

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 64

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO IMPRISONMENT; AMENDING SECTION 18-309, IDAHO CODE, TO PROVIDE  
2 CREDIT FOR A PERIOD OF INCARCERATION SERVED AS A CONDITION OF PROBATION  
3 IN CERTAIN INSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SEC-  
4 TION 19-2603, IDAHO CODE, TO REVISE A PROVISION RELATING TO A FINDING  
5 THAT A DEFENDANT HAS VIOLATED PROBATION AND TO PROVIDE THAT A DEFENDANT  
6 SHALL RECEIVE CREDIT FOR TIME SERVED IN CERTAIN INSTANCES; AND AMENDING  
7 SECTION 20-209A, IDAHO CODE, TO REMOVE A PROVISION RELATING TO CREDIT  
8 FOR TIME SPENT IN CUSTODY PENDING TRIAL, SENTENCING OR APPEAL.  
9

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

11 SECTION 1. That Section 18-309, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 18-309. COMPUTATION OF TERM OF IMPRISONMENT. (1) In computing the term  
14 of imprisonment, the person against whom the judgment was entered, shall re-  
15 ceive credit in the judgment for any period of incarceration prior to entry  
16 of judgment, if such incarceration was for the offense or an included offense  
17 for which the judgment was entered. The remainder of the term commences upon  
18 the pronouncement of sentence and if thereafter, during such term, the de-  
19 fendant by any legal means is temporarily released from such imprisonment  
20 and subsequently returned thereto, the time during which he was at large must  
21 not be computed as part of such term.

22 (2) In computing the term of imprisonment when judgment has been with-  
23 held and is later entered or sentence has been suspended and is later im-  
24 posed, the person against whom the judgment is entered or imposed shall re-  
25 ceive credit in the judgment for any period of incarceration served as a con-  
26 dition of probation under the original withheld or suspended judgment.

27 SECTION 2. That Section 19-2603, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 19-2603. PRONOUNCEMENT AND EXECUTION OF JUDGMENT AFTER VIOLATION OF  
30 PROBATION. When the defendant is brought before the court in such case finds  
31 that the defendant has violated the terms and conditions of probation, it  
32 may, if judgment has been withheld, pronounce any judgment which it could  
33 originally have pronounced, or, if judgment was originally pronounced but  
34 suspended, the original judgment shall be in full force and effect and may  
35 be executed according to law, and revoke probation. Tthe time such person  
36 shall have been at large under such suspended sentence shall not be counted  
37 as a part of the term of his sentence, but the time of. Tthe defendant's sen-  
38 tence shall count shall receive credit for time served from the date of ser-  
39 vice of such a bench warrant issued by the court after a finding of probable  
40 cause to believe the defendant has violated a condition of probation, for any

1 time served following an arrest of the defendant pursuant to section 20-227,  
2 Idaho Code, and for any time served as a condition of probation under the  
3 withheld judgment or suspended sentence.

4 SECTION 3. That Section 20-209A, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 20-209A. COMPUTATION OF TERM. When a person is sentenced to the cus-  
7 tody of the board of correction, his term of confinement begins from the day  
8 of his sentence. ~~A person who is sentenced may receive credit toward ser-~~  
9 ~~vice of his sentence for time spent in physical custody pending trial or sen-~~  
10 ~~tencing, or appeal, if that detention was in connection with the offense for~~  
11 ~~which the sentence was imposed.~~ The time during which the person is volun-  
12 tarily absent from the penitentiary, jail, facility under the control of the  
13 board of correction, or from the custody of an officer after his sentence,  
14 shall not be estimated or counted as a part of the term for which he was sen-  
15 tenced.