

# THE IDAHO JUDICIARY

## *Felony Sentencing Update*

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# Felony Sentencing In Idaho

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“ ‘The power to define crimes and prescribe penalties belongs to the legislative department whereas the authority to sentence offenders who have been found guilty of those crimes lies with the judiciary.’ ” *State v. Olivas*, 158 Idaho 375, 380 (2015)(quoting *Spanton v. Clapp*, 78 Idaho 234, 237(1956)).

I.C. § 19–2521 shows a legislative sentencing scheme in which the sentence imposed is determined by the sentencing judge's discretion. See *State v. Stover*, 140 Idaho 927, 932, 104 P.3d 969, 974 (2005).



Once a criminal defendant's guilt has been established, the trial judge is under a duty to tailor the sentence to the individual defendant.

The trial court's duty to provide individualized sentencing requires access to the broadest range of information about the defendant.

Sentencing Information:

- Legal Criteria

- Presentence Investigation Reports

- Assessments for Substance Abuse Disorders and Mental Health issues



# Felony Sentencing Project

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- A project of the Idaho Supreme Court's Felony Sentencing Committee
  - Chaired by Justice Horton
  - Consists of District Judge representatives from each of the seven judicial districts
  - Provides recommendations to the Idaho Supreme Court in relation to felony sentencing policy and issues



- Process

- The felony sentencing committee identifies issues impacting sentencing and sentence review
- Discussions with the Department of Correction and Department of Health and Welfare regarding challenges and opportunities for change
- A working group consisting of District Judges and Administrative Office of the Courts staff examines current law, practices, and research and provides draft proposals for changes
- The felony sentencing committee reviews draft proposals and provides recommendations
- District Judges are asked for feedback through surveys, in person meetings, roundtable discussions, and emails
- The Idaho Supreme Court reviews proposed solutions and related feedback



**Overall Objectives:** Increase transparency and public safety as well as implement improvements to sentencing processes to promote informed and timely sentencing decisions

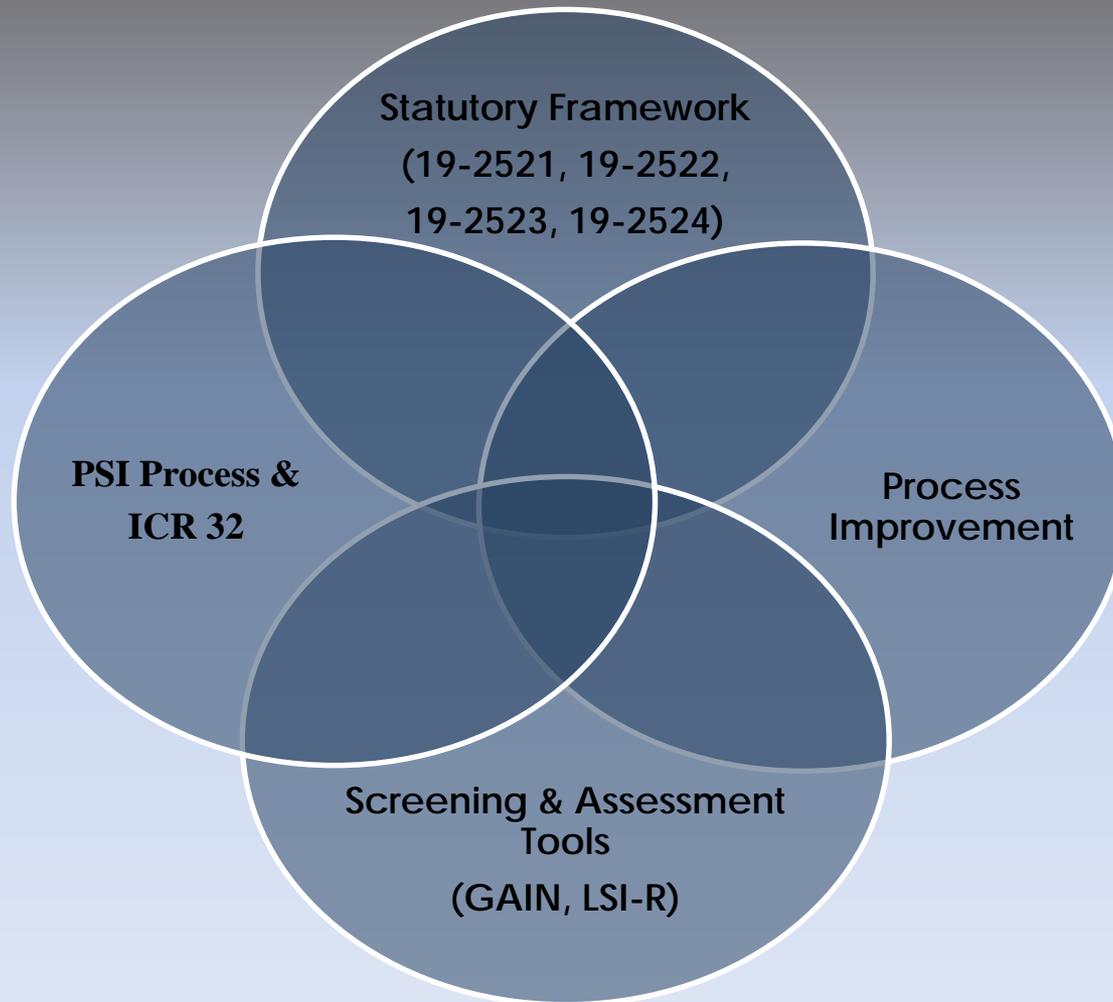
## Goals:

- Incorporate sentencing principles from Idaho case law and evidence-based, risk-reduction sentencing practices into Idaho statutes
- Improve efficiency & consistency in processes used to assess and evaluate defendants for substance use disorder & mental health needs
- Improve quality of substance use disorder and mental health evaluations
- Clarify the requirement that judges consider mental health at sentencing.



# Felony Sentencing Project: Scope

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2018

Draft proposed revisions to 19-2521

Recommend alternative to the LSI-R for DUI cases

Solicit feedback from district judges at the Judicial Conf.

Draft proposed changes to 19-2524

Identify recommended SUD screening tool to be implemented with PSI and recommend changes to the PSI content/format & ICR 32

Draft proposed amendments to 19-2522 addressing funding for mental health evaluations/treatment

Finalize proposed revisions to 19-2521, 19-2524, ICR 32 and PSI format

2019

Conduct analysis of case law pertaining to the requirement that judges consider mental health at sentencing

Conduct an analysis of the interplay between 19-2522, 19-2523, and 19-207.

Draft additional amendments to 19-2522 to clarify the requirement that judges determine whether mental health will be a significant factor at sentencing.

Consider whether additional amendments to PSI are required to ensure it contains sufficient information to determine whether mental health is a significant factor.

Consider whether 19-2523 requires amendments

Finalize proposed statutory changes (if any)

# Proposed Changes to I.C. §19-2521

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- Incorporate sentencing principles from Idaho case law
  - Subsection a: Articulates the “Toohill” factors and recognizes that protection of society is the primary consideration of sentencing
  - Subsection b: Recognizes that the sentence should be individualized to the offender and the case



- Provides an emphasis on favoring a community based sentence
  - Places the factors that accord weight in favor of avoiding imprisonment first
  - Explicitly states that placement in the community should be considered first
  - Calls for the minimum amount of confinement consistent with public safety, gravity of the offense, and rehabilitative needs
  - Adds two factors that weigh in favor of avoiding imprisonment
    - (2)(c) The defendant's criminogenic needs indicate the defendant will benefit from supervision and treatment in the community
    - (2)(j) The defendant demonstrates amenability to treatment



- Subsections deleted:
  - (1)(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to an institution
    - The focus was instead shifted to subsection 2(c): The defendant's criminogenic needs indicate the defendant will benefit from supervision and treatment in the community
  - (2)(c) The defendant acted under a strong provocation
    - This seemed to be subsumed in (2)(d): "There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense"



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# Mandatory Minimum Sentences



“ ‘The power to define crimes and prescribe penalties belongs to the legislative department whereas the authority to sentence offenders who have been found guilty of those crimes lies with the judiciary.’ ”  
*State v. Olivas*, 158 Idaho 375, 380 (2015)(quoting *Spanton v. Clapp*, 78 Idaho 234, 237(1956)).



- “[T]he legislature can provide mandatory minimum sentences for any crimes, and any sentence imposed shall be not less than the mandatory minimum sentence so provided. Any mandatory minimum sentence so imposed shall not be reduced.” Idaho Const. art. V, § 13.
- “This constitutional amendment provides a narrow exception for the legislature to exercise powers traditionally granted to the judicial branch....” *State v. Olivas*, 158 Idaho 375, 380(2015).



## Impact on the Courts:

- A major component of discretion in sentencing decisions is effectively transferred to the prosecutor based upon their charging decision
- Sentencing is not individualized, but rather serves different goals
- Judges have expressed concerns about not being able to do justice in individual cases and address anomalies that invariably arise

Should the legislature choose to repeal mandatory minimum sentences and return to the more traditional policy of allowing judges to exercise discretion and craft an individualized sentence based upon the unique characteristics of the offender and facts of the case, we have faith that our judges have the education and skill to continue to impose the right sentences



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# Additional Initiatives



# Felony Filings In District Court

FY2014	8,245
FY2015	8,581
FY2016	9,549
FY2017	9,955
FY2018	10,332



# Questions?

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# Information

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Idaho Supreme Court Web Site: <https://isc.idaho.gov/>

- Current Court Rules And Orders
- Rules Out for Public Comment
- Schedules, Fees, Guidelines, Forms, Rosters
- Model Jury Instructions



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