

STATEMENT OF PURPOSE

RS22948

This bill would clarify some of the provisions I.C. 19-2604(1), which provides that, upon making certain showings, a person who has received a suspended sentence or withheld judgment may have the plea of guilty or conviction set aside, or have a felony conviction reduced to a misdemeanor.

First, the list of persons who would be eligible for relief would include all defendants who were not actually required to serve a sentence in the custody of the Board of Correction, and all those misdemeanor defendants who were not required to serve a term in the county jail. Second, Idaho courts have often set aside or reduced the convictions of persons who applied for relief following completion of their probation term. But the literal language of this section seems to indicate that relief can be granted only while the defendant is still on probation, since the defendant must convince the court "that there is no longer cause for continuing the period of probation." This bill would make clear that persons who have successfully completed a period of probation can apply for relief. Third, the provision that relief can be granted only "if it be compatible with the public interest" has been interpreted in various ways. The bill would provide that relief can be granted if the court finds good cause for granting it, the same standard that is used to guide a court's exercise of discretion in many other settings. Finally, the bill provides that a violation of the terms of an agreement of supervision with the Board of Correction would not preclude the granting of relief.

FISCAL NOTE

This bill would have no impact on the general fund.

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