

IN THE SENATE

SENATE BILL NO. 1331

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE IDAHO CRIMINAL JUSTICE SYSTEM; AMENDING CHAPTER 25, TITLE  
2 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2517, IDAHO CODE,  
3 TO REQUIRE THAT PRESENTENCE INVESTIGATION REPORTS INCLUDE INFORMATION  
4 RELATING TO RECIDIVISM RATES; AMENDING SECTION 19-2521, IDAHO CODE,  
5 TO REMOVE PROVISIONS RELATING TO THE COURT'S AUTHORITY TO PLACE A DE-  
6 FENDANT ON PROBATION; AMENDING SECTION 19-2524, IDAHO CODE, TO PROVIDE  
7 THAT SUBSTANCE USE TREATMENT SHALL BE BASED UPON RISK ASSESSMENT WITH  
8 PRIORITY GIVEN TO CERTAIN PROBATIONERS, TO PROVIDE CERTAIN DUTIES OF  
9 THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO MENTAL HEALTH EXAMINA-  
10 TIONS AND TREATMENT AND TO PROVIDE THAT DEFENDANTS SHALL PAY A CERTAIN  
11 FEE FOR MENTAL HEALTH EXAMINATIONS AND TREATMENTS; AMENDING SECTION  
12 19-2601, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUSPENSION  
13 AND WITHHOLDING OF JUDGMENT, TO ESTABLISH PROVISIONS RELATING TO AN  
14 AGREEMENT OF SUPERVISION AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
15 SECTION 19-2606, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTY  
16 OF CERTAIN PERSONS TO REPORT TO THE COURT AND TO PROVIDE THAT THE COURT  
17 MAY MODIFY THE TERMS AND CONDITIONS OF A SUSPENDED SENTENCE AND MAY OR-  
18 DER RETAINED JURISDICTION; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY  
19 THE ADDITION OF A NEW SECTION 20-209H, IDAHO CODE, TO PROVIDE THE DUTY OF  
20 THE BOARD OF CORRECTION TO ESTABLISH INMATE ACCOUNTS AND TO PROVIDE FOR  
21 THE PAYMENT OF RESTITUTION FROM THE INMATE ACCOUNTS; AMENDING CHAPTER  
22 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-210A, IDAHO  
23 CODE, TO PROVIDE THE DUTIES AND POWERS OF THE COMMISSION OF PARDONS AND  
24 PAROLE; AMENDING SECTION 20-216, IDAHO CODE, TO PROVIDE REPORTING DU-  
25 TIES OF THE BOARD OF CORRECTION AND THE DEPARTMENT OF HEALTH AND WELFARE  
26 AND TO DEFINE TERMS; AMENDING SECTION 20-219, IDAHO CODE, TO REVISE  
27 PROVISIONS RELATING TO THE BOARD OF CORRECTION'S SUPERVISION DUTIES,  
28 TO PROVIDE THAT THE BOARD OF CORRECTION MAY DETERMINE THE LEVEL OF SU-  
29 PERVISION OF CERTAIN PERSONS AND TO PROVIDE AN EXCEPTION, TO PROVIDE  
30 ADDITIONAL REQUIREMENTS RELATING TO SUPERVISION, TO PROVIDE THAT THE  
31 BOARD OF CORRECTION SHALL PROVIDE ALL SUPERVISING OFFICERS WITH INITIAL  
32 AND ONGOING TRAINING AND TO PROVIDE THE TRAINING REQUIREMENTS, TO PRO-  
33 VIDE THAT THE BOARD OF CORRECTION SHALL TRANSFER CERTAIN PROBATIONERS  
34 AND PAROLEES TO LIMITED SUPERVISION IF CERTAIN CRITERIA ARE SATISFIED,  
35 TO REQUIRE THE BOARD OF CORRECTION TO PROMULGATE CERTAIN RULES AND TO  
36 DEFINE TERMS; AMENDING SECTION 20-221, IDAHO CODE, TO REVISE PROVISIONS  
37 RELATING TO A REQUEST TO MODIFY THE TERMS OR CONDITIONS OF PROBATION,  
38 TO PROVIDE A PROCESS FOR ANY PARTY OR THE BOARD OF CORRECTION TO REQUEST  
39 THAT THE COURT MODIFY THE TERMS AND CONDITIONS OF PROBATION AND TO PRO-  
40 VIDE A PROCESS FOR ANY PARTY OR THE BOARD OF CORRECTION TO REQUEST THAT  
41 THE COURT TERMINATE PROBATION; AMENDING SECTION 20-222, IDAHO CODE, TO  
42 REMOVE PROVISIONS RELATING TO AN INDETERMINATE PERIOD OF PROBATION OR  
43 SUSPENSION OF A SENTENCE, TO PROVIDE THAT THE COURT SHALL CONSIDER THE  
44 DEFENDANT'S RISKS AND NEEDS AND OPTIONS FOR TREATMENT IN THE COMMUNITY  
45

1 WHEN MAKING CERTAIN DETERMINATIONS AND TO MAKE A TECHNICAL CORRECTION;  
2 AMENDING SECTION 20-223, IDAHO CODE, TO REMOVE ARCHAIC LANGUAGE, TO  
3 REVISE PROVISIONS RELATING TO PAROLE AND RULES GOVERNING PAROLE, TO RE-  
4 QUIRE CERTAIN PRISONERS TO BE RELEASED ON PAROLE AFTER SERVING A CERTAIN  
5 MINIMUM PERIOD OF CONFINEMENT UNLESS THE COMMISSION MAKES A CERTAIN  
6 FINDING, TO PROVIDE THAT THE COMMISSION SUBMIT A CERTAIN REPORT, TO DE-  
7 FINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-224,  
8 IDAHO CODE, TO REQUIRE THAT THE BOARD OF CORRECTION USE A VALIDATED  
9 RISK ASSESSMENT TO DETERMINE THE RISK OF REOFFENSE AND SUITABILITY FOR  
10 RELEASE, TO DEFINE A TERM AND TO PROVIDE CERTAIN RULEMAKING RESPON-  
11 SIBILITIES OF THE COMMISSION ON PARDONS AND PAROLE; AMENDING SECTION  
12 20-227, IDAHO CODE, TO SPECIFY THAT CERTAIN PROVISIONS APPLY WHERE THE  
13 COURT HAS PROVIDED FOR THE SERVICE OF DISCRETIONARY JAIL TIME AS A TERM  
14 OR CONDITION OF PROBATION, TO REQUIRE THAT THE SUPERVISING OFFICER PRO-  
15 VIDE CERTAIN INFORMATION TO THE PROSECUTING ATTORNEY, TO PROVIDE THAT  
16 THE SUPERVISING OFFICER SUBMIT A STATEMENT OF PROBABLE CAUSE WITHIN A  
17 CERTAIN PERIOD OF TIME TO THE COURT, TO THE PROSECUTING ATTORNEY AND TO  
18 THE FACILITY WHERE THE PROBATIONER IS DETAINED AND TO REQUIRE THE RE-  
19 LEASE OF A PRISONER IF A JUDICIAL DETERMINATION OF PROBABLE CAUSE IS NOT  
20 MADE WITHIN A CERTAIN PERIOD OF TIME AND TO MAKE A TECHNICAL CORRECTION;  
21 AMENDING SECTION 20-228, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING  
22 TO AN AGREEMENT OF SUPERVISION, TO PROVIDE A CODE REFERENCE TO A CERTAIN  
23 EXCEPTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-229A,  
24 IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RESULT OF AN ACCEPTANCE  
25 OF A CERTAIN HEARING WAIVER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
26 SECTION 20-229B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PAROLE  
27 REVOCATION HEARING AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO  
28 COMMISSION OF PARDONS AND PAROLE RULINGS RELATING TO PAROLE HEARINGS;  
29 AMENDING SECTION 20-233, IDAHO CODE, TO PROVIDE A PROCESS FOR THE BOARD  
30 OF CORRECTION TO SUBMIT A REQUEST TO THE COMMISSION OF PARDONS AND PA-  
31 ROLE FOR AN ORDER OF FINAL DISCHARGE FROM THE REMAINING PERIOD OF PAROLE  
32 FOR CERTAIN PAROLEES; AMENDING SECTION 19-2513, IDAHO CODE, TO PROVIDE  
33 CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
34 CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-250,  
35 IDAHO CODE, TO PROVIDE DEPARTMENT OF CORRECTION REPORTING REQUIRE-  
36 MENTS; AND PROVIDING EFFECTIVE DATES.

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

38 SECTION 1. That Chapter 25, Title 19, Idaho Code, be, and the same is  
39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
40 ignated as Section 19-2517, Idaho Code, and to read as follows:

41 19-2517. PRESENTENCE INVESTIGATION REPORT TO INCLUDE RECIDIVISM  
42 RATES. (1) If the court orders a presentence investigation to be conducted,  
43 the investigation report shall include current recidivism rates for:

44 (a) Offenders placed on probation after an expired period of retained  
45 jurisdiction under section 19-2601 4., Idaho Code;

46 (b) Offenders placed on probation under section 19-2601 2. or 3., Idaho  
47 Code; and

48 (c) Offenders sentenced directly to a term of imprisonment.

1 (2) The reported recidivism rates shall be differentiated based on of-  
2 fender risk levels of low, moderate and high.

3 SECTION 2. That Section 19-2521, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 19-2521. CRITERIA FOR PLACING DEFENDANT ON PROBATION OR IMPOSING IM-  
6 PRISONMENT. (1) The court shall deal with a person who has been convicted of a  
7 crime without imposing sentence of imprisonment unless, having regard to the  
8 nature and circumstances of the crime and the history, character and condi-  
9 tion of the defendant, it is of the opinion that imprisonment is appropriate  
10 for protection of the public because:

11 (a) There is undue risk that during the period of a suspended sentence  
12 or probation the defendant will commit another crime; or

13 (b) The defendant is in need of correctional treatment that can be pro-  
14 vided most effectively by his commitment to an institution; or

15 (c) A lesser sentence will depreciate the seriousness of the defen-  
16 dant's crime; or

17 (d) Imprisonment will provide appropriate punishment and deterrent to  
18 the defendant; or

19 (e) Imprisonment will provide an appropriate deterrent for other per-  
20 sons in the community; or

21 (f) The defendant is a multiple offender or professional criminal.

22 (2) The following grounds, while not controlling the discretion of the  
23 court, shall be accorded weight in favor of avoiding a sentence of imprison-  
24 ment:

25 (a) The defendant's criminal conduct neither caused nor threatened  
26 harm;

27 (b) The defendant did not contemplate that his criminal conduct would  
28 cause or threaten harm;

29 (c) The defendant acted under a strong provocation;

30 (d) There were substantial grounds tending to excuse or justify the de-  
31 fendant's criminal conduct, though failing to establish a defense;

32 (e) The victim of the defendant's criminal conduct induced or facili-  
33 tated the commission of the crime;

34 (f) The defendant has compensated or will compensate the victim of his  
35 criminal conduct for the damage or injury that was sustained; provided,  
36 however, nothing in this section shall prevent the appropriate use of  
37 imprisonment and restitution in combination;

38 (g) The defendant has no history of prior delinquency or criminal ac-  
39 tivity or has led a law-abiding life for a substantial period of time be-  
40 fore the commission of the present crime;

41 (h) The defendant's criminal conduct was the result of circumstances  
42 unlikely to recur;

43 (i) The character and attitudes of the defendant indicate that the com-  
44 mission of another crime is unlikely.

45 ~~(3) When a person who has been convicted of a crime is not sentenced to~~  
46 ~~imprisonment, the court may place the defendant on probation if the supervi-~~  
47 ~~sion, guidance, assistance or direction is needed that the probation service~~  
48 ~~has the resources to provide.~~

1 SECTION 3. That Section 19-2524, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 19-2524. CONSIDERATION OF COMMUNITY-BASED TREATMENT TO MEET BEHAV-  
4 IORAL HEALTH NEEDS IN SENTENCING AND POST-SENTENCING PROCEEDINGS. (1) After  
5 a defendant has pled guilty to or been found guilty of a felony, and at any  
6 time thereafter while the court exercises jurisdiction over the defendant,  
7 behavioral health needs determinations shall be conducted when, and as pro-  
8 vided by, this section.

9 (a) As part of the presentence process, a screening to determine  
10 whether a defendant is in need of a substance use disorder assessment  
11 and/or a mental health examination shall be made in every felony case  
12 unless the court waives the requirement for a screening. The screening  
13 shall be performed within seven (7) days after the plea of guilty or  
14 finding of guilt.

15 (b) At any time after sentencing while the court exercises jurisdiction  
16 over the defendant, the court may order such a screening to be performed  
17 by individuals authorized or approved by the department of correction  
18 if the court determines that one is indicated. The screening shall be  
19 performed within seven (7) days after the order of the court requiring  
20 such screening.

21 (2) Substance use disorder provisions.

22 (a) Should a screening indicate the need for further assessment of a  
23 substance use disorder, the necessary assessment shall be timely per-  
24 formed so as to avoid any unnecessary delay in the criminal proceeding  
25 and not later than thirty-five (35) days after a plea of guilty or find-  
26 ing of guilt or other order of the court requiring such screening. The  
27 assessment may be performed by qualified employees of the department of  
28 correction or by private providers approved by the department of health  
29 and welfare. If the screening or assessment is not timely completed,  
30 the court may order that the screening be performed by another qualified  
31 provider.

32 (b) Following completion of the assessment, the results of the assess-  
33 ment, including a determination of whether the defendant meets diagnos-  
34 tic criteria for a substance use disorder and the recommended level of  
35 care, shall be submitted to the court as part of the presentence inves-  
36 tigation report or other department of correction report to the court.

37 (c) Following the entry of a plea of guilty or a finding of guilt, the  
38 court may order, as a condition of the defendant's continued release on  
39 bail or on the defendant's own recognizance, that if the assessment re-  
40 flects that the defendant meets diagnostic criteria for a substance use  
41 disorder, the defendant shall promptly, and prior to sentencing, begin  
42 treatment at the recommended level of care.

43 (d) If the court concludes at sentencing, or at any time after sentenc-  
44 ing while the court exercises jurisdiction over the defendant, that  
45 the defendant meets diagnostic criteria for a substance use disorder,  
46 and if the court places the defendant on probation, the court may or-  
47 der the defendant, as a condition of probation, to undergo treatment  
48 at the recommended level of care, subject to modification of the level  
49 of care by the court. If substance use disorder treatment is ordered,

1 all treatment shall be performed by a qualified private provider ap-  
2 proved by the department of health and welfare. The court may order  
3 that if the level of care placement or the treatment plan is modified in  
4 any material term, the department of correction shall notify the court  
5 stating the reason for the modifications and informing the court as to  
6 the clinical alternatives available to the defendant. The level of care  
7 for substance use treatment shall be based upon each probationer's risk  
8 assessment with priority given to probationers with high or moderate  
9 risk levels.

10 (e) In no event shall the persons or facility doing the substance use  
11 assessment be the person or facility that provides the substance use  
12 treatment unless this requirement is waived by the court or where the  
13 assessment and treatment are provided by or through a federally recog-  
14 nized Indian tribe or federal military installation, where diagnosis  
15 and treatment are appropriate and available.

16 (f) Defendants who have completed department of correction institu-  
17 tional programs may receive after care services from qualified employ-  
18 ees of the department of correction.

19 (g) The expenses of all screenings and assessments for substance use  
20 disorder provided or ordered under this section shall be borne by the  
21 department of correction. The expenses for treatment provided or or-  
22 dered under this section shall be borne by the department of correction  
23 unless the defendant is placed in a treatment program which is funded by  
24 an alternate source. The department of correction shall be entitled to  
25 any payment received by the defendant or to which he may be entitled from  
26 any public or private source available to the department of correction  
27 for the service provided to the defendant. The department of correction  
28 may promulgate rules for a schedule of fees to be charged to defendants  
29 for the substance use disorder assessments and treatments provided  
30 to the defendants based upon the actual costs of such services and the  
31 ability of a defendant to pay. The department of correction shall use  
32 the state approved financial eligibility form and reimbursement sched-  
33 ule as set forth in IDAPA 16.07.01.

34 (3) Mental health provisions.

35 (a) Should the mental health screening indicate that a serious mental  
36 illness may be present, then the department of correction shall refer  
37 the defendant to the department of health and welfare for further exam-  
38 ination. The examination shall be timely performed so as to avoid any  
39 unnecessary delay in the criminal proceeding and not later than thirty-  
40 five (35) days after a plea of guilty or finding of guilt or other order  
41 of the court requiring such screening.

42 (b) The examination may be performed by qualified department of health  
43 and welfare employees or by private providers under contract with the  
44 department of health and welfare, provided that such examination shall  
45 at a minimum include an in-depth evaluation of the following:

46 (i) Mental health concerns;

47 (ii) Psychosocial risk factors;

48 (iii) Medical, psychiatric, developmental and other relevant  
49 history;

50 (iv) Functional impairments;

- 1 (v) Mental status examination;  
2 (vi) Multiaxial diagnoses; and  
3 (vii) Any other examinations necessary to provide the court with  
4 the information set forth in paragraph (c) of this subsection.

5 (c) Upon completion of the mental health examination, the court shall  
6 be provided, as part of the presentence report or other department of  
7 health and welfare report to the court, a copy of the mental health as-  
8 sessment along with a summary report. The summary report shall include  
9 the following:

- 10 (i) Description and nature of the examination;  
11 (ii) Multiaxial diagnoses;  
12 (iii) Description of the defendant's diagnosis and if the defen-  
13 dant suffers from a serious mental illness (SMI) as that term is  
14 now defined, or is hereafter amended, in IDAPA 16.07.33.010, to  
15 also include post-traumatic stress disorder;  
16 (iv) An analysis of the degree of impairment due to the defen-  
17 dant's diagnosis;  
18 (v) Consideration of the risk of danger the defendant may create  
19 for the public; and  
20 (vi) If the defendant suffers from a serious mental illness the  
21 report shall also include a plan of treatment that addresses the  
22 following:

- 23 1. An analysis of the relative risks and benefits of treat-  
24 ment versus nontreatment;  
25 2. Types of treatment appropriate for the defendant; and  
26 3. Beneficial services to be provided.

27 (d) If the court, after receiving a mental health examination and plan  
28 of treatment, determines that additional information is needed regard-  
29 ing the mental condition of the defendant or the risk of danger such con-  
30 dition may create for the public, the court may order additional evalua-  
31 tions and/or recommendations for treatment to be furnished by a psychi-  
32 atrist, licensed physician or licensed psychologist.

33 (e) If the court concludes that the defendant suffers from a serious  
34 mental illness as defined in paragraph (c) (iii) of this subsection and  
35 that treatment is available for such serious mental illness, then the  
36 court may order, as a condition of the defendant's release on bail or on  
37 the defendant's own recognizance or as a condition of probation, that  
38 the defendant undergo treatment consistent with the plan of treatment,  
39 subject to modification of the plan of treatment by the court. If the  
40 plan of treatment is modified in any material term, the department of  
41 health and welfare shall notify the court in a timely manner stating the  
42 reasons for the modification and informing the court as to the clinical  
43 alternatives available to the defendant.

44 (f) If treatment is ordered, all treatment shall be performed by a  
45 provider approved by the department of health and welfare.

46 (g) Mental health examinations and/or treatment provided or ordered  
47 under this section shall be secured by the department of health and  
48 welfare. The department of health and welfare shall exhaust efforts  
49 to assist the defendant in gaining access to health care benefits that  
50 will cover the defendant's mental health treatment needs. To the extent

1        that health care benefits are not available to the defendant for the  
 2        treatment, the expenses for treatment shall be borne by the department  
 3        of health and welfare. The expenses of all mental health examinations  
 4        and/or treatment provided or ordered under this section shall be borne  
 5        by the department of health and welfare. The department of health and  
 6        welfare shall be entitled to any payment received by the defendant or  
 7        to which he may be entitled from any public or private source available  
 8        to the department of health and welfare for the service provided to the  
 9        defendant. The department of health and welfare is authorized to pro-  
 10       mulgate rules for a schedule of fees to be charged to defendants for the  
 11       mental health examinations and treatments provided to the defendants  
 12       based upon the actual costs of such services and the ability of a defen-  
 13       dant to pay. The department of health and welfare shall use the state  
 14       approved financial eligibility form and reimbursement schedule as set  
 15       forth in IDAPA 16.07.01. Defendants shall pay the fee for the mental  
 16       health examinations and treatments consistent with the rules of the  
 17       department of health and welfare.

18       (4) Unless otherwise ordered by the court, if the defendant is in  
 19 treatment for a substance use disorder or mental illness, any substance use  
 20 disorder assessment required under subsection (2) of this section or mental  
 21 health examination required under subsection (3) of this section need not be  
 22 performed while the defendant is in such treatment. In such circumstances,  
 23 the court may make such order as it finds appropriate to facilitate the  
 24 completion of the sentencing process or other proceeding before the court,  
 25 including providing for the assessment and treatment records to be included  
 26 in the presentence investigation report or other report to the court.

27       (5) Any substance use disorder assessment including any recommended  
 28 level of care or mental health examination including any plan of treatment  
 29 shall be delivered to the court, the defendant and the prosecuting attorney  
 30 prior to any sentencing hearing or probation revocation hearing.

31       (6) A substance use disorder assessment prepared pursuant to the pro-  
 32 visions of this section shall satisfy the requirement of an alcohol evalua-  
 33 tion prior to sentencing set forth in section 18-8005(11), Idaho Code, and  
 34 shall also satisfy the requirement of a substance abuse evaluation prior to  
 35 sentencing set forth in section 37-2738, Idaho Code.

36       (7) If the defendant is sentenced to the custody of the board of correc-  
 37 tion, then any substance use disorder assessment, mental health examination  
 38 or plan of treatment shall be sent to the department of correction along with  
 39 the presentence report.

40       SECTION 4. That Section 19-2601, Idaho Code, be, and the same is hereby  
 41 amended to read as follows:

42       19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PRO-  
 43 BATION. Whenever any person shall have been convicted, or enter a plea of  
 44 guilty, in any district court of the state of Idaho, of or to any crime  
 45 against the laws of the state, except those of treason or murder, the court  
 46 in its discretion, may:

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

1           2. Suspend the execution of the judgment at the time of judgment or at  
2 any time during the term of a sentence in the county jail and may place the  
3 defendant on probation under such terms and conditions as it deems necessary  
4 and ~~expedient~~ appropriate; or

5           3. Withhold judgment on such terms and for such time as it may prescribe  
6 and may place the defendant on probation under such terms and conditions as  
7 it deems necessary and appropriate; or

8           4. Suspend the execution of the judgment at any time during the first  
9 three hundred sixty-five (365) days of a sentence to the custody of the state  
10 board of correction. The court shall retain jurisdiction over the prisoner  
11 for a period of up to the first three hundred sixty-five (365) days or, if  
12 the prisoner is a juvenile, until the juvenile reaches twenty-one (21) years  
13 of age. During the period of retained jurisdiction, the state board of cor-  
14 rection shall be responsible for determining the placement of the prisoner  
15 and such education, programming and treatment as it determines to be ap-  
16 propriate. The prisoner will remain committed to the board of correction  
17 if not affirmatively placed on probation by the court. In extraordinary  
18 circumstances, where the court concludes that it is unable to obtain and  
19 evaluate the relevant information within the period of retained jurisdic-  
20 tion, or where the court concludes that a hearing is required and is unable  
21 to obtain the defendant's presence for such a hearing within such period,  
22 the court may decide whether to place the defendant on probation or release  
23 jurisdiction within a reasonable time, not to exceed thirty (30) days, after  
24 the period of retained jurisdiction has expired. Placement on probation  
25 shall be under such terms and conditions as the court deems necessary and  
26 ~~expedient~~ appropriate. The court in its discretion may sentence a defendant  
27 to more than one (1) period of retained jurisdiction after a defendant has  
28 been placed on probation in a case. In no case shall the board of correction  
29 or its agent, the department of correction, be required to hold a hearing of  
30 any kind with respect to a recommendation to the court for the grant or de-  
31 nial of probation. Probation is a matter left to the sound discretion of the  
32 court. Any recommendation made by the department to the court regarding the  
33 prisoner shall be in the nature of an addendum to the presentence report. The  
34 board of correction and its agency, the department of correction, and their  
35 employees shall not be held financially responsible for damages, injunctive  
36 or declaratory relief for any recommendation made to the district court un-  
37 der this section.

38           5. If the crime involved is a felony and if judgment is withheld as pro-  
39 vided in subsection 3. of this section or if judgment and a sentence of cus-  
40 tody to the state board of correction is suspended at the time of judgment in  
41 accordance with subsection 2. of this section or as provided by subsection  
42 4. of this section ~~and,~~ the court shall may place the defendant ~~upon~~ pro-  
43 bation, ~~it shall be.~~ If the court places the defendant on probation to the  
44 board of correction, to a county juvenile probation department, or any other  
45 person or persons the court, in its discretion, deems appropriate the court  
46 shall include in the terms and conditions of probation a requirement that  
47 the defendant enter into and comply with an agreement of supervision with the  
48 board of correction. The agreement of supervision shall include provisions  
49 setting forth the potential sanctions for a violation of the terms or condi-  
50 tions imposed and potential rewards for compliance with the terms and con-

1 ditions imposed, as such sanctions and rewards are set forth in rules of the  
 2 board of correction.

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

10 7. The period of probation ordered by a court under this section under  
 11 a conviction or plea of guilty for a misdemeanor, indictable or otherwise,  
 12 may be for a period of not more than two (2) years; provided that the court  
 13 may extend the period of probation to include the period of time during which  
 14 the defendant is a participant in a problem solving court program and for a  
 15 period of up to one (1) year after a defendant's graduation or termination  
 16 from a problem solving court program. Under a conviction or plea of guilty  
 17 for a felony the period of probation may be for a period of not more than the  
 18 maximum period for which the defendant might have been imprisoned.

19 SECTION 5. That Section 19-2606, Idaho Code, be, and the same is hereby  
 20 amended to read as follows:

21 19-2606. ~~PAROLED OR SUSPENDED OFFENDER -- DUTY TO REPORT -- ORDER ON~~  
 22 ~~REPORT. As ordered by the court, it shall be the duty of each person whose~~  
 23 ~~sentence is suspended or who is paroled under the provisions of this chap-~~  
 24 ~~ter to appear, or report, at one or more of the regular terms each year, of~~  
 25 ~~the court granting the parole or suspending the execution of the judgment, as~~  
 26 ~~ordered by the court, during the continuance of such probation, suspension~~  
 27 ~~and to furnish, at his own expense, proof, in writing, to the satisfaction~~  
 28 ~~of the court, that he has, since he was placed on probation his sentence was~~  
 29 ~~suspended or since the last date at which proof has been furnished, complied~~  
 30 ~~with the terms and conditions upon which he was placed on probation his sen-~~  
 31 ~~tence was suspended by the court. The court shall make each report so made, a~~  
 32 ~~part of the court record of the case, and shall, after considering the same,~~  
 33 ~~enter an order approving or rejecting the same, and the court may, if the re-~~  
 34 ~~port is not found to be satisfactory, and as ordered by the court, may modify~~  
 35 ~~the terms and conditions of suspension or vacate the order of parole, or sus-~~  
 36 ~~pension of sentence, and may then order retained jurisdiction or execution~~  
 37 ~~of the judgment as though parole or suspension had not been made.~~

38 SECTION 6. That Chapter 2, Title 20, Idaho Code, be, and the same is  
 39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 40 ignated as Section 20-209H, Idaho Code, and to read as follows:

41 20-209H. DUTY TO ESTABLISH INMATE ACCOUNTS -- PAYMENT OF RESTITU-  
 42 TION. The state board of correction shall establish an account in the name of  
 43 each inmate confined in a correctional facility. All moneys in the inmate's  
 44 possession upon admission, all moneys earned from institutional employment  
 45 and all moneys received by the inmate from any other source, other than money  
 46 that is contraband, shall be deposited in the inmate's account. If the court  
 47 ordered an inmate to make restitution under section 19-5304, Idaho Code, and

1 the restitution is still owing, then twenty percent (20%) of each deposit  
 2 in the inmate's account shall be paid to the state board of correction who  
 3 shall, within five (5) days after the end of the month, pay such moneys to the  
 4 clerk of the court in which the restitution order was entered for payment to  
 5 the victim.

6 SECTION 7. That Chapter 2, Title 20, Idaho Code, be, and the same is  
 7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 8 ignated as Section 20-210A, Idaho Code, and to read as follows:

9 20-210A. COMMISSION OF PARDONS AND PAROLE -- DUTIES AND POWERS. The  
 10 commission of pardons and parole shall:

11 (1) Have the powers relating to commutation, pardon and remission of  
 12 fines and forfeitures as set forth in section 7, article IV, of the Idaho con-  
 13 stitution;

14 (2) Subject to and consistent with the provisions of this chapter and  
 15 section 19-2513, Idaho Code, decide whether any prisoner who is eligible for  
 16 parole may be released on parole;

17 (3) Subject to and consistent with the provisions of this chapter and  
 18 section 19-2513, Idaho Code, and in compliance with chapter 52, title 67,  
 19 Idaho Code, promulgate rules to establish the procedures under which any el-  
 20 igible prisoner may be released on parole;

21 (4) Specify in writing the conditions of parole for every prisoner re-  
 22 leased on parole and provide every prisoner released on parole with a copy of  
 23 the conditions of parole;

24 (5) Subject to and consistent with the provisions of this chapter, is-  
 25 sue orders of final discharge from parole for eligible parolees; and

26 (6) Carry out all other duties and powers relating to the commission as  
 27 set forth in Idaho code.

28 SECTION 8. That Section 20-216, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 20-216. ~~BOARD -- POWERS AND DUTIES --~~ RECORDS, REPORTS AND STATIS-  
 31 TICS. (1) The board shall keep a record of and require reports from all  
 32 persons on parole or probation and enforce observance of rules and regula-  
 33 tions for parole or probation established by the commission or the courts.  
 34 It shall prepare and publish reports and statistics relating to probation  
 35 and parole and it shall submit to the governor, at such times as the governor  
 36 may direct, but at least annually, a full and complete report of the board  
 37 and its agents, showing the disposition of all cases coming before the board  
 38 or the commission and such additional information relating thereto as the  
 39 governor may request.

40 (2) The board and the department of health and welfare shall submit a  
 41 joint report to the legislature by January 15 each year analyzing:

42 (a) The criminogenic needs of the active population of probationers and  
 43 parolees;

44 (b) Current funding available to deliver effective, evidence-based  
 45 programming to address those needs; and

46 (c) Any gap in funding to meet the treatment needs of all moderate and  
 47 high-risk probationers and parolees.

1       (3) By November 15, 2015, and biennially on November 15 thereafter, the  
 2 board shall develop and deliver a report to the governor and the legislature  
 3 on the programs to reduce recidivism that are funded by the state. Subject to  
 4 the availability of moneys, the board may contract with an independent con-  
 5 tractor or academic institution for this purpose. The report shall include  
 6 an evaluation of the quality of each program and its likelihood to reduce  
 7 recidivism among program participants and shall include a plan for pro-  
 8 gram improvements by the board. The program evaluations shall ensure that  
 9 treatment programs are delivering services in a way that aligns with the sci-  
 10 entifically based research to reduce recidivism. Program evaluation shall  
 11 be standardized and a validated program assessment tool shall be used. Each  
 12 program evaluation shall include a site visit and interviews with key staff,  
 13 interviews with offenders, group observation and file and material review.  
 14 The information shall be compiled into a composite score indicating adher-  
 15 ence to concepts that are linked with program effectiveness, such as program  
 16 development, program procedures, staff, offender assessment, treatment  
 17 processes and programs and quality assurance. Program evaluation should  
 18 also include feedback to the program concerning strengths, weaknesses and  
 19 recommendations for better adherence to scientifically based research and  
 20 the principles of effective intervention.

21       (4) For the purposes of this section:

22       (a) "Program" means a treatment or intervention program or service  
 23 that is intended to reduce the propensity of a person to commit crimes  
 24 or improve the mental health of a person with the result of reducing the  
 25 likelihood that the person will commit a crime or need emergency mental  
 26 health services. "Program" does not mean or include an educational  
 27 program or service that an agency is required to provide to meet edu-  
 28 cational requirements imposed by state law or a program that provides  
 29 basic medical services.

30       (b) "Scientifically based research" means research that obtains reli-  
 31 able and valid knowledge by:

32           (i) Employing systematic, empirical methods that draw on obser-  
 33 vation or experiment;

34           (ii) Involving rigorous data analyses that are adequate to test  
 35 the stated hypotheses and justify the general conclusions drawn;  
 36 and

37           (iii) Relying on measurements or observational methods that pro-  
 38 vide reliable and valid data across evaluators and observers,  
 39 across multiple measurements and observations and across studies  
 40 by the same or different investigators.

41       SECTION 9. That Section 20-219, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43       20-219. PROBATION AND PAROLE SUPERVISION AND TRAINING -- LIMITED SU-  
 44 PERVISION -- RULEMAKING. (1) The state board of correction shall be charged  
 45 with the duty of:

46       (a) ~~S~~supervising all persons convicted of a felony placed on probation  
 47 ~~or~~ to the board;

48       (b) ~~Supervising~~ all persons released from the state penitentiary on pa-  
 49 role, and;

1 (c) Supervising all persons convicted of a felony released on parole or  
2 probation from other states and residing in the state of Idaho;

3 (d) Program delivery, as "program" is defined in section 20-216, Idaho  
4 Code, to all persons under its probation or parole supervision based on  
5 individual criminal risk factors and specific needs;

6 (e) ~~of~~ Making such investigations as may be necessary;

7 (f) ~~of~~ Reporting alleged violations of parole ~~or probation~~ in specific  
8 cases to the commission ~~or the courts~~ to aid in determining whether the  
9 parole ~~or probation~~ should be continued or revoked;

10 (g) Reporting alleged violations of the terms or conditions of proba-  
11 tion in specific cases to the court and the prosecuting attorney to aid  
12 in determining whether the probation should be continued or revoked;  
13 and

14 (h) ~~of~~ Preparing a case history record of the prisoners to assist the  
15 commission or the courts in determining if they should be paroled or  
16 should be released on probation.

17 (2) Any person placed on probation or parole and who has been desig-  
18 nated as a violent sexual predator pursuant to chapter 83, title 18, Idaho  
19 Code, shall be monitored with electronic monitoring technology for the dura-  
20 tion of the person's probation or parole period. Any person who, without au-  
21 thority, intentionally alters, tampers with, damages, or destroys any elec-  
22 tronic monitoring equipment shall be guilty of a felony.

23 (3) The state board of correction shall have the discretion to deter-  
24 mine the level of supervision of all persons under its supervision, except  
25 those who are being supervised by a problem solving court. "Level of super-  
26 vision" includes the determination of the following:

27 (a) The frequency, location, methods and nature of contact with the su-  
28 pervising officer;

29 (b) Testing requirements and frequency;

30 (c) Contact restrictions;

31 (d) Curfew restrictions; and

32 (e) Reporting requirements.

33 (4) Subject to the availability of moneys, caseloads for supervising  
34 officers who are supervising offenders determined by the department of cor-  
35 rection's validated risk assessment to be high or moderate risk of rearrest  
36 should not exceed an average of fifty (50) offenders per supervising offi-  
37 cer.

38 (5) In carrying out its duty to supervise felony probationers and  
39 parolees, the state board of correction shall use evidence-based practices,  
40 shall target the offender's criminal risk and need factors with appropriate  
41 supervision and intervention and shall focus resources on those identified  
42 by the board as moderate-risk and high-risk offenders. The supervision  
43 shall include:

44 (a) Use of validated risk and needs assessments of the offender that  
45 measure criminal risk factors, specific individual needs and driving  
46 variable supervision levels;

47 (b) Use of assessment results to guide supervision responses consis-  
48 tent with evidence-based practices as to the level of supervision and  
49 the practices used to reduce recidivism;

1 (c) Collateral and personal contacts with the offender and community  
2 that may be unscheduled and which shall occur as often as needed based on  
3 the offender's supervision level and risk of reoffense and based on the  
4 need to stay informed of the offender's conduct, compliance with condi-  
5 tions and progress in community-based intervention;

6 (d) Case planning for each offender assessed as moderate to high risk to  
7 reoffend; and

8 (e) Use of practical and suitable methods that are consistent with ev-  
9 idence-based practices to aid and encourage the offender to improve his  
10 or her conduct and circumstances so as to reduce the offender's risk of  
11 recidivism.

12 (6) The state board of correction shall provide all supervising of-  
13 ficers with initial and ongoing training and professional development  
14 services to support the implementation of evidence-based supervision prac-  
15 tices. All supervising officers employed as of the effective date of this  
16 section shall complete the training requirements set forth in this subsec-  
17 tion on or before July 1, 2016. All supervising officers hired after the  
18 effective date of this section shall complete the training requirements set  
19 forth in this subsection within two (2) years of their hire date. The train-  
20 ing and professional development services shall include:

21 (a) Assessment techniques;

22 (b) Case planning;

23 (c) Risk reduction and intervention strategies;

24 (d) Effective communication skills;

25 (e) Behavioral health needs;

26 (f) Application of core correctional practices, including motiva-  
27 tional interviewing, cognitive restructuring, structured skill build-  
28 ing, problem solving, reinforcement and use of authority;

29 (g) Training for supervising officers to become trainers so as to en-  
30 sure long-term and self-sufficient training capacity in the state; and

31 (h) Other topics identified by the board as evidence-based practices.

32 (7) The state board of correction shall transfer felony probationers  
33 and parolees to limited supervision consistent with subsection (8) of this  
34 section if all of the following are satisfied:

35 (a) There has been no commission determination of a violation of the  
36 conditions of parole or the agreement of supervision for a minimum of  
37 six (6) consecutive months;

38 (b) There has been no court adjudication of a violation of the terms and  
39 conditions of probation or the agreement of supervision for a minimum of  
40 six (6) consecutive months;

41 (c) The offender is not serving probation or parole for a violent or  
42 sexual offense; and

43 (d) The offender is not high risk according to the offender's most re-  
44 cent risk assessment.

45 (8) If the state board of correction determines that a felony proba-  
46 tioner or parolee qualifies for transfer to limited supervision pursuant to  
47 subsection (7) of this section, then it shall:

48 (a) Transfer low-risk parolees to limited supervision after six (6)  
49 consecutive months of supervision where there has been no commission

1 determination of a violation of the conditions of parole or the agree-  
 2 ment of supervision.

3 (b) Transfer low-risk probationers to limited supervision after six  
 4 (6) consecutive months of supervision where there has been no court  
 5 adjudication of a violation of the terms and conditions of probation or  
 6 the agreement of supervision.

7 (c) Transfer moderate-risk parolees to limited supervision after  
 8 twelve (12) consecutive months of supervision where there has been no  
 9 commission determination of a violation of the conditions of parole or  
 10 the agreement of supervision.

11 (d) Transfer moderate-risk probationers to limited supervision after  
 12 twelve (12) consecutive months of supervision where there has been no  
 13 court adjudication of a violation of the terms and conditions of proba-  
 14 tion or the agreement of supervision.

15 (9) The state board of correction shall promulgate rules in consulta-  
 16 tion with the Idaho supreme court to:

17 (a) Establish a program of limited supervision for offenders who qual-  
 18 ify under subsection (7) of this section.

19 (b) Establish a matrix of swift, certain and graduated sanctions  
 20 and rewards to be imposed by the board in response to corresponding  
 21 violations of or compliance with the terms or conditions imposed. Sanc-  
 22 tions for violations shall include, but are not limited to, community  
 23 service, increased reporting, curfew, submission to substance use  
 24 assessment, monitoring or treatment, submission to cognitive behav-  
 25 ioral treatment, submission to an educational or vocational skills  
 26 development program, submission to a period of confinement in a local  
 27 correctional facility for a total of no fewer than two (2) and no more  
 28 than three (3) consecutive days and house arrest. Rewards for compli-  
 29 ance shall include, but are not limited to, decreased reporting and  
 30 transfer to limited supervision.

31 (10) For the purposes of this section:

32 (a) "Sexual offense" means any offense that would require an offender  
 33 to register under chapter 83, title 18, Idaho Code.

34 (b) "Violent offense" means any offense listed in section 19-2520,  
 35 19-2520B, 19-2520C or 20-509(1), Idaho Code.

36 SECTION 10. That Section 20-221, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 20-221. MODIFICATION OF TERMS OR CONDITIONS OF PROBATION OR SUSPEN-  
 39 SION OF SENTENCE -- TERMINATION OF PROBATION. (1) By order duly entered the  
 40 court may impose and may at any time modify any terms or conditions of proba-  
 41 tion or suspension of sentence. The court shall cause a copy of any such or-  
 42 der to be delivered to the ~~probation officer and parole officer~~ board of cor-  
 43 rection, to the prosecuting attorney and to the probationer.

44 (2) Any party or the board of correction may submit to the court a re-  
 45 quest to modify the court-imposed terms and conditions of probation for any  
 46 probationer under the board's supervision at any time during the period of  
 47 probation. A request to modify the terms and conditions of probation shall  
 48 be supported by a statement attested to under oath or signed under penalty  
 49 of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts

1 upon which the request is based. The requesting party or the board, as the  
2 case may be, shall deliver a copy of the request and statement to all par-  
3 ties and to the board. The prosecuting attorney shall notify the victim of  
4 the request to modify the terms and conditions of probation. Any responses  
5 to a request to modify shall be filed within thirty (30) days of the date of  
6 submittal of the request. The court may, without a hearing, rule upon a re-  
7 quest to modify based on a review of the case, the request, the statement and  
8 any responses to the request, or may schedule a hearing on the request to mod-  
9 ify. The court shall by written order rule on the request to modify within  
10 sixty (60) days of the date of submittal of the request. Nothing contained in  
11 this subsection shall be construed as limiting or preventing the board from  
12 transferring a qualified probationer to limited supervision pursuant to the  
13 provisions of section 20-219, Idaho Code.

14 (3) Any party or the board of correction may submit to the court a re-  
15 quest to terminate the court-imposed probation for any probationer under the  
16 board's supervision at any time during the period of probation. A request to  
17 terminate probation shall be supported by a statement attested to under oath  
18 or signed under penalty of perjury pursuant to section 9-1406, Idaho Code,  
19 setting forth the facts upon which the request is based. The requesting  
20 party or the board, as the case may be, shall deliver a copy of the request and  
21 statement to all parties and to the board. The prosecuting attorney shall  
22 notify the victim of a request to terminate probation. Any responses to a  
23 request to terminate probation shall be filed within thirty (30) days of the  
24 date of submittal of the request. The court may, without a hearing, rule  
25 upon a request to terminate based on a review of the case, the request, the  
26 statement and any responses to the request, or may schedule a hearing on the  
27 request to terminate. There shall be a presumption in favor of granting a  
28 request to terminate probation for any probationer who has completed twelve  
29 (12) consecutive months of probation under limited supervision pursuant to  
30 section 20-219, Idaho Code. The court shall rule on the request within sixty  
31 (60) days of the date of submittal of the request. A court order granting a  
32 request to terminate probation under this subsection shall be deemed a final  
33 discharge from the remaining period of probation.

34 SECTION 11. That Section 20-222, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 20-222. ~~INDETERMINATE OR FIXED PERIOD OF PROBATION OR SUSPENSION OF~~  
37 ~~SENTENCE -- REARREST AND REVOCATION.~~ (1) The period of probation or suspen-  
38 sion of sentence ~~may be indeterminate or may~~ shall be fixed by the court, and  
39 may at any time be extended or terminated by the court. Such period with any  
40 extension thereof shall not exceed the maximum period for which the defen-  
41 dant might have been imprisoned.

42 (2) At any time during probation or suspension of sentence, the court  
43 may issue a warrant for violating any of the conditions of probation or sus-  
44 pension of sentence and cause the defendant to be arrested. Thereupon the  
45 court, after summary hearing may revoke the probation and suspension of sen-  
46 tence and cause the sentence imposed to be executed, or may cause the defen-  
47 dant to be brought before it and may continue or revoke the probation, or may  
48 impose any sentence which originally might have been imposed at the time of  
49 conviction. In making a determination to continue or revoke probation and

1 suspension of sentence, the court shall consider the defendant's risks and  
2 needs and options for treatment in the community.

3 SECTION 12. That Section 20-223, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR  
6 PSYCHOLOGICAL EXAMINATION. (a~~1~~) Subject to section 19-2513, Idaho Code, the  
7 commission shall have the power to establish rules, ~~policies or procedures~~  
8 in compliance with chapter 52, title 67, Idaho Code, under which any pris-  
9 oner, excepting any under sentence of death, may be allowed to go upon parole  
10 but to remain while on parole in the legal custody and under the control of  
11 the board and subject to be taken back into confinement at the direction of  
12 the commission.

13 (2) Any prisoner who is granted parole under the interstate compact may  
14 be required to post a bond prior to release or prior to such acceptance under  
15 the interstate compact; such bond may be posted by the prisoner, the pris-  
16 oner's family, or other interested party. Failure to successfully complete  
17 parole may be grounds for forfeiture of the bond. Upon successful completion  
18 of parole, the amount of the bond may be returned, less an amount for admin-  
19 istrative costs as determined by commission rule, in compliance with chap-  
20 ter 52, title 67, Idaho Code. A request must be made for return of the bond  
21 within one (1) year of discharge of the offense for which the particular of-  
22 fender was serving parole. Funds collected through the bonding process will  
23 be placed in a separate commission receipts fund which is hereby created in  
24 the state treasury and utilized for the extradition of parole violators.

25 (b~~3~~) No person serving a sentence for rape, incest, committing a lewd  
26 act upon a child, crime against nature, or with an intent or an assault with  
27 intent to commit any such crimes, or whose history and conduct indicate to  
28 the commission that he is a sexually dangerous person, shall be released on  
29 parole except upon the examination and evaluation of one (1) or more psy-  
30 chiatrists or psychologists or mental health professionals designated for  
31 this purpose by the department of correction to be selected by the commission  
32 and such evaluation shall be duly considered by the commission in making its  
33 parole determination. The commission may, in its discretion, likewise re-  
34 quire a similar examination and evaluation for persons serving sentences for  
35 crimes other than those above enumerated. No person making such evaluation  
36 shall be held financially responsible to any person for denial of parole by  
37 the commission or for the results of the future acts of such person if he be  
38 granted parole.

39 (e4) Before considering the parole of any prisoner, the commission  
40 shall ensure that a risk assessment has been conducted pursuant to section  
41 20-224, Idaho Code, and shall afford the prisoner the opportunity to be in-  
42 terviewed by the commission, a commissioner or other designated commission  
43 staff. A designated report and risk assessment prepared by commission staff  
44 or a designated department of correction employee which that is specifically  
45 to be used by the commission in making a parole determination shall be exempt  
46 from public disclosure; such reports contain information from the pre-  
47 sentence investigation report, medical or psychological information, the  
48 results of a risk assessment, victim information, designated confidential  
49 witness information and criminal history information. A parole shall be or-

1 ~~dered when, in the discretion of the commission, it is in the best interests~~  
2 ~~of society, and the commission believes the prisoner is able and willing to~~  
3 ~~fulfill the obligations of a law-abiding citizen. Such determination shall~~  
4 ~~not be a reward of clemency and it shall not be considered to be a reduction of~~  
5 ~~sentence or a pardon. The commission may also by its rules, policies or pro-~~  
6 ~~cedures fix the times and conditions under which any application denied may~~  
7 ~~be reconsidered. No action may be maintained against the commission and/or~~  
8 ~~any of its members in any court in connection with any decision taken by the~~  
9 ~~commission to parole a prisoner and neither the commission nor its members~~  
10 ~~shall be liable in any way for its action with respect thereto.~~

11 (d5) In making any parole or commutation decision with respect to a  
12 prisoner, the commission shall consider the compliance of the prisoner with  
13 any order of restitution which may have been entered according to section  
14 19-5304, Idaho Code. The commission may make compliance with such an order  
15 of restitution a condition of parole.

16 (e6) Except as provided in subsection (a1) of this section, no provi-  
17 sion of chapter 52, title 67, Idaho Code, shall apply to the commission.

18 (f7) Subject to the limitations of this subsection and notwithstanding  
19 any fixed term of confinement or minimum period of confinement as provided  
20 in section 19-2513, Idaho Code, the commission may parole an inmate for med-  
21 ical reasons. A prisoner may be considered for medical parole only when the  
22 prisoner is permanently incapacitated or terminally ill and when the commis-  
23 sion reasonably believes the prisoner no longer poses a threat to the safety  
24 of society. For the purposes of this section, "permanently incapacitated"  
25 shall mean a person who, by reason of an existing physical condition which  
26 is not terminal, is permanently and irreversibly physically incapacitated.  
27 For the purposes of this section "terminally ill" shall mean a person who has  
28 an incurable condition caused by illness or disease and who is irreversibly  
29 terminally ill.

30 (g8) The commission shall prepare and send to the house of represen-  
31 tatives and senate judiciary committees annually a report containing the  
32 names, medical condition and current status of all persons granted parole  
33 pursuant to subsection (f7) of this section.

34 (9) Prisoners convicted of nonviolent offenses on or after July 1,  
35 2014, shall be released on parole after serving one hundred percent (100%)  
36 of the minimum period of confinement and before serving one hundred fifty  
37 percent (150%) of the minimum period of confinement, unless the commission  
38 finds that the prisoner served a previous prison sentence for a violent  
39 offense or the prisoner has committed a major institutional behavior viola-  
40 tion.

41 (10) By February 1, 2015, and by February 1 of each year thereafter, the  
42 commission shall submit a report to the legislature and governor on the per-  
43 centage of people sentenced to a term in prison for a nonviolent offense con-  
44 viction who are released before serving one hundred fifty percent (150%) of  
45 the minimum sentence.

46 (11) For purposes of this section, "nonviolent offense" means an of-  
47 fense other than those listed in sections 19-2520, 19-2520B, 19-2520C and  
48 20-509(1), Idaho Code, and other than an offense that would cause an offender  
49 to be designated a violent sexual predator under chapter 83 or 84, title 18,  
50 Idaho Code.

1 SECTION 13. That Section 20-224, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 20-224. INFORMATION REGARDING PRISONERS TO BE SECURED. (1) Within six  
4 (6) months after his admission and at such intervals thereafter as it may de-  
5 termine, the board shall secure all pertinent available information regard-  
6 ing each prisoner, including the circumstances of his offense, his previous  
7 social history and criminal record, his conduct, employment and attitude in  
8 prison, and reports of such physical and mental examinations as have been  
9 made to assist the board in prescribing treatment for such person while in  
10 confinement and to assist the commission in its deliberations. The board and  
11 the commission shall attempt to inform themselves as to such inmate as a per-  
12 sonality and may seek from the sentencing judge, prosecuting attorney, de-  
13 fense counsel and law enforcement authorities such information of which they  
14 may be possessed relative to the convicted person and the crime for which he  
15 was committed. An electronic recording or transcript of the comments and ar-  
16 guments required to be recorded by section 19-2515, Idaho Code, shall be sub-  
17 mitted to the board, made available to the commission, and shall be consid-  
18 ered by the commission in making a parole or commutation decision with re-  
19 spect to the prisoner.

20 (2) The board of correction shall use a validated risk assessment to  
21 determine, for each prisoner, the risk of reoffense and suitability for re-  
22 lease. For purposes of this subsection, "validated risk assessment" means  
23 an actuarial tool that has been validated in Idaho to determine the likeli-  
24 hood of the prisoner engaging in future criminal behavior. The board shall  
25 select a research-based risk assessment and shall validate the accuracy  
26 of the risk assessment at least every five (5) years in consultation with  
27 the commission. Assessments shall be performed by department staff who are  
28 trained and certified in the use of the risk assessment. The commission  
29 shall promulgate rules in compliance with chapter 52, title 67, Idaho Code,  
30 to ensure that risk assessment is used in determining parole, the benefit of  
31 holding a prisoner in prison to complete programming versus releasing the  
32 prisoner on parole to complete programming in the community and in setting  
33 conditions for parole supervision.

34 SECTION 14. That Section 20-227, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 20-227. ARREST OF PAROLEE, PROBATIONER OR PERSON UNDER DRUG COURT OR  
37 MENTAL HEALTH COURT SUPERVISION WITHOUT WARRANT -- AGENT'S WARRANT -- DE-  
38 TENTION -- REPORT TO COMMISSION OR COURT. (1) Any parole or probation offi-  
39 cer may arrest a parolee, probationer, or person under drug court or mental  
40 health court supervision without a warrant, or may deputize any other offi-  
41 cer with power of arrest to do so, by giving such officer a written statement  
42 hereafter referred to as an agent's warrant, setting forth that the parolee,  
43 probationer, or person under drug court or mental health court supervision  
44 has, in the judgment of said parole or probation officer, violated the con-  
45 ditions of drug court or mental health court or conditions of his parole or  
46 probation. The provisions of this section shall apply where the court has  
47 provided for the service of discretionary jail time as a term or condition of  
48 probation.

1 (2) Such written statement or agent's warrant, delivered with the  
2 parolee, probationer, or person under drug court or mental health court  
3 supervision by the arresting officer to the official in charge of the insti-  
4 tution from which the parolee was released, the county jail or other place of  
5 detention, shall be sufficient warrant for the detention of the probationer,  
6 parolee, or person under drug court or mental health court supervision.

7 (3) The agent's warrant issued by the parole or probation officer shall  
8 be sufficient authorization for a local law enforcement officer to transport  
9 the probationer, parolee, or person under drug court or mental health court  
10 supervision to the appropriate jurisdiction to be housed pending appearance  
11 before the sentencing court or the commission.

12 (4) The parole and probation officer shall at once notify the commis-  
13 sion, or the court, of the arrest and detention of the parolee, probationer,  
14 or person under drug court or mental health court supervision, and shall  
15 submit in writing a report showing in what manner the parolee, probationer,  
16 or person under drug court or mental health court supervision is alleged to  
17 have violated the condition of his or her parole, probation, or drug court  
18 or mental health court program. When a probationer is arrested pursuant to  
19 an agent's warrant, the supervising officer shall provide the prosecuting  
20 attorney with a copy of the notice of arrest and the report.

21 (5) In counties where there are misdemeanor probation officers in addi-  
22 tion to department of correction parole or probation officers, those offi-  
23 cers shall have the same authority conferred upon department of correction  
24 parole or probation officers in this section, to arrest a misdemeanor proba-  
25 tioner without a warrant for misdemeanor probation violations occurring in  
26 the officer's presence as otherwise provided in this section.

27 (6) When a probationer has been arrested by the supervising officer  
28 without a warrant or pursuant to an agent's warrant, the supervising officer  
29 shall submit to the court, to the prosecuting attorney and to the facility  
30 where the probationer is detained, a statement of probable cause for the  
31 violation. The statement shall be attested to under oath or under penalty  
32 of perjury pursuant to section 9-1406, Idaho Code, and shall be submitted  
33 within twenty-four (24) hours of the arrest. If a judicial determination of  
34 probable cause is not made within forty-eight (48) hours of arrest, then the  
35 probationer shall be released.

36 SECTION 15. That Section 20-228, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 20-228. CONDITIONS OF PAROLE TO BE SPECIFIED IN WRITING -- WARRANT  
39 FOR ARREST OF SUSPECTED VIOLATORS -- EFFECT OF SUSPENSION AND ARREST. The  
40 commission for pardons and parole, in releasing a person on parole, shall  
41 specify in writing the conditions of parole, and a copy of such conditions  
42 shall be given to the person paroled. The commission shall include in the  
43 conditions of parole a requirement that the defendant enter into and comply  
44 with an agreement of supervision with the board of correction. The agree-  
45 ment of supervision shall include provisions setting forth the potential  
46 sanctions for a violation of the conditions imposed and potential rewards  
47 for compliance with the conditions imposed, as such sanctions and rewards  
48 are set forth in rules of the board. Whenever the commission finds that a  
49 parolee may have violated the conditions of parole, the written order of the

1 commission, signed by a member or members of the commission or the executive  
2 director, shall be sufficient warrant for any law enforcement officer to  
3 take into custody such person, and it is hereby made the duty of all sher-  
4 iffs, police, constables, parole and probation officers, prison officials  
5 and other peace officers, to execute such order. Such warrant shall serve  
6 to suspend the person's parole until a determination on the merits of the  
7 allegations of the violation has been made pursuant to a revocation hearing.  
8 From and after the issuance of the warrant and suspension of the parole of  
9 any convicted person and until arrest, the parolee shall be considered a  
10 fugitive from justice. Such person so recommitted, except as provided in  
11 section 20-229B, Idaho Code, must serve out the sentence, and the time during  
12 which such prisoner was out on parole shall not be deemed a part thereof,  
13 unless the commission, in its discretion, shall determine otherwise, but  
14 nothing herein contained shall prevent the commission from again paroling  
15 such prisoners at its discretion.

16 SECTION 16. That Section 20-229A, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 20-229A. NOTICE -- SERVICE -- WAIVER. (1) Within fifteen (15) calendar  
19 days following arrest and detention on a warrant issued by the Idaho commis-  
20 sion for pardons and parole, the alleged parole violator shall be personally  
21 served with a copy of the factual allegations of the violation of the condi-  
22 tions of parole by a state probation and parole officer, a law enforcement  
23 official or other as designated by the executive director. When accused of a  
24 violation of his parole, other than by absconding supervision or the commis-  
25 sion of~~r~~ and conviction for~~r~~ a felony or misdemeanor, the alleged parole vi-  
26 olator shall be advised of the right to an on-site parole revocation hearing  
27 and of procedural rights and privileges as provided by this act. The alleged  
28 parole violator, after service of the allegation of violations of the condi-  
29 tions of parole and the notification of rights, may waive the on-site parole  
30 revocation hearing as provided by section 20-229, Idaho Code. If the alleged  
31 parole violator waives the right to an on-site hearing, the commission, ex-  
32 ecutive director or hearing officer shall designate the facility where the  
33 hearing will be conducted.

34 (2) Whenever a paroled prisoner is accused of a violation of his pa-  
35 role by absconding supervision or the commission of~~r~~ and conviction for~~r~~ a  
36 felony or misdemeanor under the laws of this state, or any other state, or any  
37 federal laws, and following arrest and detention on a warrant issued by the  
38 Idaho commission for pardons and parole, the alleged parole violator shall  
39 be personally served with a copy of the factual allegations of the violation  
40 of the conditions of parole within a reasonable time. The alleged parole vi-  
41 olator shall be advised of the right to a hearing and all other rights and  
42 privileges as provided by this act. The executive director or hearing offi-  
43 cer shall designate the facility where the hearing will be conducted. A fair  
44 and impartial hearing of the charges will be conducted within a reasonable  
45 time.

46 (3) The alleged parole violator may waive the right to any hearing, and  
47 at that time may admit one (1) or more of the alleged violations of the con-  
48 ditions of parole. If the waiver is accepted by the commission or hearing  
49 officer: (i) the parolee may be reinstated under the same or modified con-

1     ditions, or (ii) the parolee shall be ~~revoked and the parolee remanded to~~  
 2 ~~e custody~~ subject to an expedited determination by the commission consistent  
 3 with the provisions of section 20-229B, Idaho Code, without a hearing. If  
 4 all waivers made by the parolee are rejected by the commission or designated  
 5 hearing officer, a parole revocation hearing shall be held either on-site or  
 6 at a penitentiary facility.

7           SECTION 17. That Section 20-229B, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9           20-229B. COMMISSION RULINGS. (1) After a factual parole revocation  
 10 hearing has been concluded, the member or members of the commission for  
 11 pardons and parole or the designated hearing officer, having heard the mat-  
 12 ter, shall enter a decision within twenty (20) days. If the alleged parole  
 13 violatee waives the parole hearing pursuant to the provisions of section  
 14 20-229A(3), Idaho Code, then a decision shall be entered upon acceptance of  
 15 the waiver.

16           (2) If the member or members or hearing officer, having heard the mat-  
 17 ter, should conclude that the allegations of violation of the conditions  
 18 of parole have not been proven by a preponderance of the evidence, or those  
 19 which have been proven by a preponderance of the evidence are not sufficient  
 20 cause for the revocation of parole, then the parolee shall be reinstated on  
 21 parole on the same or modified conditions of parole.

22           (3) Except as otherwise provided in subsection (4) of this section, if  
 23 the member or members or hearing officer, having heard the matter, should  
 24 conclude that the allegations of violation of the conditions of parole have  
 25 been proven by a preponderance of the evidence and constitute sufficient  
 26 cause for the revocation of parole, then the violation does not result from  
 27 a conviction of a new felony or violent misdemeanor, then the commission  
 28 shall:

29           (a) Cause the parolee to be confined for a period of up to ninety (90)  
 30 days effective immediately upon entering the decision;

31           (b) For a second parole violation, cause the parolee to be confined for  
 32 a period of up to one hundred eighty (180) days effective immediately  
 33 upon entering the decision; or

34           (c) For a third or subsequent parole violation, convene a dispositional  
 35 hearing ~~shall be convened~~ during a regular session of the commission to  
 36 execute an order of parole revocation and determine the period of time  
 37 the parole violator shall be returned to state custody.

38           (4) If the member or members or hearing officer, having heard the mat-  
 39 ter, should conclude that the allegations of violation of parole by abscond-  
 40 ing supervision have been proven by a preponderance of the evidence, then the  
 41 commission shall:

42           (a) Cause the parolee to be confined for a period of up to one hundred  
 43 eighty (180) days effective immediately upon entering the decision; or

44           (b) For a second or subsequent parole violation by absconding supervi-  
 45 sion, convene a dispositional hearing during a regular session of the  
 46 commission to execute an order of parole revocation and determine the  
 47 period of time the parole violator shall be returned to state custody.

48           (5) If the commission causes a parolee to be confined under subsection  
 49 (3) (a), (3) (b) or (4) (a) of this section, then the commission may reduce

1 the period of confinement by up to thirty (30) days if the commission finds  
2 that there has been no instance of misconduct during the period of time the  
3 parolee is confined.

4 (6) Upon completion of a term of confinement under this section, ac-  
5 counting for any reduction in subsection (5) of this section, the parolee  
6 shall be released to parole supervision.

7 SECTION 18. That Section 20-233, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 20-233. FINAL DISCHARGE OF PAROLEE -- MINIMUM TERM. (1) When any  
10 paroled prisoner has performed the obligations of his parole for such time  
11 as shall satisfy the commission that his final release is not incompatible  
12 with his welfare and that of society, the commission may make the final order  
13 of discharge and issue to the paroled prisoner a certificate of discharge;  
14 but no such order of discharge shall be made in any case within a period of  
15 less than one (1) year after the date of release on parole, except that when  
16 the period of the maximum sentence provided by law shall expire at an earlier  
17 date, then a final order of discharge must be made and a certificate of dis-  
18 charge issued to the paroled prisoner not later than the date of expiration  
19 of said maximum sentence.

20 (2) The board of correction may submit a request to the commission  
21 for an order of final discharge from the remaining period of parole for  
22 any parolee under the board's supervision at any time during the period of  
23 parole. A request for final discharge shall be supported by a statement at-  
24 tested to under oath or signed under penalty of perjury pursuant to section  
25 9-1406, Idaho Code, setting forth the facts upon which the request is based.  
26 The commission shall notify the victim of a request for final discharge from  
27 parole. Any response to a request for final discharge shall be filed within  
28 thirty (30) days of the date of submittal of the request. The commission may,  
29 without a hearing, rule upon a request for final discharge based on a review  
30 of the case, the request, the statement and any responses to the request, or  
31 may schedule a hearing on the request. There shall be a presumption in favor  
32 of granting the request for final discharge from parole for any parolee who  
33 has completed twelve (12) consecutive months of parole under limited super-  
34 vision. The commission shall rule on the request for final discharge within  
35 ninety (90) days of the date of submittal of the request.

36 SECTION 19. That Section 19-2513, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 19-2513. UNIFIED SENTENCE. (1) Whenever any person is convicted of  
39 having committed a felony, the court shall, unless it shall commute the sen-  
40 tence, suspend or withhold judgment and sentence or grant probation, as pro-  
41 vided in chapter 26, title 19, Idaho Code, or unless it shall impose the death  
42 sentence as provided by law, sentence such offender to the custody of the  
43 state board of correction. The court shall specify a minimum period of con-  
44 finement and may specify a subsequent indeterminate period of custody. The  
45 court shall set forth in its judgment and sentence the minimum period of con-  
46 finement and the subsequent indeterminate period, if any, provided, that the  
47 aggregate sentence shall not exceed the maximum provided by law. During a

1 minimum term of confinement, the offender shall not be eligible for parole or  
2 discharge or credit or reduction of sentence for good conduct except for mer-  
3 itorious service except as provided in section 20-223(¶7), Idaho Code. The  
4 offender may be considered for parole or discharge at any time during the in-  
5 determinate period of the sentence and as provided in section 20-223(¶7),  
6 Idaho Code.

7 (2) If the offense carries a mandatory minimum penalty as provided by  
8 statute, the court shall specify a minimum period of confinement consistent  
9 with such statute. If the offense is subject to an enhanced penalty as pro-  
10 vided by statute, or if consecutive sentences are imposed for multiple of-  
11 fenses, the court shall, if required by statute, direct that the enhance-  
12 ment or each consecutive sentence contain a minimum period of confinement;  
13 in such event, all minimum terms of confinement shall be served before any  
14 indeterminate periods commence to run.

15 (3) Enactment of this amended section shall not affect the prosecution,  
16 adjudication or punishment of any felony committed before the effective date  
17 of enactment.

18 SECTION 20. That Chapter 2, Title 20, Idaho Code, be, and the same is  
19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
20 ignated as Section 20-250, Idaho Code, and to read as follows:

21 20-250. DEPARTMENT OF CORRECTION REPORTING REQUIREMENTS. The depart-  
22 ment of correction shall report to the legislature by February 1 of each year  
23 on the amount of savings generated and on the prison population impact under  
24 the policy framework of this act for the purpose of tracking the progress to-  
25 ward meeting the impact estimates and goals of the act.

26 SECTION 21. The provisions of this act shall be in full force and effect  
27 on and after July 1, 2014, except that the provisions of Sections 4, 6, 9 and  
28 15 of this act shall be in full force and effect on and after January 1, 2015,  
29 and the provisions of Section 20 of this act shall be in full force and effect  
30 on and after January 1, 2016.