 services related to the conviction, plea of guilty or finding of guilt, un-  
 31 less the requirement would impose a manifest hardship on the indigent per-  
 32 son. The ~~immediate~~ current inability of the needy indigent person to pay the  
 33 reimbursement shall not, in and of itself, restrict the court from ordering  
 34 reimbursement.

35 SECTION 5. That Section 19-855, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 19-855. QUALIFICATIONS OF COUNSEL. No person may be given the primary  
 38 responsibility of representing an needy indigent person unless he is li-  
 39 censed to practice law in this state and is otherwise competent to counsel  
 40 and defend a person charged with a crime.

41 SECTION 6. That Section 19-856, Idaho Code, be, and the same is hereby  
 42 repealed.

43 SECTION 7. That Section 19-857, Idaho Code, be, and the same is hereby  
 44 amended to read as follows:

45 19-857. WAIVER OF COUNSEL -- CONSIDERATION BY COURT. A person who has  
 46 been appropriately informed of his right to counsel may waive ~~in writing,~~

1 ~~or by other record,~~ any right provided by this act, if the court concerned,  
 2 at the time of or after waiver, finds of record that he has acted with full  
 3 awareness of his rights and of the consequences of a waiver and if the waiver  
 4 is otherwise according to law. The court shall consider such factors as the  
 5 person's age, education, and familiarity with the English language and the  
 6 complexity of the crime involved.

7 SECTION 8. That Section 19-858, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 19-858. REIMBURSEMENT TO COUNTY -- WHEN AUTHORIZED. (a~~1~~) The prose-  
 10 cuting attorney of each county may, on behalf of the county, recover payment  
 11 or reimbursement, as the case may be, from each person who has received legal  
 12 assistance or another benefit under this act:

13 (1~~a~~) ~~to~~ which he was not entitled;

14 (2~~b~~) ~~with~~ respect to which he was not an needy indigent person when he  
 15 received it; or

16 (3~~c~~) ~~with~~ respect to which he has failed to make the certification re-  
 17 quired by under section 19-854~~r~~, Idaho Code, and for which he refuses to  
 18 pay or reimburse. Suit must be brought within five (5) years after the  
 19 date on which the aid was received.

20 (b~~2~~) The prosecuting attorney of each county may, on behalf of the  
 21 county, recover payment or reimbursement, as the case may be, from each  
 22 person other than a person covered by under subsection (a~~1~~) ~~above~~, of this  
 23 section who has received legal assistance under this act and who, on the date  
 24 on which suit is brought, is financially able to pay or reimburse the county  
 25 for it without manifest hardship according to the standards of ability to pay  
 26 applicable under sections 19-851, 19-852 and 19-854, Idaho Code, but refuses  
 27 to do so. Suit must be brought within three (3) years after the date on which  
 28 the benefit was received.

29 (e~~3~~) Amounts recovered under this section shall be paid into the county  
 30 general fund.

31 SECTION 9. That Section 19-859, Idaho Code, be, and the same is hereby  
 32 amended to read as follows:

33 19-859. PUBLIC DEFENDER AUTHORIZED -- COURT APPOINTED ATTORNEYS --  
 34 JOINT COUNTY PUBLIC DEFENDERS. (a~~1~~) The board of county commissioners of  
 35 each county shall provide for the representation of needy indigent persons  
 36 and other individuals who with respect to serious crimes are subject to  
 37 proceedings in the county or are detained in the county by law enforcement  
 38 officers are entitled to be represented by an attorney at public expense.  
 39 They shall provide this representation by:

40 (1~~a~~) ~~e~~Establishing and maintaining an office of public defender;

41 (2~~b~~) ~~a~~Arranging with the courts of ~~criminal jurisdiction~~ in the county  
 42 to assign attorneys on an equitable basis through a systematic, coordi-  
 43 nated plan; or

44 (3~~c~~) ~~a~~Adopting a combination of these alternatives.

45 Until the board elects an alternative, it shall be considered as having  
 46 elected the alternative provided in subsection (a~~1~~) (2~~b~~) of this section.

1 (b2) If it elects to establish and maintain an office of public de-  
 2 fender, the board of county commissioners of a county may join with the board  
 3 of county commissioners of one (1) or more other counties to establish and  
 4 maintain a joint office of public defender. In that case, the participating  
 5 counties shall be treated for the purposes of this act as if they were one (1)  
 6 county.

7 (e3) If the board of county commissioners of a county elects to arrange  
 8 with the courts ~~of criminal jurisdiction~~ in the county to assign attorneys, a  
 9 court of the county may provide for advance assignment of attorneys, subject  
 10 to later approval by it, to facilitate representation of matters arising be-  
 11 fore appearance in court.

12 SECTION 10. That Section 19-860, Idaho Code, be, and the same is hereby  
 13 amended to read as follows:

14 19-860. PUBLIC DEFENDER -- TERM -- COMPENSATION -- APPOINTMENT --  
 15 QUALIFICATIONS -- COURT APPOINTED ATTORNEYS -- COMPENSATION. (a1) If the  
 16 board of county commissioners of a county elects to establish and maintain an  
 17 office of public defender and/or juvenile public defender, the board shall:

18 (1a) Prescribe the qualifications of such public defender, his term of  
 19 office, ~~which may not be less than two (2) years~~, and his rate of an-  
 20 nual compensation, and, if so desired by the board, a rate of compen-  
 21 sation for extraordinary services not recurring on a regular basis. So  
 22 far as is possible, the compensation paid to such public defender shall  
 23 not be less than the compensation paid to the county prosecutor for that  
 24 portion of his practice devoted to criminal law.

25 (2b) Provide for the establishment, maintenance and support of his of-  
 26 fice. The board of county commissioners shall appoint a public defender  
 27 and/or juvenile public defender from a panel of not more than five (5)  
 28 and not fewer than three (3) persons, ~~if that many are available~~, des-  
 29 ignated by a committee of lawyers appointed by the administrative judge  
 30 of the judicial district encompassing the county or his designee. To be  
 31 a candidate, a person must be licensed to practice law in this state and  
 32 must be competent to counsel and defend a person charged with a crime.  
 33 During his incumbency, such public defender may engage in the practice  
 34 of civil law and criminal law other than in the discharge of the duties  
 35 of his office, unless he is prohibited from doing so by the board of  
 36 county commissioners.

37 (b2) If a court before whom a person appears upon a formal charge as-  
 38 signs an attorney other than a public defender to represent an needy indigent  
 39 person, the appropriate district court, upon application, shall prescribe a  
 40 reasonable rate of compensation for his services and shall determine the di-  
 41 rect expenses necessary to representation for which he should be reimbursed.  
 42 The county shall pay the attorney the amounts so prescribed. The attorney  
 43 shall be compensated for his services with regard to the complexity of the  
 44 issues, the time involved, and other relevant considerations.

45 SECTION 11. That Section 19-863, Idaho Code, be, and the same is hereby  
 46 amended to read as follows:

1 19-863. DEFENSE EXPENSES -- ALLOCATION IN JOINTLY ESTABLISHED OF-  
 2 FICES. (a1) Subject to section 19-861, Idaho Code, any direct expense,  
 3 including the cost of a transcript that is necessarily incurred in repre-  
 4 senting an needy indigent person under this act, is a county charge against  
 5 the county on behalf of which the service is performed.

6 (b2) If two (2) or more counties jointly establish an office of pub-  
 7 lic defender, the expenses not otherwise allocable among the participating  
 8 counties under subsection (a1) of this section shall be allocated, unless  
 9 the counties otherwise agree, on the basis of population according to the  
 10 most recent decennial census.

11 SECTION 12. That Section 19-864, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 19-864. RECORDS OF ~~DEFENSE~~ DEFENDING ATTORNEYS -- ANNUAL REPORT OF  
 14 ~~PUBLIC DEFENDER'S OFFICE~~ DEFENDING ATTORNEYS. (a1) A defending attorney  
 15 shall keep appropriate records respecting each needy person whom he repre-  
 16 sents under this act.

17 (b2) ~~The public defender in those counties electing to establish and~~  
 18 ~~maintain such an office,~~ Defending attorneys shall submit an annual report  
 19 to the board of county commissioners and the appropriate administrative dis-  
 20 trict judge showing the number of persons represented under this act, the  
 21 crimes involved, ~~the outcome of each case,~~ and the expenditures, ~~(totalled~~  
 22 ~~totalled by kind),~~ made in carrying out the responsibilities imposed by this  
 23 act. ~~A copy of the report shall also be submitted to each court having crimi-~~  
 24 ~~nal jurisdiction in the counties that the program serves.~~

25 SECTION 13. That Section 19-865, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 19-865. APPLICATION OF ACT -- STATE COURTS -- FEDERAL COURTS. This act  
 28 applies only to representation in the courts of this state, except that it  
 29 does not prohibit a ~~public defender~~ defending attorney from representing an  
 30 needy indigent person in a federal court of the United States, if:

31 (a1) The matter arises out of or is related to an action pending or re-  
 32 cently pending in a court of criminal jurisdiction of the state; or

33 (b2) Representation is under a plan of the United States District Court  
 34 as required by the ~~Criminal J~~ Justice Act of 1964, ~~(18 U.S.C. 3006A),~~  
 35 and is approved by the board of county commissioners.

# New Case Filings in Idaho

FY2013

District	County	Misdemeanor	Felony	Juvenile	CP	Mental Commitment
1	Benewah	685	59	36	16	8
	Bonner	1,489	268	167	35	65
	Boundary	439	53	57	3	4
	Kootenai	7,126	905	588	94	534
	Shoshone	745	74	64	13	16
2	Clearwater	529	46	74	5	19
	Idaho	708	45	61	7	5
	Latah	1,666	77	78	8	54
	Lewis	213	13	26	3	3
	Nez Perce	3,092	219	129	14	130
3	Adams	302	5	11	2	7
	Canyon	10,607	894	992	138	866
	Gem	721	47	75	2	39
	Owyhee	413	36	58	2	21
	Payette	1,257	111	71	5	17
	Washington	436	43	36	2	34
4	Ada	16,370	1,436	1,930	152	1,888
	Boise	462	26	14	4	7
	Elmore	1,245	59	101	8	69
	Valley	788	40	35	2	7
5	Blaine	798	44	95	1	21
	Camas	57	1	1	0	1
	Cassia	1,698	129	253	9	4
	Gooding	516	26	68	5	10
	Jerome	2,051	109	190	11	28
	Lincoln	324	12	35	2	8
	Minidoka	948	73	222	6	15
	Twin Falls	3,690	489	577	64	153
6	Bannock	5,662	472	963	45	212
	Bear Lake	337	19	52	3	0
	Caribou	356	16	24	1	0
	Franklin	386	32	95	2	3
	Oneida	302	22	21	3	1
	Power	694	41	66	6	9
7	Bingham	2,594	177	310	12	111
	Bonneville	4,980	440	705	29	135
	Butte	124	4	19	3	1
	Clark	75	0	0	0	0
	Custer	164	13	14	0	1
	Fremont	623	19	81	1	11
	Jefferson	853	46	75	7	28
	Lemhi	229	18	33	3	11
	Madison	574	38	47	4	19
	Teton	409	13	25	3	10
<b>Statewide TOTAL</b>		<b>77,737</b>	<b>6,709</b>	<b>8,574</b>	<b>735</b>	<b>4,585</b>

## Misdemeanor and Infraction Charges Issued by Agency (FY2013)

	Misdemeanors		Infractions	
	Count	Percent	Count	Percent
City	60,485	59%	117,799	50%
County	21,373	21%	40385	17%
State	20,298	20%	76925	33%
<b>Total</b>	<b>102,156</b>	<b>100%</b>	<b>235,109</b>	<b>100%</b>

### Notes:

Includes charges filed in both criminal and juvenile cases.

Reflects charges and not cases. There may be multiple charges in a single case.

Reflects charges *filed*, not convictions.

Courts costs and other fees may not be assessed on every charge.

Includes only misdemeanors issued in citations; does not include misdemeanors issued in complaints. Approximately 27,000 misdemeanor charges filed in FY2013 are unaccounted for in these estimates. We are reviewing additional information to determine if the identity of the issuing Authority can be made on these.

Includes "payable misdemeanors," as defined by IMCR 14. When a misdemeanor is "payable," the person charged may sign a written guilty plea and send it to the court along with a preset amount covering the fines and court costs, eliminating the risk of being sentenced to jail time. We do not track separately the payable misdemeanors and therefore some number of these are not subject to a PD.

CHAPTER 47
DISPOSITIONS OF FINES, FORFEITURES, AND COSTS

SECTION.
19-4701. Fines, forfeitures, and costs — Disposition — Satisfaction of judgment. [Repealed.]
19-4705. Payment of fines and forfeitures —

SECTION.
Satisfaction of judgment — Disposition — Apportionment.
19-4708. Collection of debts owed to courts — Contracts for collection.

19-4701. Fines, forfeitures, and costs — Disposition — Satisfaction of judgment. [Repealed.]

Compiler's Notes. This section, which comprised 1903, p. 433, § 1; reen. R.C. & C.L., § 8440; C.S., § 9351; am. 1929, ch. 52, § 1, p. 71; I.C.A., § 19-4801, was repealed by S.L. 2009, ch. 96, § 1.

19-4705. Payment of fines and forfeitures — Satisfaction of judgment — Disposition — Apportionment. — (1) Except as otherwise provided in subsection (2) of this section:

(a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which the judgment was rendered. The judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this chapter. Other existing laws regarding the disposition of fines and forfeitures are hereby repealed to the extent such laws are inconsistent with the provisions of this chapter except as provided in section 49-1013(5), Idaho Code.

(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned two and one-half percent (2 1/2%) to the state treasurer for deposit in the state general fund, ten percent (10%) to the search and rescue account, twenty-two and one-half percent (22 1/2%) to the district court fund and sixty-five percent (65%) to the fish and game fund.

(c) Fines and forfeitures remitted for violations of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, forty-five percent (45%) to the state treasurer for deposit in the highway distribution account, twenty-two and one-half percent (22 1/2%) to the district court fund and twenty-two and one-half percent (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the

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influence of alcohol, drugs or any other intoxicating substances, where an arrest is made or a citation is issued by a city law enforcement official, or by a law enforcement official of a governmental agency under contract to provide law enforcement services for a city, shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game laws, or motor vehicle laws, or state driving privilege laws, or state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordinances shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this chapter shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department or city law enforcement official shall have made the arrest for any such violation, in which case ninety percent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the general fund of the county or city whose law enforcement official issued the citation.

(i) Fines and forfeitures remitted for violations of overweight laws as provided in section 49-1013(3), Idaho Code, shall be deposited one hundred percent (100%) into the highway distribution account.

(2) Any fine or forfeiture remitted for any misdemeanor violation for which an increase in the maximum fine became effective on or after July 1, 2005, shall be apportioned as follows:

(a) Any funds remitted, up to the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be apportioned according to the applicable provisions of subsection (1) of this section; and

(b) Any other funds remitted, in excess of the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be remitted to the state treasurer and shall be deposited in the drug court, mental health court and family court services fund as set forth in section 1-1625, Idaho Code.

(3) As used in this section, the term "city law enforcement official" shall include an official of any governmental agency which is providing law enforcement services to a city in accordance with the terms of a contract or agreement, when such official makes the arrest or issues a citation within the geographical limits of the city and when the contract or agreement provides for payment to the city of fines and forfeitures resulting from such service.

#### History.

1969, ch. 136, § 1, p. 420; am. 1971, ch. 65, § 1, p. 149; am. 1971, ch. 102, § 1, p. 221; am. 1972, ch. 6, § 1, p. 8; am. 1976, ch. 307, § 1, p. 1052; am. 1978, ch. 285, § 1, p. 692; am. 1981, ch. 84, § 1, p. 116; am. 1983, ch. 187, § 1, p. 506; am. 1984, ch. 161, § 1, p. 399; am. 1984, ch. 195, § 2, p. 445; am. 1986, ch. 333, § 1, p. 817; am. 1991, ch. 226, § 5, p. 538; am. 1993, ch. 311, § 1, p. 1146; am. 1998, ch. 426, § 1, p. 1342; am. 2001, ch. 179, § 1, p. 604; am. 2005, ch. 114, § 1, p. 365; am. 2005, ch. 360, § 2, p. 1144; am. 2006, ch. 71, § 20, p. 216; am. 2011, ch. 151, § 8, p. 414.

**Compiler's Notes.** This section was amended by two 2005 acts which appear to be compatible and have been compiled together.

The 2005 amendment, by ch. 114, substituted "eighty-six percent (86%)" for "ninety percent (90%)" and "fourteen percent (14%)" for "ten percent (10%)" throughout the section.

The 2005 amendment, by ch. 360, added the designation (1) and the introductory paragraph, added subsection (2), and redesignated

former paragraph (j) as present subsection (3).

Section 2 of S.L. 2005, ch. 114 is compiled as § 31-3201A.

Sections 1 and 3 of S.L. 2005, ch. 360 are compiled as §§ 1-1625 and 23-217, respectively.

The 2006 amendment, by ch. 71, substituted "this chapter" for "this act" throughout the section; substituted "fund" for "account" in subsection (1)(b); and inserted "on or after" in the introductory paragraph of subsection (2).

The 2011 amendment, by ch. 151, updated the section reference in paragraph (1)(a).

#### Reimbursement.

Although the district court has authority over the clerk of the district court to order return of undisbursed funds, where a conviction was vacated and the defendant sought reimbursement for fines and costs he paid, once the funds had been disbursed into the district court fund they were subject to the authority of the board of county commissioners. *State v. Peterson*, — Idaho —, 280 P.3d 184 (Ct. App. 2012).

**19-4708. Collection of debts owed to courts — Contracts for collection.** — (1) The supreme court, or 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

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**TRIAL COURT FINANCING  
SUMMARY BY COUNTY OF COURT REVENUE DISTRIBUTIONS FROM ISTARS  
FOR THE YEAR ENDED SEPTEMBER 30, 2011**

**ALL DISTRICTS**

	DISTRICT 1	DISTRICT 2	DISTRICT 3	DISTRICT 4	DISTRICT 5	DISTRICT 6	DISTRICT 7	TOTAL ALL DISTRICTS
COURT REVENUE DISTRIBUTIONS FROM ISTARS	FY11							

ITY:

Total Cities                    \$ 765,966   \$ 346,996   \$ 1,125,827   \$ 2,845,795   \$ 718,216   \$ 410,085   \$ 775,259   \$ 6,988,143

**TRIAL COURT FINANCING  
SUMMARY BY COUNTY OF COURT REVENUE DISTRIBUTIONS FROM ISTARS  
FOR THE YEAR ENDED SEPTEMBER 30, 2012**

**ALL DISTRICTS**

	DISTRICT 1	DISTRICT 2	DISTRICT 3	DISTRICT 4	DISTRICT 5	DISTRICT 6	DISTRICT 7	TOTAL ALL DISTRICTS
COURT REVENUE DISTRIBUTIONS FROM ISTARS	FY12							

ITY:

Total Cities                    \$ 655,910   \$ 319,545   \$ 959,930   \$ 3,033,004   \$ 735,777   \$ 445,409   \$ 729,771   \$ 6,879,347

**TRIAL COURT FINANCING  
SUMMARY BY COUNTY OF COURT REVENUE DISTRIBUTIONS FROM ISTARS  
FOR THE YEAR ENDED SEPTEMBER 30, 2013**

**ALL DISTRICTS**

	DISTRICT 1	DISTRICT 2	DISTRICT 3	DISTRICT 4	DISTRICT 5	DISTRICT 6	DISTRICT 7	TOTAL ALL DISTRICTS
COURT REVENUE DISTRIBUTIONS FROM ISTARS	FY13							

ITY:

Total Cities                    \$ 623,699   \$ 310,353   \$ 979,587   \$ 2,663,454   \$ 687,468   \$ 413,956   \$ 697,473   \$ 6,375,990

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