

IN THE SENATE

SENATE BILL NO. 1357

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; AMEND-  
15 ING SECTION 19-2606, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE  
16 DUTY OF CERTAIN PERSONS TO REPORT TO THE COURT AND TO PROVIDE THAT THE  
17 COURT MAY MODIFY THE TERMS AND CONDITIONS OF A SUSPENDED SENTENCE AND  
18 MAY ORDER RETAINED JURISDICTION; AMENDING CHAPTER 2, TITLE 20, IDAHO  
19 CODE, BY THE ADDITION OF A NEW SECTION 20-209H, IDAHO CODE, TO PROVIDE  
20 THE DUTY OF THE BOARD OF CORRECTION TO ESTABLISH INMATE ACCOUNTS AND TO  
21 PROVIDE FOR THE PAYMENT OF RESTITUTION FROM THE INMATE ACCOUNTS; AMEND-  
22 ING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
23 20-210A, IDAHO CODE, TO PROVIDE THE DUTIES AND POWERS OF THE COMMISSION  
24 OF PARDONS AND PAROLE; AMENDING SECTION 20-216, IDAHO CODE, TO PROVIDE  
25 REPORTING DUTIES OF THE BOARD OF CORRECTION AND THE DEPARTMENT OF HEALTH  
26 AND WELFARE AND TO DEFINE TERMS; AMENDING SECTION 20-219, IDAHO CODE,  
27 TO REVISE PROVISIONS RELATING TO THE BOARD OF CORRECTION'S SUPERVI-  
28 SION DUTIES, TO PROVIDE THAT THE BOARD OF CORRECTION MAY DETERMINE THE  
29 LEVEL OF SUPERVISION OF CERTAIN PERSONS AND TO PROVIDE AN EXCEPTION, TO  
30 PROVIDE ADDITIONAL REQUIREMENTS RELATING TO SUPERVISION, TO PROVIDE  
31 THAT THE BOARD OF CORRECTION SHALL PROVIDE ALL SUPERVISING OFFICERS  
32 WITH INITIAL AND ONGOING TRAINING, TO PROVIDE THE TRAINING REQUIREMENTS  
33 AND TO REQUIRE THE BOARD OF CORRECTION TO PROMULGATE CERTAIN RULES;  
34 AMENDING SECTION 20-221, IDAHO CODE, TO REVISE PROVISIONS RELATING TO  
35 A REQUEST TO MODIFY THE TERMS OR CONDITIONS OF PROBATION, TO PROVIDE  
36 A PROCESS FOR ANY PARTY OR THE BOARD OF CORRECTION TO REQUEST THAT THE  
37 COURT MODIFY THE TERMS AND CONDITIONS OF PROBATION AND TO PROVIDE A  
38 PROCESS FOR ANY PARTY OR THE BOARD OF CORRECTION TO REQUEST THAT THE  
39 COURT TERMINATE PROBATION; AMENDING SECTION 20-222, IDAHO CODE, TO  
40 REMOVE PROVISIONS RELATING TO AN INDETERMINATE PERIOD OF PROBATION OR  
41 SUSPENSION OF A SENTENCE, TO PROVIDE THAT THE COURT SHALL CONSIDER THE  
42 DEFENDANT'S RISKS AND NEEDS AND OPTIONS FOR TREATMENT IN THE COMMUNITY  
43 WHEN MAKING CERTAIN DETERMINATIONS AND TO MAKE A TECHNICAL CORRECTION;  
44 AMENDING SECTION 20-223, IDAHO CODE, TO REMOVE ARCHAIC LANGUAGE, TO  
45

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

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

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

40 19-2517. PRESENTENCE INVESTIGATION REPORT TO INCLUDE RECIDIVISM  
41 RATES. (1) If the court orders a presentence investigation to be conducted,  
42 the investigation report shall include current recidivism rates for:  
43 (a) Offenders placed on probation after an expired period of retained  
44 jurisdiction under section 19-2601 4., Idaho Code;  
45 (b) Offenders placed on probation under section 19-2601 2. or 3., Idaho  
46 Code; and  
47 (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  
4 the clerk of the court in which the restitution order was entered for pay-  
5 ment to the victim. The provisions of this section shall apply to any inmate  
6 confined in a correctional facility on or after the effective date of this  
7 section.

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

11 20-210A. COMMISSION OF PARDONS AND PAROLE -- DUTIES AND POWERS. The  
12 commission of pardons and parole shall:

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

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

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

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

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

28 (6) Carry out all other duties and powers relating to the commission as  
29 set forth in Idaho Code.

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

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

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

44 (a) The criminogenic needs of the active population of probationers and  
45 parolees;

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

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

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

23 (4) For the purposes of this section:

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

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

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

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

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

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

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

48 (a) Ssupervising all persons convicted of a felony placed on probation  
 49 or to the board;

1 (b) Supervising all persons released from the state penitentiary on pa-  
 2 role, and;

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

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

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

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

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

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

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

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

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

31 (b) Testing requirements and frequency;

32 (c) Contact restrictions;

33 (d) Curfew restrictions; and

34 (e) Reporting requirements.

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

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

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

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

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

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

11 (e) Use of practical and suitable methods that are consistent with evi-  
12 dence-based practices to aid and encourage the offender to improve his  
13 or her conduct and circumstances so as to reduce the offender's risk of  
14 recidivism.

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

24 (a) Assessment techniques;

25 (b) Case planning;

26 (c) Risk reduction and intervention strategies;

27 (d) Effective communication skills;

28 (e) Behavioral health needs;

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

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

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

35 (7) The state board of correction shall promulgate rules in consulta-  
36 tion with the Idaho supreme court to:

37 (a) Establish a program of limited supervision for offenders who qual-  
38 ify addressing eligibility, risk and needs assessments, transfers  
39 among levels of supervision and reporting to the court and the prosecut-  
40 ing attorney.

41 (b) Establish a matrix of swift, certain and graduated sanctions  
42 and rewards to be imposed by the board in response to corresponding  
43 violations of or compliance with the terms or conditions imposed. Sanc-  
44 tions for violations shall include, but are not limited to, community  
45 service, increased reporting, curfew, submission to substance use  
46 assessment, monitoring or treatment, submission to cognitive behav-  
47 ioral treatment, submission to an educational or vocational skills  
48 development program, submission to a period of confinement in a local  
49 correctional facility for no more than three (3) consecutive days and

1 house arrest. Rewards for compliance shall include, but are not limited  
2 to, decreased reporting and transfer to limited supervision.

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

5 20-221. MODIFICATION OF TERMS OR CONDITIONS OF PROBATION OR SUSPEN-  
6 SION OF SENTENCE -- TERMINATION OF PROBATION. (1) By order duly entered the  
7 court may impose and may at any time modify any terms or conditions of proba-  
8 tion or suspension of sentence. The court shall cause a copy of any such or-  
9 der to be delivered to the ~~probation officer and parole officer~~ board of cor-  
10 rection, to the prosecuting attorney and to the probationer.

11 (2) Any party or the board of correction may submit to the court a re-  
12 quest to modify the terms and conditions of probation for any probationer un-  
13 der the board's supervision at any time during the period of probation. A re-  
14 quest to modify the terms and conditions of probation shall be supported by a  
15 statement attested to under oath or signed under penalty of perjury pursuant  
16 to section 9-1406, Idaho Code, setting forth the facts upon which the request  
17 is based. The requesting party or the board, as the case may be, shall de-  
18 liver a copy of the request and statement to all parties and to the board.  
19 The prosecuting attorney shall notify the victim of the request to modify  
20 the terms and conditions of probation. Any responses to a request to mod-  
21 ify shall be filed within thirty (30) days of the date of submittal of the re-  
22 quest. The court may, without a hearing, rule upon a request to modify based  
23 on a review of the case, the request, the statement and any responses to the  
24 request, or may schedule a hearing on the request to modify. The court shall  
25 by written order rule on the request to modify within sixty (60) days of the  
26 date of submittal of the request.

27 (3) Any party or the board of correction may submit to the court a re-  
28 quest to terminate the probation for any probationer under the board's su-  
29 pervision at any time during the period of probation. A request to termi-  
30 nate probation shall be supported by a statement attested to under oath or  
31 signed under penalty of perjury pursuant to section 9-1406, Idaho Code, set-  
32 ting forth the facts upon which the request is based. The requesting party or  
33 the board, as the case may be, shall deliver a copy of the request and state-  
34 ment to all parties and to the board. The prosecuting attorney shall notify  
35 the victim of a request to terminate probation. Any responses to a request  
36 to terminate probation shall be filed within thirty (30) days of the date of  
37 submittal of the request. The court may, without a hearing, rule upon a re-  
38 quest to terminate based on a review of the case, the request, the statement  
39 and any responses to the request, or may schedule a hearing on the request to  
40 terminate. The court shall rule on the request within sixty (60) days of the  
41 date of submittal of the request. A court order granting a request to termi-  
42 nate probation under this subsection shall be deemed a final discharge from  
43 the remaining period of probation.

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

46 20-222. ~~INDETERMINATE OR~~ FIXED PERIOD OF PROBATION OR SUSPENSION OF  
47 SENTENCE -- REARREST AND REVOCATION. (1) The period of probation or suspen-

1 sion of sentence ~~may be indeterminate or may~~ shall be fixed by the court, and  
2 may at any time be extended or terminated by the court. Such period with any  
3 extension thereof shall not exceed the maximum period for which the defen-  
4 dant might have been imprisoned.

5 (2) At any time during probation or suspension of sentence, the court  
6 may issue a warrant for violating any of the conditions of probation or sus-  
7 pension of sentence and cause the defendant to be arrested. Thereupon the  
8 court, after summary hearing may revoke the probation and suspension of sen-  
9 tence and cause the sentence imposed to be executed, or may cause the defen-  
10 dant to be brought before it and may continue or revoke the probation, or may  
11 impose any sentence which originally might have been imposed at the time of  
12 conviction. In making a determination to continue or revoke probation and  
13 suspension of sentence, the court shall consider the defendant's risks and  
14 needs and options for treatment in the community.

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

17 20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR  
18 PSYCHOLOGICAL EXAMINATION. (a1) Subject to section 19-2513, Idaho Code, the  
19 commission shall have the power to establish rules, ~~policies or procedures~~  
20 in compliance with chapter 52, title 67, Idaho Code, under which any pris-  
21 oner, excepting any under sentence of death, may be allowed to go upon parole  
22 but to remain while on parole in the legal custody and under the control of  
23 the board and subject to be taken back into confinement at the direction of  
24 the commission.

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

37 (b3) No person serving a sentence for rape, incest, committing a lewd  
38 act upon a child, crime against nature, or with an intent or an assault with  
39 intent to commit any such crimes, or whose history and conduct indicate to  
40 the commission that he is a sexually dangerous person, shall be released on  
41 parole except upon the examination and evaluation of one (1) or more psy-  
42 chiatrists or psychologists or mental health professionals designated for  
43 this purpose by the department of correction to be selected by the commission  
44 and such evaluation shall be duly considered by the commission in making its  
45 parole determination. The commission may, in its discretion, likewise re-  
46 quire a similar examination and evaluation for persons serving sentences for  
47 crimes other than those above enumerated. No person making such evaluation  
48 shall be held financially responsible to any person for denial of parole by

1 the commission or for the results of the future acts of such person if he be  
2 granted parole.

3 (e4) Before considering the parole of any prisoner, the commission  
4 shall ensure that a risk assessment has been conducted pursuant to section  
5 20-224, Idaho Code, and shall afford the prisoner the opportunity to be in-  
6 terviewed by the commission, a commissioner or other designated commission  
7 staff. A designated report and risk assessment prepared by commission staff  
8 or a designated department of correction employee ~~which that~~ is specifically  
9 to be used by the commission in making a parole determination shall be exempt  
10 from public disclosure; such reports contain information from the pre-  
11 sentence investigation report, medical or psychological information, the  
12 results of a risk assessment, victim information, designated confidential  
13 witness information and criminal history information. A parole shall be or-  
14 dered when, in the discretion of the commission, it is in the best interests  
15 of society, and the commission believes the prisoner is able and willing to  
16 fulfill the obligations of a law-abiding citizen. Such determination shall  
17 not be a reward of clemency and it shall not be considered to be a reduction of  
18 sentence or a pardon. The commission may also by its rules, policies or pro-  
19 cedures fix the times and conditions under which any application denied may  
20 be reconsidered. No action may be maintained against the commission and/or  
21 any of its members in any court in connection with any decision taken by the  
22 commission to parole a prisoner and neither the commission nor its members  
23 shall be liable in any way for its action with respect thereto.

24 (d5) In making any parole or commutation decision with respect to a  
25 prisoner, the commission shall consider the compliance of the prisoner with  
26 any order of restitution which may have been entered according to section  
27 19-5304, Idaho Code. The commission may make compliance with such an order  
28 of restitution a condition of parole.

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

31 (f7) Subject to the limitations of this subsection and notwithstanding  
32 any fixed term of confinement or minimum period of confinement as provided  
33 in section 19-2513, Idaho Code, the commission may parole an inmate for med-  
34 ical reasons. A prisoner may be considered for medical parole only when the  
35 prisoner is permanently incapacitated or terminally ill and when the commis-  
36 sion reasonably believes the prisoner no longer poses a threat to the safety  
37 of society. For the purposes of this section, "permanently incapacitated"  
38 shall mean a person who, by reason of an existing physical condition which  
39 is not terminal, is permanently and irreversibly physically incapacitated.  
40 For the purposes of this section "terminally ill" shall mean a person who has  
41 an incurable condition caused by illness or disease and who is irreversibly  
42 terminally ill.

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

47 (9) The department of correction shall promulgate rules in consulta-  
48 tion with the commission to prepare prisoners for parole upon completing  
49 the fixed portion of the unified sentence based on current risk assessment,  
50 criminal history, institutional behavior and programming completion. The



1 department of correction shall give prisoners access to programming so that  
2 prisoners will have an opportunity to complete programming to be parole  
3 eligible upon completing their fixed sentence. The department shall promul-  
4 gate rules to include case plan development upon entry into prison so that  
5 programming can be completed before the first parole eligibility date and a  
6 current risk assessment before all parole hearings.

7 (10) It is the intent of the legislature to focus prison space on the  
8 most violent or greatest risk prisoners. To help accomplish this goal, the  
9 commission shall promulgate rules that establish clear guidelines and pro-  
10 cedures that retain the commission's discretion in individual cases while  
11 achieving a reduction in the overall average percentage of time spent be-  
12 yond the fixed term for prisoners who have been convicted of a property or  
13 drug offense. Such rules shall allow current risk assessment, past criminal  
14 history, program completion, institutional misconduct and other individual  
15 characteristics related to the likelihood of offending in the future to be  
16 factored into when a release decision is made while still working to accom-  
17 plish the overarching goal of the legislature.

18 (11) By February 1, 2015, and by February 1 of each year thereafter, the  
19 department of correction and the commission shall submit a report to the leg-  
20 islature and governor that describes the percentage of people sentenced to  
21 a term in prison for a property or drug offense conviction who are released  
22 before serving one hundred fifty percent (150%) of the fixed portion of the  
23 sentence, and that documents the most common reasons for people whose re-  
24 lease was delayed or denied.

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

27 20-224. INFORMATION REGARDING PRISONERS TO BE SECURED. (1) Within six  
28 (6) months after his admission and at such intervals thereafter as it may de-  
29 termine, the board shall secure all pertinent available information regard-  
30 ing each prisoner, including the circumstances of his offense, his previous  
31 social history and criminal record, his conduct, employment and attitude in  
32 prison, and reports of such physical and mental examinations as have been  
33 made to assist the board in prescribing treatment for such person while in  
34 confinement and to assist the commission in its deliberations. The board and  
35 the commission shall attempt to inform themselves as to such inmate as a per-  
36 sonality and may seek from the sentencing judge, prosecuting attorney, de-  
37 fense counsel and law enforcement authorities such information of which they  
38 may be possessed relative to the convicted person and the crime for which he  
39 was committed. An electronic recording or transcript of the comments and ar-  
40 guments required to be recorded by section 19-2515, Idaho Code, shall be sub-  
41 mitted to the board, made available to the commission, and shall be consid-  
42 ered by the commission in making a parole or commutation decision with re-  
43 spect to the prisoner.

44 (2) The board of correction shall use a validated risk assessment to  
45 determine, for each prisoner, the risk of reoffense and suitability for re-  
46 lease. For purposes of this subsection, "validated risk assessment" means  
47 an actuarial tool that has been validated in Idaho to determine the likeli-  
48 hood of the prisoner engaging in future criminal behavior. The board shall  
49 select a research-based risk assessment and shall validate the accuracy

1 of the risk assessment at least every five (5) years in consultation with  
2 the commission. Assessments shall be performed by department staff who are  
3 trained and certified in the use of the risk assessment. The commission  
4 shall promulgate rules in compliance with chapter 52, title 67, Idaho Code,  
5 to ensure that risk assessment is used in determining parole, the benefit of  
6 holding a prisoner in prison to complete programming versus releasing the  
7 prisoner on parole to complete programming in the community and in setting  
8 conditions for parole supervision.

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

11 20-227. ARREST OF PAROLEE, PROBATIONER OR PERSON UNDER DRUG COURT OR  
12 MENTAL HEALTH COURT SUPERVISION WITHOUT WARRANT -- AGENT'S WARRANT -- DE-  
13 TENTION -- REPORT TO COMMISSION OR COURT. (1) Any parole or probation offi-  
14 cer may arrest a parolee, probationer, or person under drug court or mental  
15 health court supervision without a warrant, or may deputize any other offi-  
16 cer with power of arrest to do so, by giving such officer a written statement  
17 hereafter referred to as an agent's warrant, setting forth that the parolee,  
18 probationer, or person under drug court or mental health court supervision  
19 has, in the judgment of said parole or probation officer, violated the condi-  
20 tions of drug court or mental health court or conditions of his parole or pro-  
21 bation. The provisions of this section shall apply where the court has pro-  
22 vided for the service of discretionary jail time.

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

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

34 (4) The parole and probation officer shall at once notify the commis-  
35 sion, or the court, of the arrest and detention of the parolee, probationer,  
36 or person under drug court or mental health court supervision, and shall  
37 submit in writing a report showing in what manner the parolee, probationer,  
38 or person under drug court or mental health court supervision is alleged to  
39 have violated the condition of his or her parole, probation, or drug court  
40 or mental health court program. When a probationer is arrested pursuant to  
41 an agent's warrant, the supervising officer shall provide the prosecuting  
42 attorney with a copy of the notice of arrest and the report.

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

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

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

12       20-228. CONDITIONS OF PAROLE TO BE SPECIFIED IN WRITING -- WARRANT  
13 FOR ARREST OF SUSPECTED VIOLATORS -- EFFECT OF SUSPENSION AND ARREST. The  
14 commission for pardons and parole, in releasing a person on parole, shall  
15 specify in writing the conditions of parole, and a copy of such conditions  
16 shall be given to the person paroled. The commission shall include in the  
17 conditions of parole a requirement that the defendant enter into and comply  
18 with an agreement of supervision with the board of correction. The agree-  
19 ment of supervision shall include provisions setting forth the potential  
20 sanctions for a violation of the conditions imposed and potential rewards  
21 for compliance with the conditions imposed, as such sanctions and rewards  
22 are set forth in rules of the board. Whenever the commission finds that a  
23 parolee may have violated the conditions of parole, the written order of the  
24 commission, signed by a member or members of the commission or the executive  
25 director, shall be sufficient warrant for any law enforcement officer to  
26 take into custody such person, and it is hereby made the duty of all sher-  
27 iffs, police, constables, parole and probation officers, prison officials  
28 and other peace officers, to execute such order. Such warrant shall serve  
29 to suspend the person's parole until a determination on the merits of the  
30 allegations of the violation has been made pursuant to a revocation hearing.  
31 From and after the issuance of the warrant and suspension of the parole of  
32 any convicted person and until arrest, the parolee shall be considered a  
33 fugitive from justice. Such person so recommitted, except as provided in  
34 section 20-229B, Idaho Code, must serve out the sentence, and the time during  
35 which such prisoner was out on parole shall not be deemed a part thereof,  
36 unless the commission, in its discretion, shall determine otherwise, but  
37 nothing herein contained shall prevent the commission from again paroling  
38 such prisoners at its discretion.

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

41       20-229A. NOTICE -- SERVICE -- WAIVER. (1) Within fifteen (15) calendar  
42 days following arrest and detention on a warrant issued by the Idaho commis-  
43 sion for pardons and parole, the alleged parole violator shall be personally  
44 served with a copy of the factual allegations of the violation of the condi-  
45 tions of parole by a state probation and parole officer, a law enforcement  
46 official or other as designated by the executive director. When accused of a  
47 violation of his parole, other than by absconding supervision or the commis-

1 sion of, and conviction for, a felony or misdemeanor, the alleged parole vi-  
2 olator shall be advised of the right to an on-site parole revocation hearing  
3 and of procedural rights and privileges as provided by this act. The alleged  
4 parole violator, after service of the allegation of violations of the condi-  
5 tions of parole and the notification of rights, may waive the on-site parole  
6 revocation hearing as provided by section 20-229, Idaho Code. If the alleged  
7 parole violator waives the right to an on-site hearing, the commission, ex-  
8 ecutive director or hearing officer shall designate the facility where the  
9 hearing will be conducted.

10 (2) Whenever a paroled prisoner is accused of a violation of his pa-  
11 role by absconding supervision or the commission of, and conviction for, a  
12 felony or misdemeanor under the laws of this state, or any other state, or any  
13 federal laws, and following arrest and detention on a warrant issued by the  
14 Idaho commission for pardons and parole, the alleged parole violator shall  
15 be personally served with a copy of the factual allegations of the violation  
16 of the conditions of parole within a reasonable time. The alleged parole vi-  
17 olator shall be advised of the right to a hearing and all other rights and  
18 privileges as provided by this act. The executive director or hearing offi-  
19 cer shall designate the facility where the hearing will be conducted. A fair  
20 and impartial hearing of the charges will be conducted within a reasonable  
21 time.

22 (3) The alleged parole violator may waive the right to any hearing, and  
23 at that time may admit one (1) or more of the alleged violations of the con-  
24 ditions of parole. If the waiver is accepted by the commission or hearing  
25 officer: (i) the parolee may be reinstated under the same or modified con-  
26 ditions, or (ii) the parolee shall be ~~revoked and the parolee remanded to~~  
27 eustody subject to an expedited determination by the commission consistent  
28 with the provisions of section 20-229B, Idaho Code, without a hearing. If  
29 all waivers made by the parolee are rejected by the commission or designated  
30 hearing officer, a parole revocation hearing shall be held either on-site or  
31 at a penitentiary facility.

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

34 20-229B. COMMISSION RULINGS. (1) After a factual parole revocation  
35 hearing has been concluded, the member or members of the commission for  
36 pardons and parole or the designated hearing officer, having heard the mat-  
37 ter, shall enter a decision within twenty (20) days. If the alleged parole  
38 violator waives the parole hearing pursuant to the provisions of section  
39 20-229A(3), Idaho Code, then a decision shall be entered upon acceptance of  
40 the waiver.

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

47 (3) Except as otherwise provided in subsection (4) of this section, if  
48 the member or members or hearing officer, having heard the matter, should  
49 conclude that the allegations of violation of the conditions of parole have

1 been proven by a preponderance of the evidence and ~~constitute sufficient~~  
 2 ~~cause for the revocation of parole, then the violation does not result from~~  
 3 ~~a conviction of a new felony or violent misdemeanor, then the commission~~  
 4 ~~shall:~~

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

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

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

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

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

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

24 (5) If the commission causes a parolee to be confined under subsection  
 25 (3) (a), (3) (b) or (4) (a) of this section, then the commission may reduce  
 26 the period of confinement by up to thirty (30) days if the commission finds  
 27 that there has been no instance of misconduct during the period of time the  
 28 parolee is confined.

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

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

34 20-233. FINAL DISCHARGE OF PAROLEE -- MINIMUM TERM. (1) When any  
 35 paroled prisoner has performed the obligations of his parole for such time  
 36 as shall satisfy the commission that his final release is not incompatible  
 37 with his welfare and that of society, the commission may make the final order  
 38 of discharge and issue to the paroled prisoner a certificate of discharge;  
 39 but no such order of discharge shall be made in any case within a period of  
 40 less than one (1) year after the date of release on parole, except that when  
 41 the period of the maximum sentence provided by law shall expire at an earlier  
 42 date, then a final order of discharge must be made and a certificate of dis-  
 43 charge issued to the paroled prisoner not later than the date of expiration  
 44 of said maximum sentence.

45 (2) The board of correction may submit a request to the commission  
 46 for an order of final discharge from the remaining period of parole for  
 47 any parolee under the board's supervision at any time during the period of  
 48 parole. A request for final discharge shall be supported by a statement at-  
 49 tested to under oath or signed under penalty of perjury pursuant to section

1 9-1406, Idaho Code, setting forth the facts upon which the request is based.  
2 The commission shall notify the victim of a request for final discharge from  
3 parole. Any response to a request for final discharge shall be filed within  
4 thirty (30) days of the date of submittal of the request. The commission may,  
5 without a hearing, rule upon a request for final discharge based on a review  
6 of the case, the request, the statement and any responses to the request,  
7 or may schedule a hearing on the request. The commission shall rule on the  
8 request for final discharge within ninety (90) days of the date of submittal  
9 of the request.

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

12 19-2513. UNIFIED SENTENCE. (1) Whenever any person is convicted of  
13 having committed a felony, the court shall, unless it shall commute the sen-  
14 tence, suspend or withhold judgment and sentence or grant probation, as pro-  
15 vided in chapter 26, title 19, Idaho Code, or unless it shall impose the death  
16 sentence as provided by law, sentence such offender to the custody of the  
17 state board of correction. The court shall specify a minimum period of con-  
18 finement and may specify a subsequent indeterminate period of custody. The  
19 court shall set forth in its judgment and sentence the minimum period of con-  
20 finement and the subsequent indeterminate period, if any, provided, that the  
21 aggregate sentence shall not exceed the maximum provided by law. During a  
22 minimum term of confinement, the offender shall not be eligible for parole or  
23 discharge or credit or reduction of sentence for good conduct except for mer-  
24 itorious service except as provided in section 20-223(¶7), Idaho Code. The  
25 offender may be considered for parole or discharge at any time during the in-  
26 determinate period of the sentence and as provided in section 20-223(¶7),  
27 Idaho Code.

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

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

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

42 20-250. DEPARTMENT OF CORRECTION REPORTING REQUIREMENTS. The depart-  
43 ment of correction shall report to the legislature by February 1 of each year  
44 on the amount of savings generated and on the prison population impact under  
45 the policy framework of this act for the purpose of tracking the progress to-  
46 ward meeting the impact estimates and goals of the act.

1           SECTION 21. The provisions of this act shall be in full force and effect  
2 on and after July 1, 2014, except that the provisions of Sections 4, 6, 9, 14,  
3 15, 16 and 17 of this act shall be in full force and effect on and after March  
4 1, 2015, and the provisions of Section 20 of this act shall be in full force  
5 and effect on and after January 1, 2016.