

IN THE SENATE

SENATE BILL NO. 1113

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE IDAHO CRIMINAL JUSTICE SYSTEM; AMENDING SECTION 20-210,
2 IDAHO CODE, TO REVISE THE COMPOSITION OF THE BOARD, TO PROVIDE THAT
3 CERTAIN MEMBERS OF THE BOARD MAY MEET TO MAKE CERTAIN DECISIONS AND
4 TO REVISE COMPENSATION FOR BOARD MEMBERS; AMENDING SECTION 20-213A,
5 IDAHO CODE, TO PROVIDE THAT CERTAIN MEETINGS BY LESS THAN A MAJORITY OF
6 THE COMMISSION SHALL BE EXEMPT FROM THE OPEN MEETINGS LAW, TO PROVIDE
7 A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
8 SECTION 20-219, IDAHO CODE, TO PROVIDE THAT A HEARING SHALL NOT BE
9 REQUIRED IN RULES REGARDING CERTAIN SANCTIONS AND REWARDS; AMENDING
10 SECTION 20-223, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE
11 CERTAIN RULEMAKING AUTHORITY, TO PROVIDE THAT THE COMMISSION SHALL
12 CONSIDER CERTAIN FACTORS IN MAKING ANY PAROLE OR COMMUTATION DECISION,
13 TO REVISE PROVISIONS REGARDING CERTAIN RULEMAKING AUTHORITY, TO REVISE
14 A PROVISION REGARDING PROGRAMMING, TO REVISE A PROVISION REGARDING
15 REPORTING REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
16 SECTION 20-229B, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE A PROVI-
17 SION REGARDING COMMISSION RULINGS AND TO REMOVE PROVISIONS REGARDING
18 COMMISSION RULINGS; AND AMENDING SECTION 19-2513, IDAHO CODE, TO PRO-
19 VIDE CORRECT CODE REFERENCES.
20

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

22 SECTION 1. That Section 20-210, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 20-210. COMMISSION OF PARDONS AND PAROLE -- APPOINTMENT -- QUALIFICA-
25 TIONS -- TERMS -- SALARY -- STAFF. The governor shall appoint a state com-
26 mission of pardons and parole, each member of which shall be subject to the
27 advice and consent of the senate, in this chapter referred to as the commis-
28 sion, which shall succeed to and have all rights, powers and authority of
29 said board of pardons as are granted and provided by the provisions of the
30 constitution of the state of Idaho.

31 The commission shall be composed of ~~five~~ seven (57) members. The mem-
32 bers shall serve at the pleasure of the governor and not more than ~~three~~ four
33 (~~34~~) members shall be from any one (1) political party.

34 The members of the commission shall be appointed for the purposes of or-
35 ganization as follows: Members on the commission on the effective date of
36 this act, shall serve out the remainder of their terms; thereafter, as mem-
37 bers' terms expire, the governor shall reappoint them or appoint new members
38 to serve terms of three (3) years; vacancies in the commission for unexpired
39 terms shall be by appointment by the governor for the remainder of the term
40 and all appointees may be reappointed.

41 The commission and the board may meet as necessary to exchange such in-
42 formation to enable each to effectively carry out their respective duties.

1 The commission shall meet at such times and places as determined to be
2 necessary and convenient, or at the call of the executive director and in any
3 event no less than quarterly.

4 Two (2) members of the commission may meet to make decisions on the dis-
5 position of parole violations. Such decisions must be unanimous, and in the
6 event they are not unanimous then the parole violation disposition decision
7 will be made by a majority of the full commission either at the next quarterly
8 meeting or special meeting.

9 Three (3) members of the commission may meet to make decisions to grant
10 or deny parole. Such decisions must be unanimous, and in the event they are
11 not unanimous then the decision to grant or deny parole will be made by a ma-
12 ajority of the full commission at the next quarterly meeting.

13 The members shall be compensated as provided by section 59-509(i),
14 Idaho Code, when attending quarterly meetings conducted at a date and time
15 separate from a hearing session or other meetings approved by the executive
16 director. The members shall receive compensation of ~~two~~ three hundred dol-
17 lars (\$~~2300~~) per member per day when conducting parole, commutation, pardon,
18 revocation or other hearings, and shall be reimbursed for actual and neces-
19 sary expenses subject to the limitations provided in section 67-2008, Idaho
20 Code.

21 The governor will liberally allow the reasonable payment for services
22 of such technical and professional advice and consultation as the commission
23 may require. The governor shall appoint the executive director for the com-
24 mission. The executive director shall be the full-time employee who shall
25 report to, serve at the pleasure of, and be compensated as determined by the
26 governor. The executive director shall be the official representative for
27 the commission, shall be responsible for the managing and administration of
28 daily commission business and shall schedule hearing sessions at times con-
29 venient to the members of the commission. For each scheduled session, the
30 executive director shall designate one (1) of the members of the commission
31 as the presiding officer for conducting the hearings. The executive direc-
32 tor may hire such staff and employees as are approved by the governor. The
33 executive director shall also have such other duties and responsibilities as
34 the governor shall assign.

35 SECTION 2. That Section 20-213A, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 20-213A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AU-
38 THORIZED -- REPORT REQUIRED. (1) All meetings of the commission of pardons
39 and parole shall be held in accordance with the open meetings law as provided
40 in chapter ~~232~~, title ~~6774~~, Idaho Code, except:

41 (a) Deliberations and decisions concerning the granting, revoking, re-
42 instating or refusing of paroles, or the granting or denying of pardons
43 or commutations, may be made in executive session; ~~and~~

44 (b) Votes of individual members in arriving at the parole, pardon or
45 commutation decisions shall not be made public, provided that the com-
46 mission shall maintain a record of the votes of the individual members
47 as required in subsection (2) of this section; and

1 (c) Meetings of less than a majority of the commission to make decisions
 2 concerning the grant or denial of parole or the disposition of parole
 3 violations as provided in section 20-210, Idaho Code.

4 (2) A written record of the vote to grant or deny parole, pardon or
 5 commutation, by each commission member in each case reviewed by that member
 6 shall be produced by the commission. The record produced by the commission
 7 pursuant to this section shall be kept confidential and privileged from dis-
 8 closure, provided the record shall be made available, upon request, to the
 9 governor and the chairman of the senate judiciary and rules committee and
 10 the chairman of the house of representatives judiciary, rules and adminis-
 11 tration committee, for all lawful purposes. Distribution of the report by
 12 a commissioner or an employee of the executive director to any person not
 13 specifically listed in this section shall be a misdemeanor.

14 (3) Nothing contained in this section shall prevent any person from ob-
 15 taining the results of any parole, pardon or commutation action by the com-
 16 mission without reference to the manner in which any member voted, and the
 17 commission shall make such information public information.

18 (4) Nothing contained herein shall prevent the executive director for
 19 the commission or designated staff of the executive director from attending
 20 any meeting, including an executive session of the commission of pardons and
 21 parole.

22 (5) Nothing contained herein shall prevent the governor and chairman
 23 of the senate judiciary and rules committee and the chairman of the house of
 24 representatives judiciary, rules and administration committee from attend-
 25 ing any meeting, including an executive session of the commission of pardons
 26 and parole.

27 SECTION 3. That Section 20-219, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 20-219. PROBATION AND PAROLE SUPERVISION AND TRAINING -- LIMITED SU-
 30 PERVISION -- RULEMAKING. (1) The state board of correction shall be charged
 31 with the duty of:

32 (a) Supervising all persons convicted of a felony placed on probation
 33 to the board;

34 (b) Supervising all persons released from the state penitentiary on pa-
 35 role;

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

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

41 (e) Making such investigations as may be necessary;

42 (f) Reporting alleged violations of parole in specific cases to the
 43 commission to aid in determining whether the parole should be continued
 44 or revoked;

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

1 (h) Preparing a case history record of the prisoners to assist the com-
2 mission or the courts in determining if they should be paroled or should
3 be released on probation; and

4 (i) Supervising juveniles convicted as adults with a blended sentence
5 pursuant to and in the manner described in section 19-2601A, Idaho Code.

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

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

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

18 (b) Testing requirements and frequency;

19 (c) Contact restrictions;

20 (d) Curfew restrictions; and

21 (e) Reporting requirements.

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

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

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

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

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

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

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

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

- 10 (a) Assessment techniques;
- 11 (b) Case planning;
- 12 (c) Risk reduction and intervention strategies;
- 13 (d) Effective communication skills;
- 14 (e) Behavioral health needs;
- 15 (f) Application of core correctional practices, including motiva-
- 16 tional interviewing, cognitive restructuring, structured skill build-
- 17 ing, problem solving, reinforcement and use of authority;
- 18 (g) Training for supervising officers to become trainers so as to en-
- 19 sure long-term and self-sufficient training capacity in the state; and
- 20 (h) Other topics identified by the board as evidence-based practices.

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

- 23 (a) Establish a program of limited supervision for offenders who qual-
- 24 ify addressing eligibility, risk and needs assessments, transfers
- 25 among levels of supervision and reporting to the court and the prosecut-
- 26 ing attorney.
- 27 (b) Establish a matrix of swift, certain and graduated sanctions and
- 28 rewards to be imposed by the board, without the necessity of a hear-
- 29 ing, in response to corresponding violations of or compliance with the
- 30 terms or conditions imposed. Sanctions for violations shall include,
- 31 but are not limited to, community service, increased reporting, cur-
- 32 few, submission to substance use assessment, monitoring or treatment,
- 33 submission to cognitive behavioral treatment, submission to an educa-
- 34 tional or vocational skills development program, submission to a period
- 35 of confinement in a local correctional facility for no more than three
- 36 (3) consecutive days and house arrest. Rewards for compliance shall
- 37 include, but are not limited to, decreased reporting and transfer to
- 38 limited supervision.

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

41 20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR
 42 PSYCHOLOGICAL EXAMINATION. (1) It is the intent of the legislature to fo-
 43 cus prison space on those who commit the most serious offenses or who have
 44 the highest likelihood of offending in the future, and the commission, con-
 45 sistent with the provisions of this subsection, shall promulgate rules that
 46 establish clear guidelines and procedures that retain the commission's dis-
 47 cretion in individual cases.

48 (2) Subject to section 19-2513, Idaho Code, the commission shall have
 49 the power to establish rules in compliance with chapter 52, title 67, Idaho

1 Code, under which any prisoner, excepting any under sentence of death, may be
2 allowed to go upon parole but to remain while on parole in the legal custody
3 and under the control of the board and subject to be taken back into confine-
4 ment at the direction of the commission.

5 (23) Any prisoner who is granted parole under the interstate compact
6 may be required to post a bond prior to release or prior to such acceptance
7 under the interstate compact; such bond may be posted by the prisoner, the
8 prisoner's family, or other interested party. Failure to successfully com-
9 plete parole may be grounds for forfeiture of the bond. Upon successful com-
10 pletion of parole, the amount of the bond may be returned, less an amount for
11 administrative costs as determined by commission rule, in compliance with
12 chapter 52, title 67, Idaho Code. A request must be made for return of the
13 bond within one (1) year of discharge of the offense for which the particular
14 offender was serving parole. Funds collected through the bonding process
15 will be placed in a separate commission receipts fund which is hereby created
16 in the state treasury and utilized for the extradition of parole violators.

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

31 (45) Before considering the parole of any prisoner, the commission
32 shall ensure that a risk assessment has been conducted pursuant to section
33 20-224, Idaho Code, and shall afford the prisoner the opportunity to be in-
34 terviewed by the commission, a commissioner or other designated commission
35 staff. A designated report and risk assessment, prepared by commission
36 staff or a designated department of correction employee, that is specifi-
37 cally to be used by the commission in making a parole determination shall be
38 exempt from public disclosure; such reports contain information from the
39 presentence investigation report, medical or psychological information,
40 the results of a risk assessment, victim information, designated confiden-
41 tial witness information and criminal history information. A parole shall
42 be ordered when, in the discretion of the commission, it is in the best inter-
43 ests of society, and the commission believes the prisoner is able and willing
44 to fulfill the obligations of a law-abiding citizen. Such determination
45 shall not be a reward of clemency and it shall not be considered to be a re-
46 duction of sentence or a pardon. The commission may also by its rules fix the
47 times and conditions under which any application denied may be reconsidered.
48 No action may be maintained against the commission and/or any of its members
49 in any court in connection with any decision taken by the commission to pa-

1 role a prisoner and neither the commission nor its members shall be liable in
2 any way for its action with respect thereto.

3 (56) In making any parole or commutation decision with respect to
4 a prisoner, the commission shall consider the current risk assessment,
5 criminal history, program participation, compliance and completion, in-
6 stitutional misconduct and other individual characteristics related to the
7 likelihood of offending in the future, as well as the compliance of the pris-
8 oner with any order of restitution which may have been entered according to
9 section 19-5304, Idaho Code. The commission may make compliance with such an
10 order of restitution a condition of parole.

11 (67) Except as provided in subsection (12) of this section, no provi-
12 sion of chapter 52, title 67, Idaho Code, shall apply to the commission.

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

25 (89) The commission shall prepare and send to the house of represen-
26 tatives and senate judiciary committees annually a report containing the
27 names, medical condition and current status of all persons granted parole
28 pursuant to subsection (78) of this section.

29 (910) The department of correction shall promulgate rules in consul-
30 tation with the commission to prepare prisoners for parole ~~upon completing~~
31 ~~the fixed portion of the unified sentence based on current risk assessment,~~
32 ~~criminal history, institutional behavior and programming completion.~~ The
33 department of correction shall ~~give prisoners access to programming so that~~
34 ~~prisoners will have an opportunity to complete~~ create sufficient program-
35 ming to be opportunities, such that lack of access to programming is not the
36 primary cause in delaying parole eligible upon completing their fixed sen-
37 tence eligibility. The department shall promulgate rules to include case
38 plan development upon entry into prison ~~so that programming can be completed~~
39 ~~before the first parole eligibility date and a current risk assessment be-~~
40 ~~fore all parole hearings.~~

41 (10) ~~It is the intent of the legislature to focus prison space on the~~
42 ~~most violent or greatest risk prisoners. To help accomplish this goal, the~~
43 ~~commission shall promulgate rules that establish clear guidelines and pro-~~
44 ~~cedures that retain the commission's discretion in individual cases while~~
45 ~~achieving a reduction in the overall average percentage of time spent be-~~
46 ~~yond the fixed term for prisoners who have been convicted of a property or~~
47 ~~drug offense. Such rules shall allow current risk assessment, past criminal~~
48 ~~history, program completion, institutional misconduct and other individual~~
49 ~~characteristics related to the likelihood of offending in the future to be~~

1 ~~factored into when a release decision is made while still working to accom-~~
 2 ~~plish the overarching goal of the legislature.~~

3 (11) By February 1, 2015, and by February 1 of each year thereafter, the
 4 department of correction and the commission shall submit a report to the leg-
 5 islature and governor that describes ~~the percentage of people sentenced to~~
 6 ~~a term in prison for a property or drug offense conviction who are released~~
 7 ~~before serving one hundred fifty percent (150%) of the fixed portion of the~~
 8 ~~sentence, and that documents the most common reasons for people whose re-~~
 9 ~~lease was delayed or denied delay or denial of release, including statisti-~~
 10 ~~cal data supporting the conclusions of the report.~~

11 SECTION 5. That Section 20-229B, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 20-229B. COMMISSION RULINGS. (1) After a factual parole revocation
 14 hearing has been concluded, the member or members of the commission for par-
 15 dons and parole or the designated hearing officer, having heard the matter,
 16 shall ~~enter~~ render a decision within twenty (20) days. If the alleged parole
 17 violator waives the parole hearing pursuant to the provisions of section
 18 20-229A(3), Idaho Code, then a decision shall be entered upon acceptance of
 19 the waiver.

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

26 (3) ~~Except as otherwise provided in subsection (4) of this section, if~~
 27 ~~the member or members or hearing officer, having heard the matter, should~~
 28 ~~conclude that the allegations of violation of the conditions of parole have~~
 29 ~~been proven by a preponderance of the evidence and the violation does not~~
 30 ~~result from either conduct that is sexual or violent in nature or a formal~~
 31 ~~charge of a new felony or violent misdemeanor, then the commission or the~~
 32 ~~hearing officer shall:~~

33 ~~(a) Cause the parolee to be confined for a period of up to ninety (90)-~~
 34 ~~days effective immediately upon entering the decision;~~

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

38 ~~(c) For a third or subsequent parole violation, convene constitute~~
 39 ~~sufficient cause for the revocation of parole, then a dispositional~~
 40 ~~hearing shall be convened during a regular session of the commission to~~
 41 ~~execute impose any sanctions up to and including executing an order of~~
 42 ~~parole revocation and determine the period of time the parole violator~~
 43 ~~shall be returned to state custody.~~

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

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

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

5 ~~(5) If the commission or the hearing officer causes a parolee to be con-~~
6 ~~finned under subsection (3) (a), (3) (b) or (4) (a) of this section, then the~~
7 ~~commission or the hearing officer may reduce the period of confinement by up~~
8 ~~to thirty (30) days if the commission or the hearing officer finds that there~~
9 ~~has been no instance of misconduct during the period of time the parolee is~~
10 ~~confined.~~

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

14 SECTION 6. That Section 19-2513, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 19-2513. UNIFIED SENTENCE. (1) Whenever any person is convicted of
17 having committed a felony, the court shall, unless it shall commute the sen-
18 tence, suspend or withhold judgment and sentence or grant probation, as pro-
19 vided in chapter 26, title 19, Idaho Code, or unless it shall impose the death
20 sentence as provided by law, sentence such offender to the custody of the
21 state board of correction. The court shall specify a minimum period of con-
22 finement and may specify a subsequent indeterminate period of custody. The
23 court shall set forth in its judgment and sentence the minimum period of con-
24 finement and the subsequent indeterminate period, if any, provided, that the
25 aggregate sentence shall not exceed the maximum provided by law. During a
26 minimum term of confinement, the offender shall not be eligible for parole or
27 discharge or credit or reduction of sentence for good conduct except for mer-
28 itorious service except as provided in section 20-223(78), Idaho Code. The
29 offender may be considered for parole or discharge at any time during the in-
30 determinate period of the sentence and as provided in section 20-223(78),
31 Idaho Code.

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

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