

IN THE SENATE

SENATE BILL NO. 1128

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC SAFETY; AMENDING THE HEADING FOR TITLE 20, IDAHO CODE;
2 AMENDING SECTION 20-101, IDAHO CODE, TO REDESIGNATE THE SECTION; AMEND-
3 ING SECTION 20-101A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO
4 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-101B, IDAHO CODE, TO
5 REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; REPEALING
6 SECTION 20-101C, IDAHO CODE, RELATING TO FURLOUGHS, CONDITIONS, FAIL-
7 URE TO RETURN, AND AUTHORIZATION FOR FUNERALS AND ACCIDENT OR ILLNESS;
8 AMENDING SECTION 20-102, IDAHO CODE, TO REDESIGNATE THE SECTION; AMEND-
9 ING SECTION 20-102A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING
10 SECTION 20-103, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SEC-
11 TION 20-111, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION
12 20-242, IDAHO CODE, TO REVISE PROVISIONS REGARDING FURLOUGHS, TO PRO-
13 VIDE FOR CERTAIN REQUIREMENTS REGARDING FURLOUGHS, TO DEFINE A TERM,
14 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-242A, IDAHO
15 CODE, TO REVISE A PROVISION REGARDING INMATE INCENTIVE PAY AND TO MAKE
16 TECHNICAL CORRECTIONS; AMENDING SECTION 20-101D, IDAHO CODE, TO REDES-
17 IGNATE THE SECTION; AMENDING THE HEADING FOR CHAPTER 1, TITLE 20, IDAHO
18 CODE; AMENDING SECTION 18-101A, IDAHO CODE, TO REDESIGNATE THE SEC-
19 TION, TO PROVIDE A CORRECT CODE REFERENCE, TO DEFINE A TERM, TO REVISE
20 A DEFINITION, AND TO REMOVE DEFINITIONS; AMENDING CHAPTER 80, TITLE
21 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8012, IDAHO CODE,
22 TO DEFINE A TERM; AMENDING SECTION 18-101, IDAHO CODE, TO REVISE DEF-
23 INITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-217,
24 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO REMOVE A CODE
25 REFERENCE; AMENDING SECTION 18-2502, IDAHO CODE, TO REVISE A PROVISION
26 REGARDING ASSISTING IN AN ESCAPE, TO PROVIDE A CORRECT CODE REFERENCE,
27 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-2505, IDAHO
28 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-2507,
29 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL
30 CORRECTIONS; AMENDING SECTION 18-2510, IDAHO CODE, TO PROVIDE CORRECT
31 CODE REFERENCES; AMENDING SECTION 18-6110, IDAHO CODE, TO PROVIDE COR-
32 RECT CODE REFERENCES; AMENDING SECTION 20-237B, IDAHO CODE, TO PROVIDE
33 CORRECT CODE REFERENCES; AMENDING SECTION 31-3220A, IDAHO CODE, TO PRO-
34 VIDE CORRECT CODE REFERENCES; AMENDING SECTION 18-101B, IDAHO CODE, TO
35 REDESIGNATE THE SECTION; REPEALING SECTION 20-901, IDAHO CODE, RELAT-
36 ING TO DEFINITIONS; REPEALING SECTION 20-903, IDAHO CODE, RELATING TO
37 NOTICE TO PRISONERS; AMENDING SECTION 20-902, IDAHO CODE, TO REDESIG-
38 NATE THE SECTION, TO REVISE TERMINOLOGY, TO PROVIDE THAT CORRECTIONAL
39 FACILITIES SHALL INFORM PRISONERS OF CERTAIN INFORMATION, AND TO DEFINE
40 TERMS; AMENDING SECTION 20-201, IDAHO CODE, TO PROVIDE FOR THE DIVISION
41 OF PUBLIC SAFETY AND TO REMOVE PROVISIONS REGARDING THE COMMISSION OF
42 PARDONS AND PAROLE; AMENDING THE HEADING FOR CHAPTER 9, TITLE 20, IDAHO
43 CODE; AMENDING CHAPTER 9, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW
44 SECTION 20-901, IDAHO CODE, TO ESTABLISH THE DIVISION OF PUBLIC SAFETY;
45

1 AMENDING CHAPTER 9, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
2 TION 20-902, IDAHO CODE, TO PROVIDE FOR AUTHORITIES AND DUTIES OF THE
3 DIVISION OF PUBLIC SAFETY; AMENDING CHAPTER 9, TITLE 20, IDAHO CODE,
4 BY THE ADDITION OF A NEW SECTION 20-903, IDAHO CODE, TO PROVIDE FOR THE
5 SELECTION OF AN ADMINISTRATOR AND DUTIES OF THE ADMINISTRATOR; AMENDING
6 SECTION 20-1001, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION
7 20-1002, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE EXECUTIVE DI-
8 RECTOR; AMENDING SECTION 6-904B, IDAHO CODE, TO REVISE TERMINOLOGY, TO
9 PROVIDE A CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
10 SECTION 59-904, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATOR OF THE
11 DIVISION OF PUBLIC SAFETY AND TO REVISE TERMINOLOGY; AMENDING SECTION
12 39-5201, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE CORRECT
13 CODE REFERENCES, TO REVISE TERMINOLOGY, AND TO MAKE TECHNICAL CORREC-
14 TIONS; AMENDING SECTION 39-5202, IDAHO CODE, TO REDESIGNATE THE SECTION
15 AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 39-5203,
16 IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE A PROVISION RE-
17 GARDING ASSIGNMENT OF THE COUNCIL ON DOMESTIC VIOLENCE AND VICTIM
18 ASSISTANCE; AMENDING SECTION 39-5204, IDAHO CODE, TO REDESIGNATE THE
19 SECTION; AMENDING SECTION 39-5205, IDAHO CODE, TO REDESIGNATE THE SEC-
20 TION; AMENDING SECTION 39-5206, IDAHO CODE, TO REDESIGNATE THE SECTION;
21 AMENDING SECTION 39-5207, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO
22 REVISE PROVISIONS REGARDING EMPLOYEES OF THE COUNCIL; AMENDING SECTION
23 39-5208, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT
24 CODE REFERENCE; AMENDING SECTION 39-5209, IDAHO CODE, TO REDESIGNATE
25 THE SECTION; AMENDING SECTION 39-5210, IDAHO CODE, TO REDESIGNATE THE
26 SECTION AND TO REVISE A PROVISION REGARDING DOMESTIC VIOLENCE GRANTS;
27 AMENDING SECTION 39-5211, IDAHO CODE, TO REDESIGNATE THE SECTION AND
28 TO REVISE A PROVISION REGARDING DOMESTIC VIOLENCE GRANTS; AMENDING
29 SECTION 39-5212, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE A
30 CORRECT CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
31 SECTION 39-5213, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PRO-
32 VIDE CORRECT CODE REFERENCES; AMENDING SECTION 39-6302, IDAHO CODE,
33 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
34 AMENDING SECTION 39-6312, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
35 ENCE; AMENDING TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11,
36 TITLE 20, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING COMPENSATION
37 FOR VICTIMS OF CRIME; AMENDING SECTION 72-1003, IDAHO CODE, TO REDESIG-
38 NATE THE SECTION, TO REVISE A DEFINITION, AND TO DEFINE A TERM; AMENDING
39 SECTION 72-1004, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE
40 PROVISIONS REGARDING CERTAIN POWERS AND DUTIES OF THE COMMISSION, AND
41 TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 72-1005, IDAHO
42 CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 72-1006, IDAHO CODE,
43 TO REDESIGNATE THE SECTION; AMENDING SECTION 72-1007, IDAHO CODE, TO
44 REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY; AMENDING SECTION
45 72-1008, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE A PROVI-
46 SION REGARDING PAYMENT OF CLAIMS; AMENDING SECTION 72-1009, IDAHO CODE,
47 TO REDESIGNATE THE SECTION; AMENDING SECTION 72-1010, IDAHO CODE, TO
48 REDESIGNATE THE SECTION; AMENDING SECTION 72-1012, IDAHO CODE, TO RE-
49 DESIGNATE THE SECTION AND TO REVISE PROVISIONS REGARDING AN APPLICATION
50 FOR COMPENSATION; AMENDING SECTION 72-1013, IDAHO CODE, TO REDESIGNATE

1 THE SECTION, TO REVISE PROVISIONS REGARDING INFORMAL HEARINGS, AND TO
2 PROVIDE FOR NOTICE, TRANSCRIPTS, A RECORD, EVIDENCE, AND SUBPOENAS;
3 AMENDING SECTION 72-1014, IDAHO CODE, TO REDESIGNATE THE SECTION, TO
4 REVISE TERMINOLOGY, AND TO AUTHORIZE THE DIVISION TO GATHER SUFFICIENT
5 INFORMATION; AMENDING SECTION 72-1015, IDAHO CODE, TO REDESIGNATE
6 THE SECTION AND TO REVISE PROVISIONS REGARDING ENFORCEMENT OF ORDERS
7 AND IMPROPER ASSERTION OF PRIVILEGE; AMENDING SECTION 72-1016, IDAHO
8 CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY, AND TO PRO-
9 VIDE A CORRECT CODE REFERENCE; AMENDING SECTION 72-1017, IDAHO CODE, TO
10 REDESIGNATE THE SECTION; AMENDING SECTION 72-1018, IDAHO CODE, TO RE-
11 DESIGNATE THE SECTION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
12 SECTION 72-1019, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE
13 TERMINOLOGY; AMENDING SECTION 72-1020, IDAHO CODE, TO REDESIGNATE
14 THE SECTION; AMENDING SECTION 72-1021, IDAHO CODE, TO REDESIGNATE THE
15 SECTION, TO REVISE PROVISIONS REGARDING RECONSIDERATION AND REVIEW OF
16 THE COMMISSION'S DECISIONS, TO PROVIDE FOR THE FINALITY OF A DECISION,
17 AWARD, OR ORDER OF THE COMMISSION, AND TO PROVIDE FOR A MOTION TO RE-
18 CONSIDER AND A MOTION TO REVIEW AND AMEND; AMENDING SECTION 72-1022,
19 IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 72-1023,
20 IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 72-1024, IDAHO
21 CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 72-1025, IDAHO CODE,
22 TO REDESIGNATE THE SECTION; AMENDING SECTION 72-1026, IDAHO CODE, TO
23 REDESIGNATE THE SECTION AND TO PROVIDE FOR THE IDAHO INDUSTRIAL COMMIS-
24 SION; AMENDING SECTION 18-2403, IDAHO CODE, TO PROVIDE FOR THE CRIME OF
25 THEFT BY FALSELY OBTAINING COMPENSATION FOR VICTIMS OF CRIME; AMEND-
26 ING SECTION 18-5623, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE;
27 AMENDING SECTION 18-5624, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
28 ENCE; AMENDING SECTION 19-3509, IDAHO CODE, TO PROVIDE A CORRECT CODE
29 REFERENCE; AMENDING THE HEADING FOR CHAPTER 53, TITLE 19, IDAHO CODE;
30 AMENDING SECTION 19-5303, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
31 ENCE; AMENDING SECTION 19-5307, IDAHO CODE, TO PROVIDE A CORRECT CODE
32 REFERENCE; AMENDING SECTION 31-3201I, IDAHO CODE, TO PROVIDE A COR-
33 RECT CODE REFERENCE; AMENDING SECTION 67-2912, IDAHO CODE, TO PROVIDE
34 A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING
35 SECTION 72-1001, IDAHO CODE, RELATING TO A SHORT TITLE; REPEALING SEC-
36 TION 72-1002, IDAHO CODE, RELATING TO LEGISLATIVE PURPOSE AND INTENT;
37 REPEALING SECTION 72-1011, IDAHO CODE, RELATING TO A PENALTY FOR FRAUD-
38 ULENTLY OBTAINING BENEFITS; AMENDING SECTION 74-105, IDAHO CODE, TO
39 REVISE A PROVISION REGARDING RECORDS EXEMPT FROM DISCLOSURE AND TO MAKE
40 A TECHNICAL CORRECTION; AMENDING SECTION 19-5304, IDAHO CODE, TO PRO-
41 VIDE A CORRECT CODE REFERENCE; AMENDING SECTION 28-9-406, IDAHO CODE,
42 TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 31-3201A, IDAHO
43 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 66-612,
44 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMER-
45 GENCY AND PROVIDING AN EFFECTIVE DATE.

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

47 SECTION 1. That the heading for Title 20, Idaho Code, be, and the same is
48 hereby amended to read as follows:

TITLE 20
~~STATE PRISON AND COUNTY JAILS~~ PUBLIC SAFETY -- CORRECTIONS AND SUPERVISION
-- VICTIMS OF CRIME

SECTION 2. That Section 20-101, Idaho Code, be, and the same is hereby amended to read as follows:

~~20-101~~251. ESTABLISHMENT AND USE OF PENITENTIARY AND REHABILITATION CENTERS. There shall be continually maintained for the care and custody of prisoners in Idaho, correctional facilities, and state rehabilitation centers, for use by the state board of correction located in the county of Ada and at such other places in the state of Idaho as may be determined by the board of correction; provided however that no facility may be acquired except as provided by law. All offenders convicted and sentenced according to law to imprisonment in the state prison, shall be committed to the custody of the state board of correction. All persons convicted of crimes against the laws of this state, and sentenced to confinement in the state prison shall be committed to the custody of the state board of correction, and must, during the term of their confinement, perform such labor under such rules and regulations as may be prescribed by the state board of correction.

SECTION 3. That Section 20-101A, Idaho Code, be, and the same is hereby amended to read as follows:

~~20-101A~~252. GOOD CONDUCT REDUCTION OF SENTENCES. (1) Each person convicted of an offense against the state, which was committed prior to July 1, 1986, and confined in a penal or correctional institution for a definite term other than for life, whose record of conduct shows that he has faithfully observed all the rules and has not been subject to punishment, is entitled to a deduction from the term of his sentence beginning with the day on which the sentence starts to run as follows:

~~(1)~~ (a) Five (5) days for each month, if the sentence is not less than six (6) months and not more than one (1) year.

~~(2)~~ (b) Six (6) days for each month, if the sentence is more than one (1) year and less than three (3) years.

~~(3)~~ (c) Seven (7) days for each month, if the sentence is not less than three (3) years and less than five (5) years.

~~(4)~~ (d) Eight (8) days for each month if the sentence is not less than five (5) years and less than ten (10) years.

~~(5)~~ (e) Ten (10) days for each month, if the sentence is ten (10) years or more.

(2) When two (2) or more consecutive sentences are served, the basis upon which the deduction is computed is the aggregate of several sentences.

(3) In addition, those inmates doing an outstanding job, may be awarded industrial or meritorious goodtime under rules adopted by the state board of correction, not to exceed five (5) days per month.

(4) Inmates performing exceptionally meritorious or outstanding services under rules adopted by the state board of correction may be awarded a lump sum of goodtime. The number of days awarded may not exceed the regulatory maximum.

1 SECTION 4. That Section 20-101B, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 ~~20-101B~~253. FORFEITURE OF GOOD CONDUCT REDUCTION. (1) Inmates who
4 fail to observe faithfully the rules of the institution may have goodtime
5 withheld or forfeited under rules adopted by the state board of correction.

6 (2) Forfeited or withheld goodtime may only be restored by the board of
7 correction or its authorized agent.

8 (3) Such revocation or forfeiture shall not be made except upon a hear-
9 ing upon the question of the infraction of the rules charged to such con-
10 victed person before the state board of correction or its authorized agent.

11 SECTION 5. That Section 20-101C, Idaho Code, be, and the same is hereby
12 repealed.

13 SECTION 6. That Section 20-102, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 ~~20-102~~254. PENITENTIARY PERMANENT ENDOWMENT FUND. (1) There is es-
16 tablished in the state treasury the penitentiary permanent endowment fund.
17 This fund is perpetually appropriated for the beneficiaries of the endow-
18 ment. The fund shall be managed and invested by the endowment fund invest-
19 ment board according to law and the policies established by the state board
20 of land commissioners. The fund principal shall forever remain intact. The
21 fund shall be a permanent fund and shall consist of the following:

22 (a) Proceeds of the sale of lands granted to the state of Idaho by the
23 United States government in the Idaho Admission Bill, 26 Stat. L. 215,
24 ch. 656, known as penitentiary endowment lands, and lands granted in
25 lieu thereof;

26 (b) Proceeds of royalties arising from the extraction of minerals on
27 penitentiary endowment lands owned by the state; and

28 (c) Moneys allocated from the penitentiary earnings reserve fund.

29 (2) Proceeds from the sale of penitentiary endowment lands may first be
30 deposited into the land bank fund established in section 58-133, Idaho Code,
31 to be used to acquire other lands within the state for the benefit of the ben-
32 efitaries of the penitentiary endowment. If the land sale proceeds are not
33 used to acquire other lands in accordance with section 58-133, Idaho Code,
34 the land sale proceeds shall be deposited into the penitentiary permanent
35 endowment fund along with any earnings on the proceeds.

36 (3) Earnings from the investment of the penitentiary permanent en-
37 dowment fund shall be distributed according to the provisions of section
38 57-723A, Idaho Code.

39 SECTION 7. That Section 20-102A, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 ~~20-102A~~255. PENITENTIARY EARNINGS RESERVE FUND. (1) There is estab-
42 lished in the state treasury the penitentiary earnings reserve fund. The
43 fund shall be managed and invested by the endowment fund investment board ac-
44 cording to law and the policies established by the state board of land com-
45 missioners. The fund shall consist of the following:

- 1 (a) All earnings of the penitentiary permanent endowment fund;
 2 (b) Proceeds of the sale of timber growing upon penitentiary endowment
 3 lands;
 4 (c) Proceeds of leases of penitentiary endowment lands;
 5 (d) Proceeds of interest charged upon deferred payments on peniten-
 6 tiary endowment lands or timber on those lands; and
 7 (e) All other proceeds received from the use of penitentiary endowment
 8 lands and not otherwise designated for deposit in the penitentiary per-
 9 manent endowment fund.

10 (2) Moneys shall be distributed out of the penitentiary earnings re-
 11 serve fund only to support the beneficiaries of the penitentiary endowment,
 12 including distributions by the state board of land commissioners to the pen-
 13 itentiary permanent endowment fund and the penitentiary income fund; pro-
 14 vided, that funds shall not be appropriated by the legislature from the pen-
 15 itentiary earnings reserve fund except to pay for administrative costs in-
 16 curred managing the assets of the penitentiary endowment including, but not
 17 limited to, real property and monetary assets.

18 SECTION 8. That Section 20-103, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 ~~20-103~~256. PENITENTIARY INCOME FUND. There is established in the
 21 state treasury the penitentiary income fund. The fund shall consist of
 22 all moneys distributed from the penitentiary earnings reserve fund and
 23 from other sources as the legislature deems appropriate. Moneys in the
 24 penitentiary income fund shall be used to benefit the beneficiaries of the
 25 penitentiary endowment and distributed to current beneficiaries of the pen-
 26 itentiary endowment pursuant to legislative appropriation.

27 SECTION 9. That Section 20-111, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 ~~20-111~~257. PRISONERS IN STATE PENITENTIARY -- JUSTIFIABLE KILLING OR
 30 WOUNDING. If any prisoner threatens personal injury to any officer, keeper
 31 or guard of the state penitentiary or other place maintained by the state
 32 board of correction, or acts in such manner as may reasonably lead the of-
 33 ficer, keeper or guard to believe his life or the life of any prisoner is in
 34 danger, or which leads the officer, keeper or guard, to believe the prisoner
 35 is attempting escape, then such officer, keeper or guard, may proceed forth-
 36 with to use any weapon he may have to enforce obedience, and if in so doing
 37 any prisoner shall be necessarily wounded or killed, the officer, keeper or
 38 guard is justified and shall be held guiltless. For purposes of this sec-
 39 tion, a facility operated by a private prison contractor and housing prison-
 40 ers pursuant to a contract between the contractor and the state board of cor-
 41 rection, as set forth in section 20-241A, Idaho Code, shall be deemed to be
 42 maintained by or under the control of the state board of correction.

43 SECTION 10. That Section 20-242, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

1 20-242. FURLOUGH. ~~1-~~ (1) When a person is committed to the custody of
 2 the state board of correction, the board may, upon conditions which it may
 3 impose, direct that the person be permitted to continue in his regular em-
 4 ployment, work project, or educational program, if that is compatible with
 5 the requirements of subsection ~~3~~ (2) of this section, or may authorize the
 6 person to secure employment for himself.

7 ~~2-~~ If the board directs that the prisoner be permitted to continue in
 8 his regular employment or education, the board shall arrange for a continua-
 9 tion of the employment or education so far as possible without interruption.
 10 If the prisoner does not have regular employment, and the board has autho-
 11 rized the prisoner to secure employment for himself, the prisoner may do so,
 12 and the board may assist ~~him in doing so~~ in finding employment.

13 ~~3-~~ (2) Whenever the prisoner is not employed and between the hours or
 14 periods of employment, work project, or schooling, he shall be domiciled in a
 15 jail, facility, or residence as directed by the board of correction.

16 ~~4-~~ (3) The earnings of the prisoner shall be retained by the prisoner
 17 under such terms and conditions as the board may impose. From such earnings
 18 the board may require that:

19 ~~a-~~ (a) the prisoner pay an amount to the board of correction sufficient
 20 for the prisoner's board and personal expenses, both inside and outside
 21 the jail, facility, or residence, including costs of administering such
 22 prisoner's work furlough program;

23 ~~b-~~ (b) the prisoner provide for the reasonable and adequate support and
 24 maintenance of the prisoner's dependents;

25 ~~c-~~ (c) the prisoner pay preexisting debts;

26 ~~d-~~ (d) the prisoner deposit earnings in a financial institution.

27 ~~5-~~ (4) If the prisoner violates the conditions established for his con-
 28 duct, custody or employment, the board may order the balance of the pris-
 29 oner's sentence to be spent in actual confinement.

30 ~~6-~~ The wilful failure of a prisoner to return to the place of confine-
 31 ment not later than the expiration of any period during which he is autho-
 32 rized to be away from the place of confinement under this section is an es-
 33 cape from the place of confinement and is punishable as provided by section
 34 ~~18-2505, Idaho Code.~~

35 (5) In addition to any other furlough authority provided in this sec-
 36 tion, the board of correction may, upon conditions that it may impose, grant
 37 a temporary furlough privilege to an inmate, during which the inmate remains
 38 in the legal custody and under the control of the board. Furlough is autho-
 39 rized pursuant to this subsection for diagnosis or treatment of a serious
 40 illness or injury, funerals, serious illness, or accidents of the immedi-
 41 ate family of the inmate, family visitation, seeking employment, and such
 42 other purposes that contribute to and promote a transition from confinement
 43 to free society. No furlough pursuant to this section may exceed seventy-two
 44 (72) hours except in the case of a medical furlough for the purpose of diagno-
 45 sis or treatment of a serious illness or injury.

46 (6) To be eligible for furlough pursuant to subsection (5) of this sec-
 47 tion, an inmate must have been classified to minimum custody for a minimum
 48 of six (6) months immediately before the granting of furlough, except in the
 49 case of a medical furlough for diagnosis or treatment of a serious illness or

1 injury. Medical furlough inmates may be classified to minimum custody for
 2 less than a six (6) month period.

3 (7) Before furlough pursuant to subsection (5) of this section can be
 4 authorized, the board, or its designee, shall interview the inmate seeking
 5 furlough and must:

6 (a) Verify the reason for which the inmate requests furlough and that
 7 arrangements have been made for supervision, maintenance, and care of
 8 the inmate while on furlough;

9 (b) Verify travel arrangements directly to and from the place of des-
 10 tination, with all expenses paid by the inmate or the inmate's family;
 11 provided, however, that in the case of an indigent inmate, travel ex-
 12 penditures may be satisfied from the inmate welfare fund;

13 (c) Clearly establish in writing the duration of furlough and all other
 14 conditions, terms, and incidents requisite to any furlough; and

15 (d) Obtain a signed waiver of extradition from the inmate.

16 (8) For the purposes of this section, "immediate family" includes sib-
 17 lings, whether whole or half-blood, current spouse, lawful issue, and par-
 18 ents.

19 (9) The voluntary and willful failure of any inmate to abide by the
 20 terms and conditions of any privilege, release, leave, or furlough granted
 21 pursuant to this section, or the voluntary and willful failure to return
 22 to the inmate's place of confinement after the expiration during which the
 23 inmate is authorized to be away from the inmate's place of confinement, shall
 24 be considered an escape or attempt to escape, as the case may be, from the
 25 custody of the state board of correction and shall be punishable pursuant to
 26 section 18-2505, Idaho Code.

27 7. A (10) Any privilege, release, leave, or furlough granted pursuant
 28 to this section may be revoked by the board at any time without notice or
 29 hearing, and nothing in this section shall be interpreted to create any right
 30 to any privilege, release, leave, or furlough of any kind for any person com-
 31 mitted to the custody of the board.

32 SECTION 11. That Section 20-242A, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 20-242A. INMATE INCENTIVE PAY. (1) The board of correction is hereby
 35 authorized to institute an incentive pay program for those inmates perform-
 36 ing work at the direction of the board of correction in jobs not associated
 37 with ~~correctional industry employment~~ training programs pursuant to chapter
 38 4, title 20, Idaho Code.

39 (2) Such compensation, if any, shall be in accordance with a graduated
 40 schedule based on quantity and quality of work performed and skill required
 41 for its performance.

42 (3) Nothing in this section is intended to restore, in whole or in part,
 43 the civil rights of any inmate. No inmate compensated under this section
 44 shall be considered an employee of the state or the board of correction, nor
 45 shall any inmate be eligible for worker's compensation under title 72, Idaho
 46 Code, or be entitled to any benefits thereunder whether on behalf of himself
 47 or any other person.

1 SECTION 12. That Section 20-101D, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 ~~20-101D~~242B. MERITORIOUS REDUCTION OF SENTENCE. (1) Each person con-
4 victed of an offense against the state committed on or after July 1, 1986,
5 sentenced and confined in a state correctional facility for any term other
6 than life, may be awarded a meritorious conduct reduction of their sentence
7 by the director of the department of correction. Meritorious conduct reduc-
8 tion of the sentence may be awarded when an inmate completes an extraordinary
9 act of heroism at the risk of his own life or for outstanding service to the
10 state of Idaho which results in the saving of lives, prevention of destruc-
11 tion or major property loss during a riot, or the prevention of an escape from
12 a correctional facility. The award of a meritorious conduct reduction may
13 be given under rules adopted by the Idaho board of correction. The number of
14 days awarded may not exceed fifteen (15) days for each month sentenced.

15 (2) For each inmate sentenced for a crime committed on or after July 1,
16 1986, the director of the department of correction may withdraw a meritori-
17 ous conduct reduction awarded pursuant to subsection (1) of this section ac-
18 cording to rules of the board of correction.

19 SECTION 13. That the Heading for Chapter 1, Title 20, Idaho Code, be,
20 and the same is hereby amended to read as follows:

21 CHAPTER 1
22 STATE PENITENTIARY GENERAL PROVISIONS

23 SECTION 14. That Section 18-101A, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 ~~18-101A~~ 20-101. DEFINITIONS. As used in ~~titles 18, 19 and 20, Idaho~~
26 ~~Code,~~ this title and elsewhere in the Idaho Code, unless otherwise specif-
27 ically provided or unless the context clearly indicates or requires other-
28 wise, the following terms shall be defined as follows:

29 (1) "Correctional facility" means a facility for the confinement of
30 prisoners or juvenile offenders. The term shall be construed to include
31 references to terms including, but not limited to, "prison," "state prison,"
32 "state penitentiary," "governmental detention facility," "penal insti-
33 tution (facility)," "correctional institution," "juvenile correctional
34 center," "Idaho security medical program," "detention institution (fa-
35 cility)," "juvenile detention center (facility)," "county jail," "jail,"
36 "private prison (facility)," "private correctional facility," or those
37 facilities that detain juvenile offenders pursuant to a contract with the
38 Idaho department of juvenile corrections.

39 (2) "In-state prisoner" means any person who has been charged with or
40 convicted of a crime in the state of Idaho or who is being detained pursuant
41 to a court order, and:

42 (a) Who is being housed in any state, local or private correctional fa-
43 cility; or

44 (b) Who is being transported in any manner within or through the state
45 of Idaho.

1 (3) "Juvenile offender" means a person younger than eighteen (18) years
2 of age or who was younger than eighteen (18) years of age at the time of any
3 act, omission, or status for which the person is being detained in a correc-
4 tional facility pursuant to court order.

5 ~~(3)~~ (4) "Local correctional facility" means a facility for the confine-
6 ment of prisoners operated by or under the control of a county or city. The
7 term shall include references to "county jail," or "jail." The term shall
8 also include a private correctional facility housing prisoners under the
9 custody of the state board of correction, the county sheriff or other local
10 law enforcement agency.

11 ~~(4)~~ (5) "Out-of-state prisoner" or "out-of-state inmate" means any
12 person who is convicted of and sentenced for a crime in a state other than
13 the state of Idaho, or under the laws of the United States or other foreign
14 jurisdiction, and:

15 (a) Who is being housed in any state, local or private correctional fa-
16 cility in the state of Idaho; or

17 (b) Who is being transported in any manner within or through the state
18 of Idaho.

19 ~~(5)~~ (6) "Parolee" means a person who has been convicted of a felony and
20 who has been placed on parole by the Idaho commission of pardons and parole
21 or similar body paroling authority of another state, the United States, or a
22 foreign jurisdiction, who is not incarcerated in any state, local or private
23 correctional facility, and who is being supervised by employees of the Idaho
24 department of correction.

25 ~~(6)~~ (7) "Prisoner" means a person who has been convicted of a crime in
26 the state of Idaho or who is being detained pursuant to a court order, or who
27 is convicted of and sentenced for a crime in a state other than the state of
28 Idaho, or under the laws of the United States or other foreign jurisdiction,
29 and:

30 (a) Who is being housed in any state, local or private correctional fa-
31 cility; or

32 (b) Who is being transported in any manner within or through the state
33 of Idaho.

34 The term shall be construed to include references to terms including, but
35 not limited to, "inmate," "convict," "detainee," and other similar terms and
36 shall include "out-of-state prisoner" and "out-of-state inmate."

37 ~~(7)~~ (8) "Private correctional facility" or "private prison (facility)"
38 means a correctional facility constructed or operated in the state of Idaho
39 by a private prison contractor.

40 ~~(8)~~ (9) "Private prison contractor" means any person, organization,
41 partnership, joint venture, corporation or other business entity engaged
42 in the site selection, design, design/building, acquisition, construction,
43 construction/management, financing, maintenance, leasing, leasing/pur-
44 chasing, management or operation of private correctional facilities or any
45 combination of these services.

46 ~~(9)~~ (10) "Probationer" means a person who has been placed on felony pro-
47 bation by an Idaho court, or a court of another state, the United States, or a
48 foreign jurisdiction, who is not incarcerated in any state, local or private
49 correctional facility, and who is being supervised by employees of the Idaho
50 department of correction.

1 ~~(10) "Repeat offender" means, for the purposes of sections 18-8002,~~
 2 ~~18-8002A, 18-8004C and 18-8005, Idaho Code, a person who has been convicted~~
 3 ~~of driving while intoxicated or driving under the influence of alcohol~~
 4 ~~and/or drugs more than once in any five (5) year period for the purposes of~~
 5 ~~sections 18-8002A and 18-8004C, Idaho Code, or any ten (10) year period for~~
 6 ~~the purposes of sections 18-8002 and 18-8005, Idaho Code.~~

7 (11) "State correctional facility" means a facility for the confinement
 8 of prisoners, owned or operated by or under the control of the state of Idaho.
 9 The term shall include references to "state prison," "state penitentiary"
 10 or "state penal institution (facility)." The term shall also include a pri-
 11 vate correctional facility housing prisoners under the custody of the board
 12 of correction.

13 (12) "Supervising officer" means an employee of the Idaho department of
 14 correction who is charged with or whose duties include supervision of felony
 15 parolees or felony probationers.

16 ~~(13) "Juvenile offender" means a person younger than eighteen (18)~~
 17 ~~years of age or who was younger than eighteen (18) years of age at the time~~
 18 ~~of any act, omission, or status for which the person is being detained in a~~
 19 ~~correctional facility pursuant to court order.~~

20 SECTION 15. That Chapter 80, Title 18, Idaho Code, be, and the same is
 21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 22 ignated as Section 18-8012, Idaho Code, and to read as follows:

23 18-8012. DEFINITION OF REPEAT OFFENDER. For the purposes of sections
 24 18-8002, 18-8002A, 18-8004C, and 18-8005, Idaho Code, "repeat offender"
 25 means a person who has been convicted of driving while intoxicated or driving
 26 under the influence of alcohol or drugs more than once in any five (5) year
 27 period for the purposes of sections 18-8002A and 18-8004C, Idaho Code, or any
 28 ten (10) year period for the purposes of sections 18-8002 and 18-8005, Idaho
 29 Code.

30 SECTION 16. That Section 18-101, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 18-101. DEFINITIONS OF TERMS. ~~The following words have in this code~~
 33 ~~the signification attached to them in this section, unless otherwise appar-~~
 34 ~~ent from the context (1) As used in this title, title 19, Idaho Code, and~~
 35 ~~elsewhere in the Idaho Code containing criminal provisions, unless other-~~
 36 ~~wise specifically provided or unless the context clearly indicates or re-~~
 37 ~~quires otherwise, the following terms shall be defined as follows:~~

38 1. (a) ~~The word "wilfully," "Willfully,"~~ when applied to the intent
 39 with which an act is done or omitted, ~~implies simply means~~ a purpose or
 40 willingness to commit the act or make the omission referred to. It does
 41 not require any intent to violate law, or to injure another, or to ac-
 42 quire any advantage.

43 2. (b) ~~The words "neglect," "negligence," "negligent," and "negli-~~
 44 ~~gently," import "Neglect," "negligence," "negligent," and "negli-~~
 45 ~~gently" mean~~ a want of such attention to the nature of probable conse-
 46 quences of the act or omission as a prudent man ordinarily bestows in
 47 acting in his own concerns.

1 3. ~~(c) The word "corruptly," imports "Corruptly" means~~ a wrongful de-
2 sign to acquire or cause some pecuniary or other advantage to the person
3 guilty of the act or omission referred to, or to some other person.

4 4. ~~(d) The words "malice," and "maliciously," import "Malice" and "ma-~~
5 ~~liciously" mean~~ a wish to vex, annoy, or injure another person, or an in-
6 tent to do a wrongful act, established either by proof or presumption of
7 law.

8 5. ~~(e) The word "knowingly," imports "Knowingly" means~~ only a knowl-
9 edge that the facts exist which bring the act or omission within this ti-
10 tle or the criminal provisions of this code the Idaho Code. It does not
11 require any knowledge of the unlawfulness of such act or omission.

12 6. ~~(f) The word "bribe," signifies "Bribe" means~~ anything of value or
13 advantage, present or prospective, or any promise or undertaking to
14 give any, asked, given, or accepted, with a corrupt intent to influence,
15 unlawfully, the person to whom it is given, in his action, vote or opin-
16 ion, in any public or official capacity.

17 7. ~~(g) Where the word "person" is used in this code to designate~~
18 "Person" designates the party whose property may be the subject of any
19 offense, ~~it and includes this state, any other state, any territory,~~
20 government, or country, which that may lawfully own property within
21 this state, and all public and private corporations or joint associa-
22 tions, as well as individuals.

23 (2) The definitions for terms defined in section 20-101, Idaho Code,
24 shall apply to this title and title 19, Idaho Code, unless otherwise specif-
25 ically provided or unless the context clearly indicates or requires other-
26 wise.

27 SECTION 17. That Section 18-217, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 18-217. MENTAL HEALTH RECORDS OF OFFENDERS. (1) For purposes of care,
30 treatment or normal health care operations, records of mental health evalu-
31 ation, care and treatment shall be provided upon request to and from the men-
32 tal health professionals of a governmental entity and another entity provid-
33 ing care or treatment for any person who is:

34 (a) Under court commitment to a state agency pursuant to section
35 18-212(4), Idaho Code;

36 (b) A pretrial detainee;

37 (c) Awaiting sentencing;

38 (d) In the care, custody or supervision of any correctional facility as
39 defined in section ~~18-101A~~ 20-201, Idaho Code;

40 (e) On probation or parole;

41 (f) Being supervised as part of a drug court, mental health court, juve-
42 nile detention program, work release program, or similar court program;
43 or

44 (g) Applying for mental health services after release from a correc-
45 tional facility.

46 (2) No court order or authorization from the offender to transfer the
47 records shall be required except for records of substance abuse treatment as
48 provided by 42 CFR part 2, and sections 37-3102 ~~and 39-308~~, Idaho Code.

1 SECTION 18. That Section 18-2502, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 18-2502. ~~OFFICERS CORRECTIONS AND LAW ENFORCEMENT OFFICIALS ASSIST-~~
4 ~~ING IN ESCAPE.~~ Any sheriff, deputy sheriff, peace officer, county detention
5 officer, or other employee of a law enforcement agency, as those terms are
6 defined in section 19-5101, Idaho Code, correctional officer or other em-
7 ployee of a correctional facility, as defined in section ~~18-101A~~ 20-101,
8 Idaho Code, including a private correctional facility, who fraudulently
9 contrives, procures, aids, connives at, or voluntarily permits the escape of
10 any prisoner in custody, is punishable by imprisonment in the state prison
11 not exceeding ten (10) years, and a fine not exceeding ten thousand dollars
12 (\$10,000). Every such officer or person who negligently suffers such escape
13 is guilty of a misdemeanor.

14 SECTION 19. That Section 18-2505, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 18-2505. ESCAPE BY ONE CHARGED WITH, CONVICTED OF, OR ON PROBATION FOR
17 A FELONY -- ESCAPE BY A JUVENILE FROM CUSTODY. (1) Every prisoner charged
18 with, convicted of, or on probation for a felony who is confined in any cor-
19 rectional facility, as defined in section ~~18-101A~~ 20-101, Idaho Code, in-
20 cluding any private correctional facility, or who while outside the walls
21 of such correctional facility in the proper custody of any officer or per-
22 son, or while in any factory, farm or other place without the walls of such
23 correctional facility, who escapes or attempts to escape from such officer
24 or person, or from such correctional facility, or from such factory, farm or
25 other place without the walls of such correctional facility, shall be guilty
26 of a felony, and upon conviction thereof, any such second term of imprison-
27 ment shall commence at the time he would otherwise have been discharged. Es-
28 cape shall be deemed to include abandonment of a job site or work assignment
29 without the permission of an employment supervisor or officer. Escape in-
30 cludes the intentional act of leaving the area of restriction set forth in a
31 court order admitting a person to bail or release on a person's own recogni-
32 zance with electronic or global positioning system tracking or monitoring,
33 or the area of restriction set forth in a sentencing order, except for leav-
34 ing the area of restriction for the purpose of obtaining emergency medical
35 care. A person may not be charged with the crime of escape for leaving the
36 aforementioned area of restriction unless the person was notified in writ-
37 ing by the court at the time of setting of bail, release or sentencing of the
38 consequences of violating this section by intentionally leaving the area of
39 restriction.

40 (2) Any person who is charged with, found to have committed, adjudi-
41 cated for or is on probation for an offense which would be a felony if com-
42 mitted by an adult, and who is confined in a juvenile detention facility or
43 other secure or nonsecure facility for juveniles and who escapes or attempts
44 to escape from the facility or from the lawful custody of any officer or per-
45 son shall be subject to proceedings under chapter 5, title 20, Idaho Code,
46 for an offense which would be a felony if committed by an adult. If the juve-
47 nile is or has been proceeded against as an adult, pursuant to section 20-508
48 or 20-509, Idaho Code, or was eighteen (18) years of age or older at the time

1 of the escape or attempted escape, the person shall be guilty of a felony for
2 a violation of this section and shall be subject to adult criminal proceed-
3 ings.

4 SECTION 20. That Section 18-2507, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 18-2507. EXPENSE OF PROSECUTION -- HOW PAID. (1) Whenever a person is
7 prosecuted under any of the provisions of section 18-2505, Idaho Code, and
8 whenever a prisoner in the custody of the board of correction housed in a
9 state correctional facility, as defined in section ~~18-101A~~ 20-101, Idaho
10 Code, shall be prosecuted for any crime committed therein, the clerk of the
11 district court shall make out a statement of all the costs incurred by the
12 county for the prosecution of such case, and for the guarding and keeping
13 of such prisoner, and when certified by the judge who tried the case, such
14 statement shall be submitted to and reviewed by the board of examiners. If
15 approved, the board of examiners shall submit the claim to the Idaho depart-
16 ment of correction who shall pay the claim to the treasurer of the county
17 where the trial was conducted. The provisions of this section shall apply
18 to prosecution of a prisoner in the custody of the board of correction and
19 housed in a private correctional facility unless otherwise provided for in
20 any contract between the state of Idaho and the private prison contractor
21 entered into pursuant to chapter 2, title 20, Idaho Code.

22 (2) Costs of prosecution of all other prisoners housed in a private cor-
23 rectional facility shall be recoverable from the private prison contractor,
24 as provided in section 20-809, Idaho Code.

25 SECTION 21. That Section 18-2510, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 18-2510. POSSESSION, INTRODUCTION OR REMOVAL OF CERTAIN ARTICLES INTO
28 OR FROM CORRECTIONAL FACILITIES. (1) No person including a prisoner, except
29 as authorized by law or with permission of the facility head, shall know-
30 ingly:

31 (a) Introduce, or attempt to introduce, contraband into a correctional
32 facility or the grounds of a correctional facility; or

33 (b) Convey, or attempt to convey, contraband to a prisoner confined in a
34 correctional facility; or

35 (c) Possess, or attempt to possess, contraband within a correctional
36 facility; or

37 (d) Receive, obtain or remove, or attempt to receive, obtain or remove,
38 contraband from a correctional facility.

39 (2) Any person including a prisoner who violates any provision of sub-
40 section (1) of this section shall be guilty of a misdemeanor and on convic-
41 tion thereof shall be punished by imprisonment in the county jail for a pe-
42 riod not exceeding one (1) year or by a fine not exceeding one thousand dol-
43 lars (\$1,000), or by both such imprisonment and fine.

44 (3) No person including a prisoner, except as authorized by law or with
45 permission of the facility head, shall knowingly:

46 (a) Introduce, or attempt to introduce, major contraband into a correc-
47 tional facility or the grounds of a correctional facility; or

1 (b) Convey, or attempt to convey, major contraband to a prisoner con-
2 fined in a correctional facility; or

3 (c) Possess, or attempt to possess, major contraband within a correc-
4 tional facility; or

5 (d) Receive, obtain or remove, or attempt to receive, obtain or remove,
6 major contraband from a correctional facility.

7 (4) Any person including a prisoner who violates any provision of
8 subsection (3) of this section shall be guilty of a felony and on convic-
9 tion shall be punished by imprisonment in the state prison for a period not
10 exceeding five (5) years or by a fine not exceeding ten thousand dollars
11 (\$10,000), or by both such imprisonment and fine.

12 (5) As used in this section:

13 (a) "Contraband" means any article or thing that a prisoner confined in
14 a correctional facility is prohibited by statute, rule or policy from
15 obtaining or possessing and the use of which could endanger the safety
16 or security of the correctional facility, any person therein or the pub-
17 lic.

18 (b) "Correctional facility" means a correctional facility as defined
19 in section ~~18-101A~~ 20-101, Idaho Code.

20 (c) "Major contraband" means:

21 (i) Any controlled substance as defined in section 37-2701(e),
22 Idaho Code;

23 (ii) Any tobacco product in excess of three (3) ounces;

24 (iii) Any firearm or dangerous weapon including explosives or com-
25 bustibles or any plans or materials that may be used in the making
26 or manufacturing of such weapons, explosives or devices;

27 (iv) Any telecommunication equipment or component hardware in-
28 cluding, but not limited to, any device carried, worn or stored
29 that is designed or intended to receive or transmit verbal or writ-
30 ten messages, access or store data or connect electronically to
31 the internet or any other electronic device that allows communi-
32 cations in any form. Such devices include, but are not limited to,
33 cellular telephones, portable two-way pagers, hand-held radios,
34 global position satellite system equipment, subscriber identity
35 module (SIM) cards, portable memory chips, batteries, chargers,
36 blackberry-type devices or smart phones, personal digital assis-
37 tants or PDA's and laptop computers. The term also includes any
38 new technology that is developed for similar purposes. Excluded
39 from this definition is any device having communication capabili-
40 ties that has been approved by the facility head for investigative
41 or institutional security purposes or for conducting other offi-
42 cial business;

43 (v) Any object or instrument intended or reasonably likely to
44 be used in the planning or aiding in an escape or attempted escape
45 from a correctional facility.

46 (d) "Prisoner" means a prisoner or a juvenile offender as those terms
47 are defined in section ~~18-101A~~ 20-101, Idaho Code.

48 SECTION 22. That Section 18-6110, Idaho Code, be, and the same is hereby
49 amended to read as follows:

1 18-6110. SEXUAL CONTACT WITH A PRISONER. (1) It is a felony for any em-
2 ployee of the Idaho department of correction, Idaho department of juvenile
3 corrections or any officer, employee or agent of a state, local or private
4 correctional facility, as those terms are defined in section ~~18-101A~~ 20-101,
5 Idaho Code, to have sexual contact with a prisoner or juvenile offender, not
6 their spouse, whether an in-state or out-of-state prisoner or juvenile of-
7 fender, as those terms are defined in section ~~18-101A~~ 20-101, Idaho Code.

8 (2) It is a felony for any supervising officer, as that term is defined
9 in section ~~18-101A~~ 20-101, Idaho Code, to knowingly have sexual contact with
10 any parolee or probationer, as those terms are defined in section ~~18-101A~~
11 20-101, Idaho Code, who is not the person's spouse.

12 (3) For the purposes of this section "sexual contact" means sexual in-
13 tercourse, genital-genital contact, manual-anal contact, manual-genital
14 contact, oral-genital contact, anal-genital contact or oral-anal contact,
15 between persons of the same or opposite sex.

16 (4) Any person found guilty of sexual contact with a prisoner or juve-
17 nile offender is punishable by imprisonment in the state prison for a term
18 not to exceed life.

19 SECTION 23. That Section 20-237B, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 20-237B. MEDICAL COSTS OF STATE PRISONERS HOUSED IN CORRECTIONAL
22 FACILITIES. (1) The state board of correction or any privatized medical
23 provider under contract with the department of correction shall pay to a
24 provider of a medical service, other than hospital inpatient or outpatient
25 services, for any and all prisoners, committed to the custody of the de-
26 partment of correction, confined in a correctional facility, as defined in
27 section ~~18-101A(1)~~ 20-101, Idaho Code, an amount equal to the reimbursement
28 rates of the Idaho medicaid reimbursement fee schedule in place at the time
29 services are provided. Hospitals shall be paid for inpatient and outpa-
30 tient facility services provided to such prisoners in an amount equal to
31 the interim Idaho medicaid rates in place at the time of service except for
32 outpatient services paid by Idaho medicaid according to the Idaho medicaid
33 fee schedule. These limitations apply to all medical care services provided
34 outside the facility, including inpatient and outpatient hospitalizations,
35 emergency services, professional services, durable and nondurable goods,
36 prescription drugs and medications provided to any and all prisoners con-
37 fined in a correctional facility, as defined in section ~~18-101A(1)~~ 20-101,
38 Idaho Code. For services that are not included in the Idaho medicaid fee
39 schedule or the interim Idaho medicaid rates, the state board of correc-
40 tion or any privatized medical provider under contract with the department
41 of correction shall pay the reasonable value of such service. If a priva-
42 tized medical provider is contracted with the department of correction,
43 no hospital or any medical services provider shall be required to provide
44 medical services to prisoners, except for emergency hospital services, in
45 the absence of a contract between the privatized medical provider and the
46 hospital or medical services provider. Any contract between the department
47 of correction and a privatized medical provider must contain a requirement
48 that the privatized medical provider enter into contracts with each hospi-
49 tal providing non-emergency services outside of the correctional facility.

1 The contract between the privatized medical provider and the department of
 2 correction shall require, and the contracts between the privatized medical
 3 provider and any hospital or non-hospital providers shall include, at least
 4 the following terms reasonably and practicably consistent with those used by
 5 Idaho medicaid:

- 6 (a) Claims adjudication processing;
- 7 (b) Timing;
- 8 (c) Payment;
- 9 (d) Authorizations;
- 10 (e) Utilization review;
- 11 (f) Audit; and
- 12 (g) Appeals processes.

13 (2) Subsection (1) of this section shall apply only to companies,
 14 professional associations and other health care service entities whose ser-
 15 vices are billed directly to the department of correction or any privatized
 16 medical provider under contract with the department of correction. Subsec-
 17 tion (1) of this section shall not apply to:

- 18 (a) Privatized correctional medical providers under contract with the
 19 department of correction to provide health care to prison inmates;
- 20 (b) Private prison companies;
- 21 (c) Out-of-state correctional facilities contracting with the depart-
 22 ment of correction to house prisoners;
- 23 (d) County jails; and
- 24 (e) Companies, professional associations and other health care service
 25 entities whose services are provided within the terms of agreements
 26 with privatized correctional medical providers under contract with
 27 private prison companies and county jails.

28 SECTION 24. That Section 31-3220A, Idaho Code, be, and the same is
 29 hereby amended to read as follows:

30 31-3220A. PRISONER PAYMENT OF FEES AT TIME OF FILING OF ACTION -- PAR-
 31 TIAL PAYMENT OF FEES -- DISMISSAL OF ACTION. (1) For the purposes of this sec-
 32 tion, the following definitions shall apply:

- 33 (a) "Action" means a civil suit, action, proceeding, or appeal of
 34 any such action, including habeas corpus, but excluding proceedings
 35 brought pursuant to chapter 49, title 19, Idaho Code.
- 36 (b) "Inmate account" means an account managed by officials of state,
 37 local or private correctional facilities, as defined in section ~~18-101A~~
 38 20-101, Idaho Code, to which the prisoner has access to purchase per-
 39 sonal property from the correctional facility's commissary in addition
 40 to property and supplies provided by the county, state or private cor-
 41 rectional facility to meet the prisoner's basic needs.
- 42 (c) "Prisoner" shall have the meaning provided in section ~~18-101A~~
 43 20-101, Idaho Code.

44 (2) A prisoner who seeks to file an action with partial payment of court
 45 fees required in sections 31-3201 and 31-3201A, Idaho Code, shall file the
 46 following at the time of filing of an action:

- 47 (a) A motion to proceed on partial payment of court fees under this sec-
 48 tion;

1 (b) An affidavit of inability to pay all court fees at the time of filing
2 the action, containing complete information as to:

- 3 (i) The prisoner's identity;
4 (ii) The nature and amount of the prisoner's income;
5 (iii) The prisoner's spouse's income;
6 (iv) The real and personal property owned;
7 (v) His cash or checking accounts;
8 (vi) His dependents;
9 (vii) His debts;
10 (viii) His monthly expenses;
11 (ix) The nature of the action;
12 (x) The affiant's belief that he is entitled to redress;

13 The affidavit shall also contain the following statements: "I am unable
14 to pay all court costs at the time of filing the action. I verify that
15 the statements made in this affidavit are true and correct." The affi-
16 davit shall be sworn as required by law; and

17 (c) A certified copy of his inmate account that reflects the activity of
18 his account over his period of incarceration or for twelve (12) months,
19 whichever is less. The copy of the prisoner's inmate account shall be
20 certified by a custodian of inmate accounts of the office of the county
21 sheriff, the department of correction, or the private correctional fa-
22 cility.

23 Upon filing of the action and motion to proceed under this section, the pris-
24 oner shall also serve a copy of each document filed in compliance with this
25 subsection upon counsel for the county sheriff, the department of correc-
26 tion, or the private correctional facility.

27 (3) Upon review of the information provided and considering the pris-
28 oner's ability to pay all court fees at the time of filing the action, the
29 court shall order the prisoner to pay all or part of the court fees as set
30 forth in sections 31-3201 and 31-3201A, Idaho Code.

31 (4) If the court permits the prisoner's action to proceed on partial
32 payment of court fees, the court shall assess and, when funds exist, col-
33 lect a partial payment of any court fees as set forth in sections 31-3201 and
34 31-3201A, Idaho Code, an initial partial filing fee of twenty percent (20%)
35 of the greater of:

- 36 (a) The average monthly deposits to the prisoner's inmate account; or
37 (b) The average monthly balance for the six (6) month period immedi-
38 ately preceding the filing of the action.

39 (5) After payment of the initial partial filing fee, the prisoner shall
40 be required to make monthly payments of twenty percent (20%) of the pre-
41 ceding month's income credited to the prisoner's inmate account until the
42 full amount of all applicable court fees set forth in sections 31-3201 and
43 31-3201A, Idaho Code, are paid. The agency or entity having custody of the
44 prisoner shall forward payments from the prisoner's inmate account to the
45 clerk of the court each time the amount in the prisoner's inmate account ex-
46 ceeds ten dollars (\$10.00) until the full amount of all applicable court fees
47 set forth in sections 31-3201 and 31-3201A, Idaho Code, are paid.

48 (6) In no event shall the court fees collected exceed the amount of fees
49 permitted by statute for the commencement of an action.

1 (7) In no event shall a prisoner be prohibited from bringing an action
2 for the reason that the prisoner has no assets and no means by which to pay the
3 initial partial filing fee.

4 (8) The court may dismiss an action filed under this section, in whole
5 or in part, on its own motion or by motion of a party, upon a finding that:

6 (a) The prisoner has failed to pay the court fees under subsection (3)
7 of this section within thirty (30) days of the entry of the order for
8 court fees, or any time thereafter; or

9 (b) Any allegation in the prisoner's affidavit filed under this section
10 is false.

11 (9) If the action or any part of it is dismissed without prejudice under
12 subsection (8) of this section, and the prisoner refiles the action, the fol-
13 lowing shall apply:

14 (a) The requirements under this section must be met again in their en-
15 tirety; and

16 (b) No amount paid for court fees in any previously filed action, or any
17 part thereof, shall be credited to the court fees required under sec-
18 tions 31-3201 and 31-3201A, Idaho Code.

19 (10) The court may refuse further filings under this section until the
20 order for court fees has been satisfied in any previous action filed under
21 this section.

22 (11) The office of the attorney general, the county prosecutor, or other
23 counsel for the defendant or respondent, is authorized to receive informa-
24 tion from the county sheriff, department of correction, or private correc-
25 tional facility in order to verify the financial information submitted by a
26 prisoner pursuant to this section.

27 (12) The court may request an official or officials of the county jail,
28 department of correction, or private correctional facility to file an affi-
29 davit concerning the allegations in the prisoner's affidavit or concerning
30 the merits of the action prior to determination whether to proceed under this
31 section.

32 (13) The court may require the prisoner to file an affidavit that the
33 claim has not been previously brought against the same parties or from the
34 same operative facts in any state or federal court.

35 (14) The court may dismiss an action or a portion of the action under
36 this section, before or after service, on its own motion or by motion of a
37 party, upon a finding that:

38 (a) Any allegation in the affidavit or the action is false;

39 (b) The action is frivolous;

40 (c) The action is malicious; or

41 (d) The action fails to state a claim upon which relief can be granted.

42 (15) If a portion of the action is dismissed, the court's order dismiss-
43 ing the action shall also designate the issues and the defendant or respon-
44 dent upon which the action is to proceed.

45 (16) The court shall award reasonable costs and attorney's fees to the
46 defendant or respondent if the court finds that:

47 (a) Any allegation in the prisoner's affidavit is false;

48 (b) The action or any part of the action is frivolous or malicious; or

49 (c) The action or any part of the action is dismissed for failure to
50 state a claim upon which relief can be granted.

1 (17) Orders entered under this section are not subject to interlocutory
2 appeal.

3 (18) Nothing in this section shall prevent a prisoner from authorizing
4 payment beyond that required under the order for filing fees.

5 (19) If the court authorizes the commencement of the action or any part
6 of the action without payment of fees upon a finding that the prisoner is un-
7 able to pay all court fees at the time of filing the action, and the court
8 later finds that a prisoner is then able to pay all court fees, the court
9 shall order the prisoner to pay all unpaid court fees within two (2) busi-
10 ness days and enter an order for court fees. The court's finding under this
11 subsection may be based on information contained in affidavits or other in-
12 formation available to the court. The court shall dismiss the action if the
13 prisoner fails to comply with an order entered under this subsection.

14 (20) If the action or any part of it is dismissed without prejudice un-
15 der subsection (19) of this section, and the prisoner refiles the action, the
16 following shall apply:

17 (a) The requirements under this section must be met again in their en-
18 tirety; and

19 (b) No amount paid for court fees in any previously filed action, or any
20 part thereof, shall be credited to the court fees required under sec-
21 tions 31-3201 and 31-3201A, Idaho Code.

22 (21) The court may develop a form questionnaire which it may require by
23 local rule to be filed to implement this statute.

24 (22) In no way shall this section be interpreted to create a liberty
25 interest for prisoners entitling them to due process protection under the
26 Idaho constitution or the United States constitution.

27 SECTION 25. That Section 18-101B, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 ~~18-101B~~108. CRIMINAL LAWS APPLICABLE TO OUT-OF-STATE PRISONERS AND
30 PERSONNEL OF PRIVATE CORRECTIONAL FACILITIES. (1) An out-of-state prisoner
31 and personnel of a private prison contractor employed at a private correc-
32 tional facility in the state of Idaho shall be subject to all criminal laws of
33 the state of Idaho.

34 (2) Any offense which would be a criminal act if committed by an
35 in-state prisoner housed in a state, local or private correctional facility,
36 or in custody during transport within or through the state of Idaho, includ-
37 ing escape from such facility or during transport, and any penalty for such
38 offense, shall apply in all respects to an out-of-state prisoner.

39 (3) Any offense which would be a criminal act if committed by an offi-
40 cer, employee or agent of a state or local correctional facility, and any
41 penalty for such offense, shall apply in all respects to the officers, em-
42 ployees and agents of a private correctional facility located in the state of
43 Idaho.

44 SECTION 26. That Section 20-901, Idaho Code, be, and the same is hereby
45 repealed.

46 SECTION 27. That Section 20-903, Idaho Code, be, and the same is hereby
47 repealed.

1 SECTION 28. That Section 20-902, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 ~~20-902102. RESTRICTIONS ON RESTRAINT OF PREGNANT PRISONERS -- EXTRA-~~
4 ~~ORDINARY CIRCUMSTANCE LIMITATION ON USE OF RESTRAINTS ON PREGNANT PRISON-~~
5 ~~ERS.~~ (1) A correctional institution facility shall not use restraints of any
6 kind on a prisoner known to be pregnant during labor and delivery, except as
7 provided in subsection (2) of this section.

8 (2) In an extraordinary circumstance, where a corrections official
9 makes an individualized determination that restraints are necessary to
10 prevent a prisoner from escaping or from injuring herself or medical or cor-
11 rectional personnel, such a prisoner or detainee may be restrained, provided
12 that:

13 (a) If the doctor, nurse or other health professional treating the
14 prisoner requests that restraints not be used, the corrections officer
15 accompanying the prisoner shall immediately remove all restraints; and

16 (b) Under no circumstances shall leg or waist restraints be used on any
17 prisoner during labor or delivery.

18 (3) If restraints are used on a prisoner pursuant to subsection (2) of
19 this section:

20 (a) Both the type of restraint applied and the application of the re-
21 straint must be done in the least restrictive manner necessary; and

22 (b) The corrections official shall make written findings within ten
23 (10) days as to the extraordinary circumstance that dictated the use of
24 the restraints. As part of this documentation, the corrections offi-
25 cial must also include the kind of restraints used and the reasons those
26 restraints were considered the least restrictive available and the most
27 reasonable under the circumstances. These findings shall be kept on
28 file by the institution facility for at least five (5) years and be made
29 available for public inspection, except that no information identify-
30 ing any individual prisoner or detainee shall be made public under the
31 provisions of this section without the prisoner or detainee's prior
32 written consent.

33 (4) Correctional facilities shall inform prisoners of the provisions
34 of this section upon admission to the correctional facility.

35 (5) As used in this section:

36 (a) "Corrections official" means the official designated as responsi-
37 ble for oversight of a correctional facility or his designee.

38 (b) "Extraordinary circumstance" means a substantial flight risk or
39 some other extraordinary medical or security circumstance that dic-
40 tates restraints be used to ensure the safety and security of the
41 prisoner or detainee, the staff of the correctional facility or medical
42 facility, other prisoners or detainees, or the public.

43 (c) "Labor" means the period of time before a birth during which con-
44 tractions are of sufficient frequency, intensity, and duration to bring
45 about effacement and progressive dilation of the cervix.

46 (d) "Restraints" means any physical restraint or mechanical device
47 used to control the movement of a prisoner's or detainee's body or
48 limbs.

1 SECTION 29. That Section 20-201, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 20-201. DEPARTMENT OF CORRECTION CREATED. There is hereby created the
4 department of correction, which shall consist of the state board of cor-
5 rection and the ~~Idaho commission of pardons and parole~~ division of public
6 safety. The department of correction shall, for the purposes of section
7 20, article IV, of the constitution of the state of Idaho, be an executive
8 department of state government. ~~The Idaho commission of pardons and parole~~
9 ~~will operate and function as outlined in chapter 10, title 20, Idaho Code,~~
10 ~~and as otherwise provided by law.~~

11 SECTION 30. That the Heading for Chapter 9, Title 20, Idaho Code, be,
12 and the same is hereby amended to read as follows:

13 CHAPTER 9
14 RESTRAINT OF PREGNANT PRISONERS DIVISION OF PUBLIC SAFETY

15 SECTION 31. That Chapter 9, Title 20, Idaho Code, be, and the same is
16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
17 ignated as Section 20-901, Idaho Code, and to read as follows:

18 20-901. ESTABLISHMENT OF THE DIVISION OF PUBLIC SAFETY. There is
19 hereby created within the department of correction the division of public
20 safety that shall consist of the Idaho commission of pardons and parole and
21 the bureau of victim services and justice assistance.

22 SECTION 32. That Chapter 9, Title 20, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 20-902, Idaho Code, and to read as follows:

25 20-902. AUTHORITIES AND DUTIES OF THE DIVISION OF PUBLIC SAFETY. It
26 shall be the duty of the division of public safety to administer the provi-
27 sions of this chapter and other duties provided in law.

28 SECTION 33. That Chapter 9, Title 20, Idaho Code, be, and the same is
29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
30 ignated as Section 20-903, Idaho Code, and to read as follows:

31 20-903. SELECTION OF ADMINISTRATOR AND DUTIES. (1) An administrator
32 of the division of public safety shall be appointed by the governor, shall be
33 subject to confirmation by the senate, and shall serve at the pleasure of the
34 governor. The administrator shall be compensated as determined by the gov-
35 ernor. The administrator shall have the duty, power, and authority to employ
36 such persons, make such expenditures, require such reports, make investiga-
37 tions, and to take such other lawful actions as deemed necessary or suitable
38 for carrying out the provisions of this chapter.

39 (2) The administrator shall also serve as the ex officio executive di-
40 rector of the Idaho commission of pardons and parole.

41 SECTION 34. That Section 20-1001, Idaho Code, be, and the same is hereby
42 amended to read as follows:

1 20-1001. DEFINITIONS. As used in this chapter, unless the context
2 clearly indicates or requires otherwise, the following terms shall be de-
3 fined as follows:

4 (1) "Board" means the state board of correction.

5 (2) "Commission" means the Idaho commission of pardons and parole.

6 (3) "Executive director" means the administrator of the division of
7 public safety who serves as the ex officio executive director of the commis-
8 sion.

9 SECTION 35. That Section 20-1002, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 20-1002. COMMISSION CREATED -- APPOINTMENT -- QUALIFICATIONS -- TERMS
12 -- MEETINGS -- COMPENSATION -- EXECUTIVE DIRECTOR AND STAFF. (1) The gover-
13 nor shall appoint a commission, each member of which shall be subject to the
14 advice and consent of the senate, which shall succeed to and have all rights,
15 powers and authority of said board of pardons as are granted and provided by
16 the provisions of the constitution of the state of Idaho.

17 (2) The commission shall be composed of seven (7) members. The members
18 shall serve at the pleasure of the governor and not more than four (4) members
19 shall be from any one (1) political party.

20 (3) Terms on the commission shall be for three (3) years, and vacancies
21 in the commission for unexpired terms shall be by appointment by the governor
22 for the remainder of the term and all appointees may be reappointed.

23 (4) The commission and the board may meet as necessary to exchange such
24 information to enable each to effectively carry out their respective duties.

25 (5) The commission shall meet at such times and places as determined to
26 be necessary and convenient, or at the call of the executive director, and in
27 any event no less than quarterly.

28 (6) Two (2) commissioners may meet to make decisions on the disposition
29 of parole violations. Such decisions must be unanimous, and in the event
30 they are not unanimous, then the parole violation disposition decision will
31 be made by a majority of the full commission either at the next quarterly
32 meeting or special meeting.

33 (7) Three (3) commissioners may meet to make decisions to grant or deny
34 parole. Such decisions must be unanimous, and in the event they are not unan-
35 imous, then the decision to grant or deny parole will be made by a majority of
36 the full commission at the next quarterly meeting.

37 (8) Commissioners shall be compensated as provided by section
38 59-509(i), Idaho Code, when attending quarterly meetings conducted at a
39 date and time separate from a hearing session or other meetings approved by
40 the executive director. Commissioners shall receive compensation of three
41 hundred dollars (\$300) per commissioner per day when conducting parole, com-
42 mutation, pardon, revocation or other hearings and shall be reimbursed for
43 actual and necessary expenses subject to the limitations provided in section
44 67-2008, Idaho Code.

45 (9) ~~The governor shall appoint administrator of the division of public~~
46 ~~safety shall serve as the ex officio executive director for the commission.~~
47 ~~The executive director shall be the full-time employee who shall report to,~~
48 ~~serve at the pleasure of, and be compensated as determined by the governor.~~
49 The executive director shall be the official representative for the commis-

1 sion, shall be responsible for the managing and administration of daily com-
 2 mission business and shall schedule hearing sessions at times convenient to
 3 the commissioners. For each scheduled session, the executive director shall
 4 designate one (1) of the commissioners as the presiding officer for conduct-
 5 ing the hearings. The executive director may hire such staff and employees
 6 as are approved by the governor. The executive director shall also have such
 7 other duties and responsibilities as the governor shall assign.

8 SECTION 36. That Section 6-904B, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 6-904B. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity
 11 and its employees while acting within the course and scope of their employ-
 12 ment and without malice or criminal intent and without gross negligence or
 13 reckless, willful and wanton conduct as defined in section 6-904C, Idaho
 14 Code, shall not be liable for any claim ~~which~~ that:

15 ~~1. (1)~~ Arises out of the detention of any goods or merchandise by any
 16 law enforcement officer ~~;~~ ;

17 ~~2. (2)~~ Arises out of the cancellation or rescission, or the failure
 18 to cancel or rescind, any motor vehicle registration and license plates for
 19 failure of the owner to verify or maintain motor vehicle liability insurance
 20 coverage ~~;~~ ;

21 ~~3. (3)~~ Arises out of the issuance, denial, suspension or revocation of,
 22 or failure or refusal to issue, deny, suspend, or revoke a permit, license,
 23 certificate, approval, order or similar authorization ~~;~~ ;

24 ~~4. (4)~~ Arises out of the failure to make an inspection, or the making
 25 of an inadequate inspection of any property, real or personal, other than the
 26 property of the governmental entity performing the inspection ~~;~~ ;

27 ~~5. (5)~~ Arises out of any act or omission providing or failing to provide
 28 medical care to a prisoner or person in the custody of any city, county or
 29 state jail, detention center or correctional facility ~~;~~ ;

30 ~~6. (6)~~ Arises out of a decision of the ~~state~~ Idaho commission of pardons
 31 and parole or its executive director when carrying out the business of the
 32 commission ~~pursuant to chapter 10, title 20, Idaho Code;~~ ;

33 ~~7. (7)~~ Arises out of a decision, act or omission of a city, county, the
 34 Idaho board of correction or Idaho department of correction when carrying
 35 out duties and responsibilities as set forth in chapter 8, title 20, Idaho
 36 Code ~~;~~ or

37 ~~8. (8)~~ Arises out of the operation of a sport shooting range as defined
 38 in section 6-2701, Idaho Code.

39 SECTION 37. That Section 59-904, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All
 42 vacancies in any state office, and in the supreme and district courts, unless
 43 otherwise provided for by law, shall be filled by appointment by the gover-
 44 nor. Appointments to fill vacancies pursuant to this section shall be made
 45 as provided in subsections (b), (c), (d), (e), (f) and (g) of this section,
 46 subject to the limitations prescribed in those subsections.

1 (b) Nominations and appointments to fill vacancies occurring in the of-
 2 fice of lieutenant governor, state controller, state treasurer, superinten-
 3 dent of public instruction, attorney general and secretary of state shall be
 4 made by the governor, subject to the advice and consent of the senate, for
 5 the balance of the term of office to which the predecessor of the person ap-
 6 pointed was elected.

7 (c) Nominations and appointments to and vacancies in the following
 8 listed offices shall be made or filled by the governor subject to the advice
 9 and consent of the senate for the terms prescribed by law, or in case such
 10 terms are not prescribed by law, then to serve at the pleasure of the gover-
 11 nor:

12 Director of the department of administration,
 13 Director of the department of finance,
 14 Director of the department of insurance,
 15 Director, department of agriculture,
 16 Director of the department of water resources,
 17 Director of the Idaho state police,
 18 Director of the department of commerce,
 19 Director of the department of labor,
 20 Director of the department of environmental quality,
 21 Director of the department of juvenile corrections,
 22 ~~Executive director of the commission of pardons and parole,~~
 23 The state historic preservation officer,
 24 The administrator of the division of human resources,
 25 The administrator of the division of public safety,
 26 Member of the state tax commission,
 27 Members of the board of regents of the university of Idaho and the state
 28 board of education,
 29 Members of the Idaho water resource board,
 30 Members of the state fish and game commission,
 31 Members of the Idaho transportation board,
 32 Voting members of the state board of health and welfare,
 33 Members of the board of environmental quality,
 34 Members of the board of directors of state parks and recreation,
 35 Members of the board of correction,
 36 Members of the industrial commission,
 37 Members of the Idaho public utilities commission,
 38 Members of the Idaho personnel commission,
 39 Members of the board of directors of the Idaho state retirement system,
 40 Members of the board of directors of the state insurance fund,
 41 Members of the Idaho commission of pardons and parole.

42 (d) Appointments made by the state board of land commissioners to the
 43 office of director, department of lands, and appointments to fill vacancies
 44 occurring in those offices shall be submitted by the president of the state
 45 board of land commissioners to the senate for the advice and consent of the
 46 senate in accordance with the procedure prescribed in this section.

47 (e) Appointments made pursuant to this section while the senate is in
 48 session shall be submitted along with the letter of appointment to the sen-
 49 ate forthwith for the advice and consent of that body. Appointments made
 50 pursuant to this section while the senate is not in session shall be submit-

1 ted along with the letter of appointment to the senate pursuant to section
2 67-803, Idaho Code. Should the senate adjourn without granting its consent
3 to an appointment the appointment shall thereupon become void and a vacancy
4 in the office to which the appointment was made shall exist, and the office
5 shall be deemed vacant upon the date of adjournment. It is the duty of the ap-
6 pointing authority to supply the senate with the letter of appointment. The
7 appointee shall supply the senate with the documentation it requests.

8 All appointments made pursuant to subsection (c) of this section, ex-
9 cept those appointments for which a term of office is fixed by law, shall ter-
10minate at the expiration of any gubernatorial term. Appointments to fill the
11 vacancies thus created by the expiration of the term of office of the gover-
12nor shall be forthwith submitted to the senate for the advice and consent of
13that body, and when so submitted shall be as expeditiously considered as pos-
14sible.

15 Upon receipt of an appointment along with the letter of appointment in
16the senate for the purpose of securing the advice and consent of the sen-
17ate, the appointment shall be referred by the presiding officer to the appro-
18priate committee of the senate for consideration and report prior to action
19thereon by the full senate.

20 (f) Excepting the appointments made pursuant to subsection (c) of this
21section, whenever an appointee's term has expired as prescribed by law,
22the governor or the authorized appointing authority must fill the position
23within twelve (12) months of the expiration of the term. However, an of-
24fice will be vacant if the governor or the authorized appointing authority:
25(i) fails to timely appoint a qualified person at the earlier of the time
26required by law or required in this subsection; or (ii) fails to provide
27the senate with an appropriate letter or document of appointment by the
28thirty-sixth legislative day of the subsequent legislative session. All
29letters or documents of appointment must, as reasonably possible, accompany
30the additional documentation required by the senate. At the request of the
31secretary of the senate, the governor or the authorized appointing authority
32must provide the additional documentation.

33 (g) It is the intent of the legislature that the provisions of this sec-
34tion as amended by this chapter shall not apply to appointments which have
35been made prior to the effective date of this chapter. It is the further in-
36tent of the legislature that the provisions of this section shall apply to
37the offices listed in this section and to any office created by law or exec-
38utive order which succeeds to the powers, duties, responsibilities and au-
39thorities of any of the offices listed in subsections (c) and (d) of this sec-
40tion.

41 SECTION 38. That Section 39-5201, Idaho Code, be, and the same is hereby
42amended to read as follows:

43 ~~39-5201~~ 20-904. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
44 DECLARATION OF POLICY. (1) The legislature finds that domestic violence is
45an issue of growing concern. Research findings show that domestic violence
46constitutes a significant percentage of homicides, aggravated assaults, and
47assaults and batteries in the United States. Domestic violence is a disrupt-
48tive influence on personal and community life and is often interrelated with
49a number of other family problems and stresses. Refuge for victims of do-

1 mestic violence is essential to provide protection to victims from further
2 abuse and physical harm. Refuge provides temporary safety and resources to
3 victims who may not have access to such things if they remain in abusive situ-
4 ations.

5 (2) It is the purpose of the legislature in the adoption of ~~this chapter~~
6 sections 20-905 through 20-916, Idaho Code, to provide funding for projects
7 in the several areas of the state for the purpose of aiding victims of domes-
8 tic violence and other crimes.

9 (3) ~~It is understood that the intention of the provisions of this chap-~~
10 ~~ter is the intent of the legislature that the provisions of sections 20-905~~
11 through 20-916, Idaho Code, not be interpreted to supersede the authority or
12 responsibilities of agencies of state government responsible for providing
13 services to persons pursuant to the child protective act, crime victims com-
14 pensation act or adult protective provisions in the Idaho Code.

15 SECTION 39. That Section 39-5202, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 ~~39-5202~~ 20-905. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
18 DEFINITIONS. As used in ~~this chapter~~ sections 20-904 through 20-916, Idaho
19 Code:

20 (1) "Domestic violence" means the physical injury, sexual abuse or
21 forced imprisonment or threat thereof of a family or household member.

22 (2) "Family or household member" means one who is related by blood, mar-
23 riage, or who resides or has resided with or has been married to the person
24 committing the domestic violence.

25 (3) "Safe house" means a place available on an as needed basis for tem-
26 porary residence to victims of domestic violence and their children.

27 (4) "Refuge" means a place available on a twenty-four (24) hour, seven
28 (7) days a week basis, to provide temporary residence to victims of domestic
29 violence and their children.

30 (5) "Crisis line" means an emergency twenty-four (24) hour telephone
31 service staffed by persons able to provide information and referral to com-
32 munity services.

33 (6) "Council" means the Idaho council on domestic violence and victim
34 assistance created in section ~~39-5203~~ 20-906, Idaho Code.

35 SECTION 40. That Section 39-5203, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 ~~39-5203~~ 20-906. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
38 COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE. (1) The Idaho council on
39 domestic violence and victim assistance is hereby established. The council
40 shall be the advisory body for programs and services affecting victims of do-
41 mestic violence and other crimes in Idaho.

42 (2) For budgetary purposes and for administrative support purposes,
43 the council shall be assigned, ~~by the governor, to a department or office~~
44 within the state government to the division of public safety.

45 SECTION 41. That Section 39-5204, Idaho Code, be, and the same is hereby
46 amended to read as follows:

1 ~~39-5204~~ 20-907. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE
 2 -- COMPOSITION OF COUNCIL. The council shall consist of seven (7) members
 3 appointed by the governor. At least one (1) member shall reside in each of
 4 the substate regions established pursuant to section 39-104, Idaho Code.
 5 Members shall represent persons who are victims of domestic violence, care
 6 providers, law enforcement officials, medical and mental health personnel,
 7 counselors, and interested and concerned members of the general public.

8 SECTION 42. That Section 39-5205, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 ~~39-5205~~ 20-908. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE
 11 -- APPOINTMENT AND TERM OF OFFICE. Each member of the council shall be
 12 appointed for a term of three (3) years, except that of the members first ap-
 13 pointed; two (2) shall be appointed for a term of one (1) year, two (2) shall
 14 be appointed for a term of two (2) years, and three (3) shall be appointed
 15 for a term of three (3) years. If a vacancy occurs, a new member shall be
 16 appointed in accordance with the provisions of the original appointment for
 17 the unexpired portion of the vacated term. Members may be replaced because
 18 of poor attendance, lack of participation in the council's work, or malfea-
 19 sance in office.

20 SECTION 43. That Section 39-5206, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 ~~39-5206~~ 20-909. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
 23 COMPENSATION AND EXPENSES. Members of the council shall be entitled to re-
 24 ceive actual and necessary expenses plus compensation as provided in section
 25 59-509(g), Idaho Code.

26 SECTION 44. That Section 39-5207, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 ~~39-5207~~ 20-910. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE
 29 -- ORGANIZATION OF COUNCIL -- EMPLOYMENT OF NECESSARY PERSONNEL AND EMPLOY-
 30 EES. (1) The council shall annually designate one (1) of its members to serve
 31 as chairman and one (1) member to serve as vice chairman, who shall act as
 32 chairman in the chairman's absence. The chairman shall call meetings as
 33 provided in the rules of the council.

34 (2) The council shall adopt and amend rules governing its proceedings,
 35 activities and organization including, but not limited to, provisions gov-
 36 erning a quorum, procedure, frequency and location of meetings, and estab-
 37 lishment, functions and membership of council committees.

38 (3) ~~The council may employ and shall fix the compensation, subject to~~
 39 ~~provisions of chapter 53, title 67, Idaho Code, of such personnel as may~~
 40 ~~be necessary including, but not limited to, an administrator, who shall~~
 41 ~~be designated as the~~ The administrator of the division of public safety,
 42 in consultation with the council in executive session pursuant to section
 43 74-206(1) (a), Idaho Code, shall employ a bureau chief who shall carry out the
 44 purposes of sections 20-904 through 20-916, Idaho Code, and other duties as-
 45 signed by the administrator. The bureau chief shall be the ex officio execu-

1 tive director of the council and ~~who~~, along with the division administrator,
2 shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

3 SECTION 45. That Section 39-5208, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 ~~39-5208~~ 20-911. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
6 RESPONSIBILITIES AND DUTIES. The council shall:

7 (1) Establish standards for projects applying for grants from the
8 council ~~under this chapter~~ pursuant to section 20-904 through 20-916, Idaho
9 Code;

10 (2) Disseminate information on availability of funds and the applica-
11 tion process;

12 (3) Receive grant applications for the development and establishment
13 of projects for victims of domestic violence and certain other crimes;

14 (4) Distribute funds after approval of projects meeting council stan-
15 dards;

16 (5) Assess, review and monitor the services and programs being provided
17 for victims of domestic violence and other crimes under this chapter;

18 (6) Monitor programs and services for victims of domestic violence and
19 other crimes to assure nonduplication of services and to encourage efficient
20 and coordinated use of resources in the provision of services;

21 (7) Compile data on the services and programs provided to victims of do-
22 mestic violence and other crimes and the geographic incidence of domestic
23 violence and other crimes in this state; and

24 (8) Submit annual reports to the governor and the legislature.

25 SECTION 46. That Section 39-5209, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 ~~39-5209~~ 20-912. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE
28 -- RULES. The council shall promulgate, adopt and amend rules and crite-
29 ria to implement the provisions of this chapter regarding applications and
30 grants for domestic violence project funding and for funding under any other
31 grant program administered by the council. Such promulgation, adoption and
32 amendment shall be in compliance with the provisions of chapter 52, title 67,
33 Idaho Code.

34 SECTION 47. That Section 39-5210, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 ~~39-5210~~ 20-913. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
37 ELIGIBLE PROJECTS. To be eligible for domestic violence grants pursuant to
38 this chapter from the council, a project must provide a safe house or refuge
39 and a crisis line, except in the case of a project providing services to bat-
40 terers. No funds may be granted to batterer programs from the domestic vi-
41 olence project account which are derived from marriage license or divorce
42 fees. Other services which may be provided include, but are not limited to:

43 (1) Counseling;

1 (2) Educational services for community awareness, for prevention of
2 domestic violence and for the care, treatment and rehabilitation of parties
3 to domestic violence;

4 (3) Support groups;

5 (4) Assistance in obtaining legal, medical, psychological or voca-
6 tional services.

7 SECTION 48. That Section 39-5211, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 ~~39-5211~~ 20-914. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
10 QUALIFICATIONS OF APPLICANTS. To qualify for domestic violence grants ~~under~~
11 ~~the provisions of this chapter from the council~~, an applicant must:

12 (1) Propose to operate and provide an eligible project;

13 (2) Be a private, nonprofit corporation of the state of Idaho, or a pub-
14 lic entity of the state of Idaho;

15 (3) Provide matching moneys equal to twenty-five percent (25%) of the
16 amount of the grant. The applicant may contribute to or provide the required
17 local matching funds. The value of in-kind contributions and volunteer
18 labor from the community may be computed and included as part of the local
19 matching requirement;

20 (4) Require persons employed by or volunteering services to the project
21 to maintain the confidentiality of any information that would identify in-
22 dividuals served by the project; such information identifying individuals
23 served by the project shall be subject to disclosure according to chapter 1,
24 title 74, Idaho Code;

25 (5) Require victims to reimburse the project monetarily or through vol-
26 unteer efforts for services provided as they are able to do so. Minimum re-
27 imbursement may be established by the council, with a sliding scale of reim-
28 bursement based on the victim's ability to pay;

29 (6) Provide a policy of nondiscrimination in its admissions and provi-
30 sion of services on the basis of race, religion, gender, color, age, marital
31 status, national origin or ancestry.

32 SECTION 49. That Section 39-5212, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 ~~39-5212~~ 20-915. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
35 DOMESTIC VIOLENCE PROJECT ACCOUNT. (1) There is hereby created in the state
36 operating fund the domestic violence project account. Moneys received from
37 the fees imposed by section ~~39-5213~~ 20-916, Idaho Code, and section 39-6312,
38 Idaho Code, shall be credited to the account and shall be perpetually appro-
39 priated to the council on domestic violence and victim assistance for grants
40 for domestic violence projects and to meet the costs of maintaining the oper-
41 ation of the council.

42 (2) Eligible projects shall be given priority by the council based upon
43 an allocation of funds to projects in the ~~seven~~-(7) substate regions estab-
44 lished pursuant to section 39-104, Idaho Code, in the proportion that mar-
45 riage licenses are filed in each region.

1 SECTION 50. That Section 39-5213, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 ~~39-5213~~ 20-916. BUREAU OF VICTIM SERVICES AND JUSTICE ASSISTANCE --
4 FEE IMPOSED. (1) In addition to the fee due to the county recorder of each
5 county of this state under the provisions of section 31-3205, Idaho Code, for
6 the issuance of a marriage license, the recorder shall collect upon presen-
7 tation of proper identification by the applicants an additional fee of fif-
8 teen dollars (\$15.00) for each license issued, which additional fee shall be
9 remitted to the state treasurer for credit to the "domestic violence project
10 account" created in section ~~39-5212~~ 20-915, Idaho Code.

11 (2) In addition to any other fee imposed for filing an action for di-
12 vorce in the district court, there shall be collected a fee of twenty dollars
13 (\$20.00) for each divorce action, separately identified, which additional
14 fee shall be remitted to the state treasurer for credit to the domestic vio-
15 lence project account created in section ~~39-5212~~ 20-915, Idaho Code.

16 SECTION 51. That Section 39-6302, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 39-6302. STATEMENT OF PURPOSE. (1) For purposes of this chapter, the
19 legislature adopts by reference the declaration of policy in section ~~39-5201~~
20 ~~20-904~~, Idaho Code. Additionally, the legislature finds that a significant
21 number of homicides, aggravated assaults, and assaults and batteries occur
22 within the home between adult members of families. Furthermore, research
23 shows that domestic violence is a crime which can be deterred, prevented or
24 reduced by legal intervention. Domestic violence can also be deterred, pre-
25 vented or reduced by vigorous prosecution by law enforcement agencies and
26 prosecutors and by appropriate attention and concern by the courts whenever
27 reasonable cause exists for arrest and prosecution.

28 (2) The purpose of this ~~act~~ chapter is to address domestic violence as a
29 serious crime against society and to assure the victims of domestic violence
30 the protection from abuse which the law and those who enforce the law can pro-
31 vide.

32 (3) It is the intent of the legislature to expand the ability of the
33 courts to assist victims by providing a legal means for victims of domes-
34 tic violence to seek protection orders to prevent such further incidents of
35 abuse. It is the intent of the legislature that the official response to
36 cases of domestic violence shall stress the enforcement of the laws to pro-
37 tect the victim and shall communicate the attitude that violent behavior in
38 the home is criminal behavior and will not be tolerated. It is the intent
39 of the legislature to presume the validity of protection orders issued by
40 courts in all states, the District of Columbia, United States territories
41 and all federally recognized Indian tribes within the United States, and to
42 afford full faith and credit to those orders. The provisions of this chapter
43 are to be construed liberally to promote these purposes.

44 SECTION 52. That Section 39-6312, Idaho Code, be, and the same is hereby
45 amended to read as follows:

1 39-6312. VIOLATION OF ORDER -- PENALTIES. (1) Whenever a protection
 2 order is granted and the respondent or person to be restrained had notice of
 3 the order, a violation of the provisions of the order or of a provision ex-
 4 cluding the person from a residence shall be a misdemeanor punishable by not
 5 to exceed one (1) year in jail and a fine not to exceed five thousand dol-
 6 lars (\$5,000), ten dollars (\$10.00) of which shall be deposited to the credit
 7 of the domestic violence project account created in section ~~39-5212~~ 20-915,
 8 Idaho Code.

9 (2) A peace officer may arrest without a warrant and take into custody a
 10 person whom the peace officer has probable cause to believe has violated an
 11 order, if the person restrained had notice of the order.

12 (3) The person against whom a protection order has been issued by an
 13 out-of-state court is presumed to have notice of the order if the victim
 14 presents to the officer proof of service of the order.

15 SECTION 53. That Title 20, Idaho Code, be, and the same is hereby
 16 amended by the addition thereto of a NEW CHAPTER, to be known and designated
 17 as Chapter 11, Title 20, Idaho Code, and to read as follows:

18 CHAPTER 11
 19 COMPENSATION FOR VICTIMS OF CRIME

20 SECTION 54. That Section 72-1003, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 ~~72-1003~~ 20-1101. DEFINITIONS. As used in this chapter:
 23 (1) "Claimant" means any of the following claiming compensation under
 24 this chapter:
 25 (a) A victim;
 26 (b) A dependent of a deceased victim; or
 27 (c) An authorized person acting on behalf of any of them, including par-
 28 ent(s), legal guardian(s), and sibling(s), of a victim who is a minor.
 29 (2) "Collateral source" means a source of benefits, other than welfare
 30 benefits, or advantages for economic loss otherwise compensable under this
 31 chapter which the claimant has received or which is readily available to him
 32 from:
 33 (a) The offender;
 34 (b) The government of the United States or any agency thereof, a state
 35 or any of its political subdivisions, or an instrumentality of two (2)
 36 or more states, unless the law providing for the benefits or advantages
 37 makes them excess or secondary to benefits under this chapter;
 38 (c) Social security, medicare, and medicaid;
 39 (d) Worker's compensation;
 40 (e) Wage continuation programs of any employer;
 41 (f) Proceeds of a contract of insurance payable to the claimant for loss
 42 which was sustained because of the criminally injurious conduct; or
 43 (g) A contract, including an insurance contract, providing hospital
 44 and other health care services or benefits for disability. Any such
 45 contract in this state may not provide that benefits under this chapter
 46 shall be a substitute for benefits under the contract or that the con-

1 tract is a secondary source of benefits and benefits under this chapter
2 are a primary source.

3 (3) "Commission" means the ~~industrial~~ Idaho commission of pardons and
4 parole.

5 (4) "Criminally injurious conduct" means intentional, knowing, or
6 reckless conduct that:

7 (a) Occurs or is attempted in this state or occurs outside the state of
8 Idaho against a resident of the state of Idaho and which occurred in a
9 state which does not have a crime victims compensation program for which
10 the victim is eligible as eligibility is set forth in this statute;

11 (b) Constitutes an act of terrorism as defined by 18 U.S.C. 2331, com-
12 mitted outside the United States against a resident of this state;

13 (c) Results in injury or death; and

14 (d) Is punishable by fine, imprisonment, or death or would be so punish-
15 able but for the fact that the person engaging in the conduct lacked ca-
16 pacity to commit the crime under the laws of this state. Criminally in-
17 jurious conduct does not include conduct arising out of the ownership,
18 maintenance, or use of a motor vehicle except when intended to cause
19 personal injury or death; provided that criminally injurious conduct
20 shall include violations of the provisions of section 18-4006 3(b),
21 18-8004, 18-8006, 18-8007, 67-7027, 67-7034 or 67-7035, Idaho Code.

22 (5) "Dependent" means a natural person who is recognized under the law
23 of this state to be wholly or partially dependent upon the victim for care or
24 support and includes a child if under the age of eighteen (18) years or inca-
25 pable of self-support and unmarried and includes a child of the victim con-
26 ceived before the victim's death but born after the victim's death, includ-
27 ing a child that is conceived as a result of the criminally injurious con-
28 duct.

29 (6) "Division" means the division of public safety, which shall carry
30 out the purposes of this chapter.

31 ~~(6)~~ (7) "Extenuating circumstances" means that a victim requires fur-
32 ther mental health treatment due to trauma arising out of covered criminal
33 conduct in order to perform major life functions or the activities of daily
34 living.

35 ~~(7)~~ (8) "Injury" means actual bodily harm or disfigurement and, with
36 respect to a victim, includes pregnancy, venereal disease, mental or nervous
37 shock, or extreme mental distress. For the purposes of this chapter, "ex-
38 treme mental distress" means a substantial personal disorder of emotional
39 processes, thought or cognition which impairs judgment, behavior or ability
40 to cope with the ordinary demands of life.

41 ~~(8)~~ (9) "Victim" means a person who suffers injury or death as a result
42 of:

43 (a) Criminally injurious conduct;

44 (b) His good faith effort to prevent criminally injurious conduct; or

45 (c) His good faith effort to apprehend a person reasonably suspected of
46 engaging in criminally injurious conduct.

47 ~~(9)~~ (10) "Welfare benefits" as used in subsection (2) of this section,
48 shall include sums payable to or on behalf of an indigent person under chap-
49 ter 35, title 31, Idaho Code.

1 SECTION 55. That Section 72-1004, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 ~~72-1004~~ 20-1102. POWERS AND DUTIES OF COMMISSION. (1) The commission
4 shall:

5 (a) ~~Adopt~~ Have the authority to adopt rules to implement this chapter in
6 compliance with chapter 52, title 67, Idaho Code;

7 (b) Prescribe forms for applications for compensation; and

8 (c) Determine all matters relating to claims for compensation.

9 (2) The commission may:

10 (a) Request and obtain from prosecuting attorneys and law enforcement
11 officers investigations and data to enable the commission to determine
12 whether and the extent to which a claimant qualifies for compensation.
13 A statute providing confidentiality for a claimant's juvenile court
14 records does not apply to proceedings under this chapter;

15 (b) Subpoena witnesses and other prospective evidence, administer
16 oaths or affirmations, conduct hearings, and receive relevant, non-
17 privileged evidence;

18 (c) Take notice of judicially cognizable facts and general, technical,
19 and scientific facts within its specialized knowledge;

20 (d) Require that law enforcement agencies and officials take reason-
21 able care ~~that victims be informed about the existence of this chapter~~
22 to apprise victims of their ability to seek compensation pursuant to
23 this chapter and the procedure for applying for compensation under this
24 chapter such compensation;

25 (e) Require that any person contracting directly or indirectly with an
26 individual formally charged with or convicted of a qualifying crime for
27 any rendition, interview, statement, or article relating to such crime
28 to deposit any proceeds owed to such individual under the terms of the
29 contract into an escrow fund for the benefit of any victims of the qual-
30 ifying crime or any surviving dependents of the victim, if such indi-
31 vidual is convicted of that crime, to be held for such period of time
32 as the commission may determine is reasonably necessary to perfect the
33 claims of the victims or dependents. If, after all funds due the victim
34 have been paid to the victim under this section, there remain additional
35 funds in the escrow account, such funds shall be returned to the crime
36 victims compensation account; and

37 (f) Require claimants to sign a release and provide information to
38 determine eligibility for compensation under this chapter. Any infor-
39 mation received by the commission pursuant to this subsection shall be
40 kept confidential except as provided in section ~~72-1007~~ 20-1105, Idaho
41 Code.

42 SECTION 56. That Section 72-1005, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 ~~72-1005~~ 20-1103. REHABILITATION OF VICTIMS. The commission shall re-
45 fer victims who have been disabled through criminally injurious conduct and
46 who are receiving benefits under this chapter to an appropriate treatment
47 facility or program, including mental health counseling and care. If the re-
48 ferral is to the division of vocational rehabilitation, the division shall

1 provide for the vocational rehabilitation of the victims under its rehabili-
2 tation programs to the extent funds are available under such program.

3 SECTION 57. That Section 72-1006, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 ~~72-1006~~ 20-1104. ATTORNEYS' FEES. (1) The commission may grant attor-
6 neys' fees to attorneys for representing claimants before the commission.
7 Any attorney's fee granted by the commission shall be in addition to compen-
8 sation awarded the claimant under this chapter.

9 (2) The commission may regulate the amount of the attorney's fee in any
10 claim under this chapter when an attorney is representing a claimant.

11 (3) In no claim or case may attorney fees in excess of five percent (5%)
12 of the amount paid to a claimant or on his behalf be paid directly or indi-
13 rectly to a claimant's attorney.

14 SECTION 58. That Section 72-1007, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 ~~72-1007~~ 20-1105. PUBLIC INSPECTION AND DISCLOSURE OF ~~COMMISSION'S~~ RE-
17 CORDS. The information and records the ~~commission~~ division maintains in its
18 possession in the administration of this chapter shall be kept confidential
19 and are exempt from public disclosure under chapter 1, title 74, Idaho Code,
20 provided however:

21 (1) During the ~~commission's~~ division's regular office hours any
22 claimant, or his attorney or authorized representative, may examine all
23 files maintained by the commission in connection with his application for
24 compensation;

25 (2) Upon an adequate showing to the court in a separate civil or crim-
26 inal action that the specific information or records are not obtainable
27 through diligent effort from any independent source, the court may inspect
28 such records in camera to determine whether the public interest in disclos-
29 ing the records outweighs the public or private interest in maintaining the
30 confidentiality of such records;

31 (3) Information and records maintained by the ~~commission~~ division may
32 be disclosed to public employees and officials in the performance of their
33 official duties; and

34 (4) Information and records maintained by the ~~commission~~ division may
35 be disclosed to health care providers who are:

36 (a) Treating or examining victims claiming benefits under this chap-
37 ter; or

38 (b) Giving medical advice to the ~~commission~~ division regarding any
39 claim.

40 SECTION 59. That Section 72-1008, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 ~~72-1008~~ 20-1106. LIMITATION OF BENEFIT ENTITLEMENTS TO PROPORTIONATE
43 SHARE OF AVAILABLE FUNDS. Claimants receiving benefits under this chapter
44 are not granted an absolute entitlement to benefits. Benefits must be paid
45 in accordance with the amount of the legislative appropriation. If ~~the com-~~

1 ~~mission determines~~ it is determined at any time that the appropriated funds
 2 for a fiscal year will not be an amount that will fully pay all claims, the
 3 commission may make appropriate proportionate reductions in benefits to all
 4 claimants. Such reductions do not entitle claimants to future retroactive
 5 reimbursements in future fiscal years unless the legislature makes appro-
 6 priations for such retroactive benefits.

7 SECTION 60. That Section 72-1009, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 ~~72-1009~~ 20-1107. CRIME VICTIMS COMPENSATION ACCOUNT. The crime vic-
 10 tims compensation account is hereby established in the dedicated fund. Mon-
 11 eys shall be paid into the account as provided by law. Moneys in the account
 12 may be appropriated only for the purposes of this chapter, which shall in-
 13 clude administrative expenses.

14 SECTION 61. That Section 72-1010, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 ~~72-1010~~ 20-1108. RECEIPT OF FUNDS. The commission may adopt appropri-
 17 ate rules in order to receive federal funds under federal criminal repara-
 18 tion and compensation acts, or to receive grants, gifts or donations from any
 19 source.

20 SECTION 62. That Section 72-1012, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 ~~72-1012~~ 20-1109. APPLICATION FOR COMPENSATION. ~~An applicant for an~~
 23 ~~award of compensation may apply in writing in a form that conforms substan-~~
 24 ~~tially to that prescribed by the commission. To claim benefits under this~~
 25 ~~chapter, the claimant shall file with the division an application that con-~~
 26 ~~forms with any form or forms prescribed by the commission. An application is~~
 27 ~~deemed filed when it is received at the division office.~~

28 SECTION 63. That Section 72-1013, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 ~~72-1013~~ 20-1110. INFORMAL HEARINGS -- NOTICE -- TRANSCRIPT -- RECORD
 31 ~~-- EVIDENCE -- SUBPOENAS. The commission may hold informal hearings in order~~
 32 ~~to make determinations regarding the compensability of a claim. At such~~
 33 ~~hearings, the commission may subpoena witnesses and documents as set forth~~
 34 ~~in section 72-709, Idaho Code. (1) Informal hearings may be held pursuant~~
 35 ~~to this section wherein witnesses and documents may be subpoenaed as pro-~~
 36 ~~vided in subsection (7) of this section. Hearings held under this section~~
 37 ~~are not considered contested case hearings under the Idaho administrative~~
 38 ~~procedures act. However, the commission shall adopt rules regarding the~~
 39 ~~commission's informal hearing procedures.~~

40 (2) If a request for hearing is filed with the division, an informal
 41 hearing shall be held by the administrator or person employed by the admin-
 42 istrator, who shall prepare findings and a decision that shall be submitted
 43 to the commission for its review. If the commission does not approve the rec-

1 ommendation, the commission may require another informal hearing held by the
 2 administrator or person employed by the administrator or retain the office
 3 of administrative hearings pursuant to chapter 52, title 67, Idaho Code, to
 4 conduct another informal hearing and make recommended findings and a deci-
 5 sion to the commission based on the record of both hearings.

6 (3) The division shall give the claimant at least ten (10) days' ad-
 7 vance written notice of the time and place of the hearing and of the issues
 8 to be heard, either by personal service or certified mail. Service by mail
 9 shall be deemed complete when a copy of such notice is deposited in the United
 10 States post office, with postage prepaid, addressed to a party at his last
 11 known address as shown in the records and files of the division. Evidence of
 12 service by certificate or affidavit of the person making the same shall be
 13 filed with the division.

14 (4) The administrator shall make an audio or audiovisual recording of
 15 each hearing and may arrange for a stenographic or machine transcription of
 16 any hearing.

17 (5) At the hearing, the application filed by the claimant pursuant to
 18 section 20-1109, Idaho Code, and any other documents in the division's file
 19 that contain information relevant to the issues in the case shall be admitted
 20 into the record. Such documents shall be marked for identification and the
 21 record shall specify that those documents are admitted. The person conduct-
 22 ing the hearing shall give those documents the weight that is appropriate un-
 23 der the circumstances of the particular case.

24 (6) At the hearing, after the claimant has presented his evidence, the
 25 person conducting the hearing shall allow the administrator, or his designee
 26 that is employed by him, to present evidence. If the administrator is con-
 27 ducting the hearing, the administrator shall not present evidence and shall
 28 instead designate a person employed by him to present evidence. After any
 29 presentation of evidence pursuant to this subsection, the person conducting
 30 the hearing may, in his discretion, allow any other person to testify.

31 (7) Subpoenas shall be served in the manner provided by the Idaho rules
 32 of civil procedure. Witness fees and mileage shall be in the amounts pro-
 33 vided by the Idaho rules of civil procedure, and the claimant shall pay the
 34 fees of any witness who is subpoenaed to testify on his behalf.

35 SECTION 64. That Section 72-1014, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 ~~72-1014~~ 20-1111. EVIDENCE OF CONDITION FOR CLAIMANT'S APPLICA-
 38 TION. (1) The ~~commission~~ administrator may require the claimant to supple-
 39 ment the application with any reasonably available medical reports or other
 40 documents relating to the injury or condition for which compensation is
 41 claimed. Failure to provide the requested supporting documents or reports
 42 may result in the denial of the claimant's application for compensation or
 43 claim for payment. Health care providers are authorized to submit directly
 44 to the ~~commission~~ division, pursuant to the claimant's original release as
 45 provided in the application for compensation, any information that is re-
 46 quired to support a claimant's application or that is necessary to process
 47 a claim for payment.

48 (2) If the physical or mental condition of a victim or claimant is ma-
 49 terial to a claim, the ~~commission~~ division may order the victim or claimant

1 to submit from time to time to an examination by a physician or other li-
 2 censed health professional or may order an autopsy of a deceased victim. The
 3 ~~commission division~~ shall pay for such examination or autopsy. The order
 4 shall specify the time, place, manner, conditions, and scope of the exami-
 5 nation or autopsy and the person by whom it is to be made and shall require the
 6 person to file with the ~~commission division~~ a detailed written report of the
 7 examination or autopsy. The report shall set out his findings, including re-
 8 sults of all tests made, diagnoses, prognoses, and other conclusions and re-
 9 ports of earlier examinations of the same conditions. On request of the per-
 10 son examined, the ~~commission division~~ shall furnish a copy of the report to
 11 him. If the victim is deceased, the ~~commission division~~, on request, shall
 12 furnish a copy of the report to the claimant.

13 (3) Before paying benefits to any claimant, the division shall gather
 14 sufficient information to establish that the claim is eligible for benefits.
 15 The administrator may require the claimant to assist the division in obtain-
 16 ing such information.

17 SECTION 65. That Section 72-1015, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 ~~72-1015 20-1112.~~ ENFORCEMENT OF ~~COMMISSION'S~~ ORDERS -- IMPROPER AS-
 20 SERTION OF PRIVILEGE. If a person refuses to comply with ~~an a lawful~~ order
 21 ~~of the commission issued pursuant to this chapter~~ or asserts a privilege to
 22 withhold or suppress evidence relevant to a claim, except privileges arising
 23 from the attorney-client relationship or counselor-client relationship,
 24 ~~the commission may make any just order, including denial of the claim may be~~
 25 denied or any just order issued.

26 SECTION 66. That Section 72-1016, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 ~~72-1016 20-1113.~~ LIMITATIONS ON AWARDS. (1) Compensation may not be
 29 awarded unless the claim is filed with the ~~commission division~~ within one (1)
 30 year after the day the criminally injurious conduct occurred causing the in-
 31 jury or death upon which the claim is based. The time for filing a claim may
 32 be extended by the ~~commission administrator~~ for good cause shown.

33 (2) Compensation may not be awarded to a claimant who is the offender or
 34 an accomplice of the offender or to any claimant if the award would unjustly
 35 benefit the offender or accomplice.

36 (3) Compensation may not be awarded unless the criminally injurious
 37 conduct resulting in injury or death was reported to a law enforcement of-
 38 ficer within seventy-two (72) hours after its occurrence or the commission
 39 finds there was good cause for the failure to report within that time.

40 (4) In order to be entitled to benefits under this chapter, a claimant
 41 must fully cooperate with all law enforcement agencies and prosecuting
 42 attorneys in the apprehension and prosecution of the offender causing
 43 the criminally injurious conduct. The commission, upon finding that the
 44 claimant or victim has not fully cooperated with appropriate law enforce-
 45 ment agencies or prosecuting attorneys, may deny or reconsider and reduce an
 46 award of compensation.

1 (5) Subject to the limitations on payments for the costs of forensic
2 and medical examinations of alleged victims of sexual assault described in
3 section ~~72-1019~~ 20-1116(2), Idaho Code, compensation otherwise payable to a
4 claimant shall be reduced or denied to the extent the compensation benefits
5 payable are or can be recouped from collateral sources.

6 (6) Persons serving a sentence of imprisonment or residing in any other
7 public institution that provides for the maintenance of such persons are not
8 entitled to the benefits of this chapter.

9 (7) (a) Compensation may be denied or reduced if the victim contributed
10 to the infliction of death or injury with respect to which the claim is
11 made. Any reduction in benefits under this paragraph shall be in pro-
12 portion to what the commission finds to be the victim's contribution to
13 the infliction of death or injury.

14 (b) Compensation otherwise payable to a claimant shall be reduced by
15 fifty percent (50%) if at the time the injury was incurred the claimant
16 was engaged in a felony or was in violation of section 18-8004 or
17 67-7034, Idaho Code, and compensation otherwise payable may be further
18 reduced pursuant to division regulation of ~~the industrial commission~~ if
19 the claimant's actions contributed to the injury.

20 SECTION 67. That Section 72-1017, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 ~~72-1017~~ 20-1114. TENTATIVE AWARD OF COMPENSATION. If the commission
23 determines that the claimant will suffer financial hardship unless a tenta-
24 tive award is made and it appears likely that a final award will be made, an
25 amount may be paid to the claimant, to be deducted from the final award or re-
26 paid by and recoverable from the claimant to the extent that it exceeds the
27 final award.

28 SECTION 68. That Section 72-1018, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 ~~72-1018~~ 20-1115. AWARD OF COMPENSATION. (1) The commission shall
31 award compensation benefits under this chapter, if satisfied by a preponder-
32 ance of the evidence that the requirements for compensation have been met.

33 (2) An award may be made whether or not any person is prosecuted or con-
34 victed. Proof of conviction of a person whose acts give rise to a claim is
35 conclusive evidence that the crime was committed unless an application for
36 rehearing or an appeal of the conviction is pending or a rehearing or new
37 trial has been ordered.

38 (3) The commission may suspend the proceedings pending disposition of
39 a criminal prosecution that has been commenced or is imminent and may make a
40 tentative award under section ~~72-1017~~ 20-1114, Idaho Code.

41 SECTION 69. That Section 72-1019, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 ~~72-1019~~ 20-1116. COMPENSATION BENEFITS. (1) A claimant is entitled to
44 weekly compensation benefits when the claimant has a total actual loss of
45 wages due to injury as a result of criminally injurious conduct. During the

1 time the claimant seeks such weekly benefits, the claimant, as a result of
2 such injury, must have no reasonable prospect of being regularly employed
3 in the normal labor market. The weekly benefit amount is sixty-six and two-
4 thirds percent (66 2/3%) of the wages received at the time of the criminally
5 injurious conduct, subject to a maximum of one hundred seventy-five dollars
6 (\$175). Weekly compensation payments shall be made at the end of each two (2)
7 week period. No weekly compensation payments may be paid for the first week
8 after the criminally injurious conduct occurred, but if total actual loss
9 of wages continues for one (1) week, weekly compensation payments shall be
10 paid from the date the wage loss began. Weekly compensation payments shall
11 continue until the claimant has a reasonable prospect of being regularly em-
12 ployed in the normal labor market.

13 (2) The commission may order payment of reasonable expenses actually
14 incurred by the claimant for reasonable services by a physician or surgeon,
15 reasonable hospital services and medicines, mental health counseling and
16 care, and such other treatment as may be approved by the commission for the
17 injuries suffered due to criminally injurious conduct. Payment for the
18 costs of forensic and medical examinations of alleged victims of sexual
19 assault performed for the purposes of gathering evidence for possible prose-
20 cution, after collections from any federal or federally financed third party
21 who has liability, shall be made by the commission; provided however that
22 payment for the costs of forensic and medical examinations of alleged vic-
23 tims under eighteen (18) years of age shall be made by the commission after
24 collections from any third party who has liability. The commission shall
25 establish a procedure for summary processing of such claims.

26 (3) (a) The dependents of a victim who is killed as a result of crim-
27 inally injurious conduct are entitled to receive aggregate weekly
28 benefits amounting to sixty-six and two-thirds percent (66 2/3%) of the
29 wages received at the time of the criminally injurious conduct causing
30 the death, subject to a maximum of one hundred seventy-five dollars
31 (\$175) per week. Weekly compensation payments shall be made at the end
32 of each two (2) week period.

33 (b) Benefits under paragraph (a) of this subsection shall be paid to
34 the spouse for the benefit of the spouse and other dependents unless the
35 commission determines that other payment arrangements should be made.
36 If a spouse dies or remarries, benefits under paragraph (a) of this sub-
37 section shall cease to be paid to the spouse but shall continue to be
38 paid to the other dependents as long as their dependent status contin-
39 ues.

40 (4) Reasonable funeral and burial or cremation expenses of the vic-
41 tim, together with actual expenses of transportation of the victim's body,
42 shall be paid in an amount not exceeding five thousand dollars (\$5,000) if
43 all other collateral sources have properly paid such expenses but have not
44 covered all such expenses.

45 (5) (a) Compensation payable to a victim and all of the victim's depen-
46 dents in cases of the victim's death, because of injuries suffered due
47 to an act or acts of criminally injurious conduct involving the same
48 offender and occurring within a six (6) month period, may not exceed
49 twenty-five thousand dollars (\$25,000) in the aggregate.

1 (b) The limitation of paragraph (a) of this subsection is subject to the
2 further limitation that payments for mental health treatment received
3 as a result of the victim's injury may not exceed two thousand five hun-
4 dred dollars (\$2,500) unless the industrial commission finds extenuat-
5 ing circumstances. If the commission finds a victim to have extenuating
6 circumstances as defined in section ~~72-1003~~ 20-1101, Idaho Code, the
7 victim is eligible for payments up to the maximum benefit allowed un-
8 der paragraph (a) of this subsection. The commission shall reevaluate
9 the victim's qualifications for extenuating circumstances not less of-
10 ten than annually.

11 (6) Compensation benefits are not payable for pain and suffering or
12 property damage.

13 (7) (a) A person who has suffered injury as a result of criminally
14 injurious conduct and, as a result of such injury, has no reasonable
15 prospect of being regularly employed in the normal labor market, who was
16 employable but was not employed at the time of such injury, may in the
17 discretion of the commission be awarded weekly compensation benefits in
18 an amount determined by the commission not to exceed one hundred fifty
19 dollars (\$150) per week. Weekly compensation payments shall continue
20 until the claimant has a reasonable prospect of being regularly em-
21 ployed in the normal labor market or for a shorter period as determined
22 by the commission. The claimant shall be awarded benefits as provided
23 in subsection (2) of this section.

24 (b) The dependents of a victim who is killed as a result of criminally
25 injurious conduct and who was employable but not employed at the time of
26 death may, in the discretion of the commission, be awarded, in an aggre-
27 gate amount payable to all dependents, a sum not to exceed one hundred
28 fifty dollars (\$150) per week, which shall be payable in the manner and
29 for the period provided by subsection (3) (b) of this section or for such
30 shorter period as determined by the commission. The claimant shall be
31 awarded benefits as provided in subsection (4) of this section.

32 (c) Compensation payable to a victim or a victim's dependents under
33 this subsection may not exceed twenty thousand dollars (\$20,000), and
34 the limitations of subsection (5) of this section apply to compensation
35 under this subsection.

36 (8) Amounts payable as weekly compensation may not be commuted to a lump
37 sum and may not be paid less frequently than every two (2) weeks.

38 (9) (a) Subject to the limitations in paragraphs (b) and (c) of this sub-
39 section, the spouse, parent, grandparent, child, grandchild, brother
40 or sister of a victim who is killed, kidnapped, sexually assaulted
41 or subjected to domestic violence or child injury is entitled to re-
42 imbursement for mental health treatment received as a result of such
43 criminally injurious conduct.

44 (b) Total payments made under paragraph (a) of this subsection may not
45 exceed five hundred dollars (\$500) for each person or one thousand five
46 hundred dollars (\$1,500) for a family.

47 (c) With regard to claims filed pursuant to this section, in order for
48 family members of victims of crime to be entitled to benefits, the vic-
49 tim of the crime must also have been awarded benefits for the crime it-
50 self.

1 (10) A claimant or a spouse, parent, child or sibling of a claimant or
 2 victim may be reimbursed for his or her expenses for necessary travel in-
 3 curred in connection with obtaining benefits covered pursuant to this chap-
 4 ter and in accordance with division rules of the commission.

5 SECTION 70. That Section 72-1020, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 ~~72-1020~~ 20-1117. AWARD NOT SUBJECT TO EXECUTION, ATTACHMENT, GARNISH-
 8 MENT, OR ASSIGNMENT -- EXCEPTION. (1) An award is not subject to execution,
 9 attachment, garnishment, or other process.

10 (2) An assignment or agreement to assign a right to compensation in the
 11 future is unenforceable except:

12 (a) An assignment of a right to compensation for work loss to secure
 13 payment of maintenance or child support; or

14 (b) An assignment of a right to compensation to the extent that the ben-
 15 efits are for the cost of products, services, or accommodations neces-
 16 sitated by the injury or death on which the claim is based and are pro-
 17 vided or to be provided by the assignee.

18 SECTION 71. That Section 72-1021, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 ~~72-1021~~ 20-1118. ~~RECONSIDERATION AND REVIEW OF COMMISSION'S DECI-~~
 21 ~~SIONS~~ FINALITY OF DECISION, AWARD, OR ORDER -- MOTION TO RECONSIDER -- MOTION
 22 TO REVIEW AND AMEND. (1) After a hearing, the decision, award, or order is-
 23 issued pursuant to this chapter shall be final and conclusive as to all matters
 24 adjudicated.

25 ~~(1)(2)~~ The Within twenty (20) days from the date that such decision
 26 was issued, the commission, on its own motion or on request by motion of the
 27 claimant, may reconsider a decision making or denying an award or determin-
 28 ing its amount. The commission shall reconsider at least annually every
 29 award being paid in installments. An order on reconsideration of an award
 30 may not require refund of amounts previously paid unless the award was ob-
 31 tained by fraud. The right to move to reconsider pursuant to this subsection
 32 does not affect the finality of a decision.

33 ~~(2) The right of reconsideration does not affect the finality of a com-~~
 34 ~~mission decision.~~

35 (3) Within three (3) years from the date that such decision is issued,
 36 the commission, on its own motion or by motion of the claimant, may review and
 37 amend any final order or award:

38 (a) If there is a change in circumstance that affects the claimant's en-
 39 titlement to benefits;

40 (b) To correct a manifest injustice;

41 (c) If the order or award is based on facts that were misrepresented or
 42 that were not fully disclosed; or

43 (d) To comply with the annual review required in subsection (2) of this
 44 section.

45 SECTION 72. That Section 72-1022, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

1 ~~72-1022~~ 20-1119. NO APPEAL. There shall be no right of appeal from a
2 final determination of the commission.

3 SECTION 73. That Section 72-1023, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 ~~72-1023~~ 20-1120. SUBROGATION. (1) If a claimant seeks compensation
6 under this chapter and compensation is awarded, the account is entitled to
7 full subrogation against a judgment or recovery received by the claimant
8 against the offender or from or against any other source for all compensation
9 paid under this chapter. The account's right of subrogation shall be a first
10 lien on the judgment or recovery. If the claimant does not institute the
11 action against the offender or against another source from which payment may
12 be recovered for benefits compensable under this chapter within one (1) year
13 from the date the criminally injurious conduct occurred, the commission may
14 institute the action in the name of the claimant or the claimant's personal
15 representative.

16 (2) If the claimant institutes the action, the commission shall pay a
17 proportional share of costs and attorneys' fees if it recovers under its sub-
18 rogation interest.

19 (3) If the commission institutes the action in the name of the claimant
20 or the claimant's personal representative and the recovery is in excess of
21 the amount of compensation paid to the claimant and costs incurred by the ac-
22 count in pursuit of the action, the excess shall be paid to the claimant.

23 (4) If a judgment or recovery includes both damages for bodily injury
24 or death for which the commission has ordered compensation paid under this
25 chapter and damages for which the commission has not ordered compensation
26 paid, then the account's subrogation interest shall apply only to that pro-
27 portion of the judgment or recovery for which it has paid compensation. In
28 a civil action in a court of this state arising out of criminally injurious
29 conduct, the judge, on timely motion, shall direct the jury to return a spe-
30 cial verdict indicating separately the amounts of the various items of dam-
31 ages awarded. A claimant may not make recoveries against the offender or
32 other source from which payment can be recovered for benefits compensable
33 under this chapter in such a way as to avoid and preclude the account from re-
34 ceiving its proper subrogation share as provided in this section. The com-
35 mission shall order the release of any lien provided for in subsection (1) of
36 this section upon receipt of the account's subrogation share.

37 (5) Moneys received under the provisions of this section shall be paid
38 to the account.

39 SECTION 74. That Section 72-1024, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 ~~72-1024~~ 20-1121. EFFECT OF AWARD ON PROBATION AND PAROLE OF OF-
42 FENDER. (1) When placing any convicted person on probation, the court may
43 set as a condition of probation the payment to the account of an amount equal
44 to any benefits paid from the account to or for the benefit of a victim or a
45 victim's dependents. The court may set a repayment schedule and modify it as
46 circumstances change.

1 (2) Payment of the debt may be made a condition of parole subject to mod-
2 ification based on a change in circumstances.

3 SECTION 75. That Section 72-1025, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 ~~72-1025~~ 20-1122. FINES -- REIMBURSEMENTS -- DISPOSITION. (1) In addi-
6 tion to any other fine which may be imposed upon each person found guilty of
7 criminal activity, the court shall impose a fine or reimbursement according
8 to the following schedule, unless the court orders that such fine or reim-
9 bursement be waived only when the defendant is indigent and at the time of
10 sentencing shows good cause for inability to pay and written findings to that
11 effect are entered by the court:

12 (a) For each conviction or finding of guilt of each felony count, a fine
13 or reimbursement of not less than seventy-five dollars (\$75.00) per
14 felony count;

15 (b) For each conviction or finding of guilt of each misdemeanor count, a
16 fine or reimbursement of thirty-seven dollars (\$37.00) per misdemeanor
17 count;

18 (c) For each conviction or finding of guilt of an infraction under sec-
19 tion 18-8001 or 49-301, Idaho Code, or for each first-time conviction
20 or finding of guilt of an infraction under section 23-604 or 23-949,
21 Idaho Code, a fine or reimbursement of thirty-seven dollars (\$37.00)
22 per count;

23 (d) In addition to any fine or reimbursement ordered under paragraph
24 (a) or (b) of this subsection, the court shall impose a fine or reim-
25 bursement of not less than three hundred dollars (\$300) per count for
26 any conviction or finding of guilt for any sex offense, including,
27 but not limited to, offenses pursuant to sections 18-1506, 18-1507,
28 18-1508, 18-1508A, 18-6101, and 18-6604, Idaho Code.

29 (2) Notwithstanding the provisions of section 19-4705, Idaho Code, the
30 fines or reimbursements imposed under the provisions of this section shall
31 be paid into the crime victims compensation account.

32 SECTION 76. That Section 72-1026, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 ~~72-1026~~ 20-1123. PAYMENTS TO MEDICAL PROVIDERS. (1) The commission
35 may adopt a fee schedule to determine the allowable payments to be made to
36 medical providers under this chapter, including but not limited to, the
37 fee schedule the Idaho industrial commission has adopted to determine the
38 allowable payments to be made to medical providers under the Idaho worker's
39 compensation law.

40 (2) A medical provider who accepts the full allowable payment from the
41 commission under this chapter for medical services provided to a victim or
42 claimant shall be deemed to have agreed to accept those payments as payment
43 in full for those medical services. Except as provided in subsection (3)
44 herein, a medical provider who has received payment from the commission for
45 medical services provided to a victim or claimant under this chapter may not
46 attempt to collect any further payment from the victim or the claimant for
47 those same services.

1 (3) In the event the commission, due to a lack of available funds or
 2 some other cause, is unable to pay the full allowable payment to a medical
 3 provider for medical services provided to a victim or claimant under the pro-
 4 visions of this chapter, the medical provider may collect the unpaid balance
 5 for those services from the victim or claimant, but in no event shall the to-
 6 tal amount collected by the provider from the commission and the victim or
 7 claimant exceed the full allowable payment the provider would have received
 8 from the commission under the provisions of this chapter.

9 SECTION 77. That Section 18-2403, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 18-2403. THEFT. (1) A person steals property and commits theft when,
 12 with intent to deprive another of property or to appropriate the same to him-
 13 self or to a third person, he wrongfully takes, obtains or withholds such
 14 property from an owner thereof.

15 (2) Theft includes a wrongful taking, obtaining or withholding of an-
 16 other's property, with the intent prescribed in subsection (1) of this sec-
 17 tion, committed in any of the following ways:

18 (a) By deception obtains or exerts control over property of the owner;

19 (b) By conduct heretofore defined or known as larceny; common law
 20 larceny by trick; embezzlement; extortion; obtaining property, money
 21 or labor under false pretenses; or receiving stolen goods;

22 (c) By acquiring lost property. A person acquires lost property when
 23 he exercises control over property of another which he knows to have
 24 been lost or mislaid, or to have been delivered under a mistake as to the
 25 identity of the recipient or the nature or amount of the property, with-
 26 out taking reasonable measures to return such property to the owner; or
 27 a person commits theft of lost or mislaid property when he:

28 1. Knows or learns the identity of the owner or knows, or is aware
 29 of, or learns of a reasonable method of identifying the owner; and

30 2. Fails to take reasonable measures to restore the property to
 31 the owner; and

32 3. Intends to deprive the owner permanently of the use or benefit
 33 of the property.

34 (d) By false promise:

35 1. A person obtains property by false promise when pursuant to a
 36 scheme to defraud, he obtains property of another by means of a
 37 representation, express or implied, that he or a third person will
 38 in the future engage in particular conduct, and when he does not
 39 intend to engage in such conduct or, as the case may be, does not
 40 believe that the third person intends to engage in such conduct.

41 2. In any prosecution for theft based upon a false promise, the
 42 defendant's intention or belief that the promise would not be per-
 43 formed may not be established by or inferred from the fact alone
 44 that such promise was not performed. Such a finding may be based
 45 only upon evidence establishing that the facts and circumstances
 46 of the case are consistent with guilty intent or belief and in-
 47 consistent with innocent intent or belief, and excluding to a
 48 moral certainty every reasonable hypothesis except that of the

1 defendant's intention or belief that the promise would not be per-
2 formed;

3 (e) By extortion. A person obtains property by extortion when he com-
4 pels or induces another person to deliver such property to himself or to
5 a third person by means of instilling in him a fear that, if the property
6 is not so delivered, the actor or another will:

- 7 1. Cause physical injury to some person in the future; or
- 8 2. Cause damage to property; or
- 9 3. Engage in other conduct constituting a crime; or
- 10 4. Accuse some person of a crime or cause criminal charges to be
11 instituted against him; or
- 12 5. Expose a secret or publicize an asserted fact, whether true
13 or false, tending to subject some person to hatred, contempt or
14 ridicule; or
- 15 6. Cause a strike, boycott or other collective labor group action
16 injurious to some person's business; except that such a threat
17 shall not be deemed extortion when the property is demanded or
18 received for the benefit of the group in whose interest the actor
19 purports to act; or
- 20 7. Testify or provide information or withhold testimony or infor-
21 mation with respect to another's legal claim or defense; or
- 22 8. Use or abuse his position as a public servant by performing some
23 act within or related to his official duties, or by failing or re-
24 fusing to perform an official duty, in such manner as to affect
25 some person adversely; or
- 26 9. Perform any other act which would not in itself materially ben-
27 efit the actor but which is calculated to harm another person mate-
28 rially with respect to his health, safety, business, calling, car-
29 reer, financial condition, reputation or personal relationships.

30 (3) A person commits theft when he knowingly takes or exercises unau-
31 thorized control over, or makes an unauthorized transfer of an interest
32 in, the property of another person, with the intent of depriving the owner
33 thereof.

34 (4) A person commits theft when he knowingly receives, retains, con-
35 ceals, obtains control over, possesses, or disposes of stolen property,
36 knowing the property to have been stolen or under such circumstances as would
37 reasonably induce him to believe that the property was stolen, and

38 (a) Intends to deprive the owner permanently of the use or benefit of
39 the property; or

40 (b) Knowingly uses, conceals or abandons the property in such manner as
41 to deprive the owner permanently of such use or benefit; or

42 (c) Uses, conceals, or abandons the property knowing such use, conceal-
43 ment or abandonment probably will deprive the owner permanently of such
44 use or benefit.

45 (5) Theft of labor or services or use of property.

46 (a) A person commits theft when he obtains the temporary use of prop-
47 erty, labor or services of another which are available only for hire, by
48 means of threat or deception or knowing that such use is without the con-
49 sent of the person providing the property, labor or services.

1 (b) A person commits theft when after renting or leasing a motor vehicle
 2 or other equipment under an agreement in writing which provides for the
 3 return of the vehicle or other equipment to a particular place at a par-
 4 ticular time, he willfully or intentionally fails to return the vehicle
 5 or other equipment to that place within forty-eight (48) hours after the
 6 time specified.

7 (c) A person commits theft if, having control over the disposition of
 8 services of others, to which he is not entitled, he knowingly diverts
 9 such services to his own benefit or to the benefit of another not enti-
 10 tled thereto.

11 (6) Theft by falsely obtaining compensation for victims of crime. A
 12 person commits theft when he knowingly makes a false claim or a false state-
 13 ment or uses any other fraudulent device in connection with any claim pur-
 14 suant to chapter 11, title 20, Idaho Code, and upon conviction shall, in ad-
 15 dition to being punished as provided in this chapter, forfeit and repay any
 16 compensation paid under chapter 11, title 20, Idaho Code.

17 SECTION 78. That Section 18-5623, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 18-5623. PERSONAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Within five
 20 (5) days of any of the events specified in section 18-5622, Idaho Code, no-
 21 tice, including a copy of the request for forfeiture, shall be given to each
 22 co-owner or party in interest who has or claims any right, title or interest
 23 in any such personal property according to one (1) of the following methods:

24 (a) Upon each co-owner of or party in interest in a titled motor vehi-
 25 cle, aircraft or other conveyance, by mailing notice by certified mail
 26 to the address of each co-owner and party in interest as given upon the
 27 records of the appropriate department of state or federal government
 28 where records relating to such conveyances are maintained;

29 (b) Upon each secured party and assignee designated as such in any UCC-1
 30 financing statement on file in an appropriate filing office covering
 31 any personal property sought to be forfeited, by mailing notice by
 32 certified mail to the secured party and the assignee, if any, at their
 33 respective addresses as shown on such financing statement; or

34 (c) Upon each co-owner or party in interest whose name and address is
 35 known, by mailing notice by registered mail to the last known address of
 36 such person.

37 (2) Within twenty (20) days after the mailing of the notice, the
 38 co-owner or party in interest may file a verified answer and claim to the
 39 property described in the notice.

40 (3) If a verified answer is filed within twenty (20) days after mailing
 41 of the notice, the forfeiture proceeding against all co-owners and parties
 42 in interest who have filed verified answers shall be set for hearing before
 43 the court without a jury on a day not less than sixty (60) days after the mail-
 44 ing of the notice; and the proceeding shall have priority over other civil
 45 cases.

46 (a) At the hearing, any co-owner or party in interest who has a veri-
 47 fied answer on file may show by competent evidence that his interest in
 48 the titled motor vehicle, aircraft or other conveyance is not subject to
 49 forfeiture because he could not have known in the exercise of reasonable

1 diligence that the titled motor vehicle, aircraft or other conveyance
2 was being used, had been used or was intended to be used for the purposes
3 described in section 18-5612, Idaho Code.

4 (b) A co-owner or claimant of any right, title or interest in the prop-
5 erty may prove that his right, title or interest, whether under a lien,
6 mortgage, security agreement, conditional sales contract or otherwise,
7 was created without any knowledge or reason to believe that the property
8 was being used, had been used or was intended to be used for the purpose
9 alleged.

10 (i) In the event of such proof, the court shall order that portion
11 of the property or interest released to the bona fide or innocent
12 co-owner, purchaser, lienholder, mortgagee, secured party or con-
13 ditional sales vendor.

14 (ii) If the amount due to such person is less than the value of the
15 property, the property may be sold at public auction or in another
16 commercially reasonable method by the attorney general or appro-
17 priate prosecuting attorney. If sold at public auction, the at-
18 torney general or appropriate prosecuting attorney shall publish
19 a notice of the sale by at least one (1) publication in a newspaper
20 published and circulated in the city, community or locality where
21 the sale is to take place at least one (1) week prior to sale of the
22 property. The proceeds from such sale shall be distributed as fol-
23 lows in the order indicated:

24 1. To the bona fide or innocent co-owner, purchaser, condi-
25 tional sales vendor, lienholder, mortgagee or secured party
26 of the property, if any, up to the value of his interest in
27 the property;

28 2. The balance, if any, in the following order:

29 (A) To the attorney general or appropriate prosecut-
30 ing attorney for all expenditures made or incurred in
31 connection with the sale, including expenditure for
32 any necessary repairs, storage or transportation of
33 the property, and for all expenditures made or incurred
34 by him in connection with the forfeiture proceedings
35 including, but not limited to, expenditures for wit-
36 nesses' fees, reporters' fees, transcripts, printing,
37 traveling and investigation.

38 (B) To the law enforcement agency of this state that
39 seized the property for all expenditures for travel-
40 ing, investigation, storage and other expenses made or
41 incurred after the seizure and in connection with the
42 forfeiture of any property seized under the provisions
43 of this chapter.

44 (C) The remainder, if any, to the crime victims com-
45 pensation account as established in section ~~72-1009~~
46 20-1107, Idaho Code.

47 (4) Notwithstanding any other provision of this section, upon being
48 satisfied that the interest of a co-owner or claimant should not be subject
49 to forfeiture because they neither knew nor should have known that the per-
50 sonal property was being used or had been used for the purposes alleged, or

1 that due to preexisting security interests in such property there is no equity that may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest or other claimant.

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5 (5) In any case, the attorney general or appropriate prosecuting attorney may, within thirty (30) days after order of forfeiture, pay the balance due to the bona fide lienholder, mortgagee, secured party or conditional sales vendor and thereby purchase the property for use to enforce this chapter.

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10 SECTION 79. That Section 18-5624, Idaho Code, be, and the same is hereby amended to read as follows:

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12 18-5624. REAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Real property subject to forfeiture under the provisions of this chapter may be seized by the attorney general or appropriate prosecuting attorney upon determining that a parcel of property is subject to forfeiture, by filing a notice of seizure with the recorder of the county in which the property or any part thereof is situated. The notice must contain a legal description of the property sought to be forfeited; provided however, that in the event the property sought to be forfeited is part of a greater parcel, the attorney general or appropriate prosecuting attorney may, for the purposes of this notice, use the legal description of the greater parcel. The attorney general or appropriate prosecuting attorney shall also send by certified mail a copy of the notice of seizure to any persons holding a recorded interest or of whose interest the attorney general or appropriate prosecuting attorney has actual knowledge. The attorney general or appropriate prosecuting attorney shall post a similar copy of the notice conspicuously upon the property and publish a copy thereof once a week for three (3) consecutive weeks immediately following the seizure in a newspaper published in the county. The co-owner or party in lawful possession of the property sought to be forfeited may retain possession and use thereof and may collect and keep income from the property while the forfeiture proceedings are pending.

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32 (2) In the event of a seizure pursuant to subsection (1) of this section, a request for forfeiture shall be filed with the trial court within the time limit imposed by section 18-5620, Idaho Code. The request shall be served in the same manner as complaints subject to Idaho rules of civil procedure on all persons having an interest in the real property sought to be forfeited.

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38 (3) Notwithstanding any other provision of this section, upon being satisfied that the interest of a co-owner or claimant should not be subject to forfeiture because they neither knew nor should have known that the real property was being used or had been used for the purposes alleged, or that due to preexisting security interests in such property there is no equity that may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest or other claimant.

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46 (4) Within twenty (20) days of the mailing of the notice, the co-owner or party in interest may file a verified answer and claim to the property described in the notice.

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1 (5) If a verified answer is filed within twenty (20) days after mailing
 2 of the notice, the forfeiture proceeding against all co-owners and parties
 3 in interest who have filed verified answers shall be set for hearing before
 4 the court without a jury on a day not less than sixty (60) days after the mail-
 5 ing of the notice; and the proceeding shall have priority over other civil
 6 cases.

7 (a) A co-owner or claimant of any right, title or interest in the real
 8 property sought to be forfeited may prove that his right, title or in-
 9 terest, whether under a lien, mortgage, deed of trust or otherwise, was
 10 created without any knowledge or reason to believe that the real prop-
 11 erty was being used or had been used for the purposes alleged;

12 (b) Any co-owner who has a verified answer on file may show by competent
 13 evidence that his interest in the property sought to be forfeited is not
 14 subject to forfeiture because he could not have known in the exercise of
 15 reasonable diligence that the real property was being used or had been
 16 used in any manner in violation of the provisions of section 18-5612,
 17 Idaho Code.

18 (6) In the event of such proof, the court shall order the release of the
 19 interest of the co-owner, purchaser, lienholder, mortgagee or beneficiary.

20 (a) If the amount due to such person is less than the value of the real
 21 property, the real property may be sold in a commercially reasonable
 22 manner by the attorney general or appropriate prosecuting attorney.
 23 The proceeds from such sale shall be distributed as follows in the order
 24 indicated:

25 (i) To the innocent co-owner, purchaser, mortgagee or benefi-
 26 ciary of the real property, if any, up to the value of his interest
 27 in the real property;

28 (ii) The balance, if any, in the following order:

29 1. To the attorney general or appropriate prosecuting at-
 30 torney for all expenditures made or incurred in connection
 31 with the sale, including expenditure for any necessary re-
 32 pairs or maintenance of the real property, and for all expen-
 33 ditures made or incurred in connection with the forfeiture
 34 proceedings including, but not limited to, expenditures for
 35 witnesses' fees, reporters' fees, transcripts, printing,
 36 travel, investigation, title company fees and insurance
 37 premiums.

38 2. The remainder, if any, to the crime victims compensation
 39 account as established in section ~~72-1009~~ 20-1107, Idaho
 40 Code.

41 (b) In any case, the attorney general or appropriate prosecuting attor-
 42 ney may, within thirty (30) days after the order of forfeiture, pay the
 43 balance due to the innocent co-owner, purchaser, lienholder, mortgagee
 44 or beneficiary and thereby purchase the real property for use in the en-
 45 forcement of this chapter.

46 SECTION 80. That Section 19-3509, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 19-3509. DIVERSION PROGRAM REQUIREMENTS. (1) A prosecuting attorney
 49 may, at the prosecuting attorney's discretion, establish a diversion pro-

1 gram and may refer a defendant eligible to participate in a diversion pro-
2 gram pursuant to section 19-3508, Idaho Code, to such program within thirty
3 (30) calendar days of a citation being issued or charges being filed against
4 the defendant. Before entering an agreement to participate in the diver-
5 sion program, a defendant may obtain advice from a defense attorney on the
6 requirements and consequences of participating in the diversion program and
7 must undergo a drug or alcohol evaluation, or both, if requested by the pros-
8 ecuting attorney. The terms and conditions of the diversion program shall
9 be set forth in a written agreement signed by the prosecuting attorney and
10 the defendant as well as the defendant's attorney, if the defendant is repre-
11 sented by an attorney. If the defendant agrees to participate in the diver-
12 sion program, then the prosecuting attorney shall move for dismissal of the
13 action against the defendant pursuant to section 19-3506, Idaho Code.

14 (a) A diversion program may be administered by the prosecuting attorney
15 or by the prosecuting attorney's designee. The diversion agreement
16 shall specify the person administering the program and shall set out the
17 requirements for successful completion of the program and the duration
18 of the diversion agreement. The duration of the period a person is re-
19 quired to participate in a diversion program under this section shall
20 be no shorter than twelve (12) months. All persons participating in
21 a diversion program shall be required to install and maintain, at the
22 participant's expense, an ignition interlock system in each vehicle
23 such person operates for the duration of the program, as further pro-
24 vided in subsection (5) of this section. A person participating in a
25 diversion program for a charge unrelated to alcohol shall, in addition
26 to installing and maintaining an ignition interlock system, be required
27 to undergo drug testing at the person's expense for at least twelve (12)
28 months. If the person is indigent, the prosecuting attorney may order
29 the use of moneys from the court interlock device and electronic moni-
30 toring device fund created by section 18-8010, Idaho Code, to assist the
31 person in procuring an ignition interlock device. The participant in a
32 diversion program must also complete at least thirty-two (32) hours of
33 sheriff inmate labor detail or approved community service and at least
34 twenty-four (24) hours of drug and alcohol counseling, therapy, or ed-
35 ucation from an approved provider.

36 (b) At the end of the diversion period, the prosecuting attorney shall
37 determine whether the participant complied with the requirements of the
38 diversion agreement. If the prosecuting attorney finds that the par-
39 ticipant failed to comply with the requirements of the diversion agree-
40 ment, then the prosecuting attorney may refile the case pursuant to sec-
41 tion 19-3506, Idaho Code.

42 (2) A prosecuting attorney may require, as a condition of entering a di-
43 version program, that a person execute a sworn affidavit stating the facts
44 that gave rise to the charge of driving under the influence. Such affidavit
45 may be used as evidence of guilt during an adjudicative proceeding in a re-
46 filed case. No other statement made by the person in diversion activities or
47 proceedings, such as in a counseling or therapy session, is admissible as ev-
48 idence of guilt during an adjudicative proceeding in a refiled case.

49 (3) The requirements for successful completion of a diversion program
50 may include, but are not limited to:

- 1 (a) Informal supervision with the probation department;
- 2 (b) Community service work;
- 3 (c) Inmate labor detail work;
- 4 (d) A community-based diversion program;
- 5 (e) Restitution to a victim;
- 6 (f) Alcohol monitoring and testing;
- 7 (g) Individual therapy and counseling;
- 8 (h) Group therapy and counseling; and
- 9 (i) Drug monitoring and testing.

10 (4) The administrator of a diversion program may require payment of
11 restitution and fees to cover the costs of the diversion program. Any moneys
12 collected shall be reasonably related to program costs. The administrator
13 shall assess a diversion fee of one hundred fifty-seven dollars and fifty
14 cents (\$157.50) to each diversion participant. If the participant is indi-
15 gent, the diversion fee may be waived. The diversion fee shall be paid to the
16 clerk of the district court and distributed as follows:

- 17 (a) Seventeen dollars and fifty cents (\$17.50) to be distributed as
18 provided in section 31-3201A(2), Idaho Code;
- 19 (b) Ten dollars (\$10.00) to be distributed as provided in section
20 31-3201(3), Idaho Code;
- 21 (c) Ten dollars (\$10.00) to be distributed as provided in section
22 31-3201(5), Idaho Code;
- 23 (d) Fifteen dollars (\$15.00) to be distributed as provided in section
24 31-3201B, Idaho Code;
- 25 (e) Fifty dollars (\$50.00) to be distributed as provided in section
26 31-3201H, Idaho Code;
- 27 (f) Fifteen dollars (\$15.00) to be distributed as provided in section
28 31-3204, Idaho Code;
- 29 (g) Thirty-seven dollars (\$37.00) to be distributed as provided in sec-
30 tion ~~72-1025~~ 20-1122, Idaho Code; and
- 31 (h) Three dollars (\$3.00) to be distributed as provided in section
32 72-1105, Idaho Code.

33 (5) A participant in a diversion program whose driving privileges
34 have been suspended may be granted driving privileges by the administrator
35 of the diversion program, in which case the participant shall be issued a
36 restricted driving permit by the Idaho transportation department. Prior
37 to being granted restricted driving privileges, the participant must show
38 to the administrator proof of financial responsibility as defined and in
39 the amounts specified in section 49-117, Idaho Code. If a person is par-
40 ticipating in a diversion program under this section, then the participant
41 must have an ignition interlock system as defined in section 18-8008, Idaho
42 Code, installed in each vehicle operated by the participant and must pay an
43 ignition interlock fee of fifteen dollars (\$15.00) to be deposited in the
44 court interlock device and electronic monitoring device fund created by
45 section 18-8010, Idaho Code. The ignition interlock system shall be removed
46 once the participant successfully completes diversion, provided that such
47 removal shall not occur, and the program shall not be considered success-
48 fully completed, until the administrator of the diversion program receives
49 a declaration from the participant's ignition interlock vendor, on a form

1 provided or approved by the administrator, certifying that none of the fol-
2 lowing incidents occurred while the system was installed in the vehicle:

- 3 (a) An attempt to start the vehicle with an alcohol concentration of
4 0.04 or more;
5 (b) Failure to take any random test;
6 (c) Failure to pass any random retest with an alcohol concentration of
7 0.025 or lower; or
8 (d) Failure of the participant to appear at the ignition interlock sys-
9 tem vendor's place of business when required for maintenance, repair,
10 calibration, monitoring, inspection, or replacement of the system.

11 SECTION 81. That the Heading for Chapter 53, Title 19, Idaho Code, be,
12 and the same is hereby amended to read as follows:

13 CHAPTER 53
14 COMPENSATION OF RESTITUTION TO VICTIMS OF CRIMES

15 SECTION 82. That Section 19-5303, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 19-5303. COST OF MEDICAL EXAMS TO BE PAID BY LAW ENFORCEMENT
18 AGENCY. When the victim of any crime is directed or authorized by a law
19 enforcement agency to obtain a medical examination for the purpose of
20 procuring evidence for use by a law enforcement agency in the investigation
21 or prosecution of the crime, the expense incurred shall be paid by the law
22 enforcement agency. Provided however, the cost of forensic and/or medical
23 examinations of alleged victims of sexual assault shall be paid for from
24 the crime victims compensation account, as established by section ~~72-1009~~
25 20-1107, Idaho Code. The provisions of this section shall not be construed
26 to require a law enforcement agency to bear the expense of any medical treat-
27 ment of the victim.

28 SECTION 83. That Section 19-5307, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 19-5307. FINES IN CASES OF CRIMES OF VIOLENCE. (1) Irrespective of any
31 penalties set forth under state law, and in addition thereto, the court, at
32 the time of sentencing or such later date as deemed necessary by the court,
33 may impose a fine not to exceed five thousand dollars (\$5,000) against any
34 defendant found guilty of any felony listed in subsections (2) and (3) of
35 this section.

36 The fine shall operate as a civil judgment against the defendant and
37 shall be entered on behalf of the victim named in the indictment or infor-
38 mation, or the family of the victim in cases of homicide or crimes against
39 children, and shall not be subject to any distribution otherwise required
40 in section 19-4705, Idaho Code. The clerk of the district court may collect
41 the fine in the same manner as other fines imposed in criminal cases are
42 collected and shall remit any money collected in payment of the fine to the
43 victim named in the indictment or information or to the family of the victim
44 in a case of homicide or crimes against minor children, provided that none
45 of the provisions of this section shall be construed as modifying the provi-

1 sions of chapter 6, title 11, Idaho Code, chapter 10, title 55, Idaho Code, or
2 section 72-802, Idaho Code. A fine created under this section shall be a sep-
3 arate written order in addition to any other sentence the court may impose.

4 The fine contemplated in this section shall be ordered solely as a puni-
5 tive measure against the defendant and shall not be based upon any require-
6 ment of showing of need by the victim. The fine shall not be used as a substi-
7 tute for an order of restitution as contemplated in section 19-5304, Idaho
8 Code, nor shall such an order of restitution or order of compensation entered
9 in accordance with section ~~72-1018~~ 20-1115, Idaho Code, be offset by the en-
10 try of such fine.

11 A defendant may appeal a fine created under this section in the same man-
12 ner as any other aspect of a sentence imposed by the court. The imposition of
13 a fine created under this section shall not preclude the victim from seeking
14 any other legal remedy; provided that in any civil action brought by or on be-
15 half of the victim, the defendant shall be entitled to offset the amount of
16 any fine imposed pursuant to this section against any award of punitive dam-
17 ages.

18 (2) The felonies for which a fine created under this section may be im-
19 posed are those described in:

20 Section 18-805, Idaho Code (Aggravated arson);

21 Section 18-905, Idaho Code (Aggravated assault);

22 Section 18-907, Idaho Code (Aggravated battery);

23 Section 18-909, Idaho Code (Assault with intent to commit a serious
24 felony);

25 Section 18-911, Idaho Code (Battery with intent to commit a serious
26 felony);

27 Section 18-913, Idaho Code (Felony administration of drugs);

28 Section 18-918, Idaho Code (Felony domestic violence);

29 Section 18-923, Idaho Code (Attempted strangulation);

30 Section 18-1501, Idaho Code (Felony injury to children);

31 Section 18-1506, Idaho Code (Sexual abuse of a child under the age of
32 sixteen);

33 Section 18-1506A, Idaho Code (Ritualized abuse of a child);

34 Section 18-1506B, Idaho Code (Female genital mutilation of a child);

35 Section 18-1507, Idaho Code (Sexual exploitation of a child);

36 Section 18-1508, Idaho Code (Lewd conduct with a child under the age of
37 sixteen);

38 Section 18-1508A, Idaho Code (Sexual battery of a minor child sixteen or
39 seventeen years of age);

40 Section 18-4001, Idaho Code (Murder);

41 Section 18-4006, Idaho Code (Felony manslaughter);

42 Section 18-4014, Idaho Code (Administering poison with intent to kill);

43 Section 18-4015, Idaho Code (Assault with intent to murder);

44 Section 18-4502, Idaho Code (First degree kidnapping);

45 Section 18-5001, Idaho Code (Mayhem);

46 Section 18-5501, Idaho Code (Poisoning food, medicine or wells);

47 Section 18-6101, Idaho Code (Rape);

48 Section 18-6501, Idaho Code (Robbery).

1 (3) Notwithstanding the provisions of section 18-306(4) and (5), Idaho
2 Code, the fine created under this section may also be imposed up to five thou-
3 sand dollars (\$5,000) for attempts of the felonies described in:

- 4 Section 18-4001, Idaho Code (Murder);
5 Section 18-6101, Idaho Code (Rape).

6 SECTION 84. That Section 31-3201I, Idaho Code, be, and the same is
7 hereby amended to read as follows:

8 31-3201I. DISTRIBUTION OF PAYMENTS IN CRIMINAL AND INFRACTION CASES.
9 When ordered by the court to make one (1) of the following payments in a crim-
10 inal or infraction case, a defendant shall make the payment to the clerk of
11 the court in which the judgment was entered. The judgment shall be satisfied
12 accordingly by entry in the electronic docket of the court, and the clerk
13 of the court shall remit daily all such payments to the county auditor who
14 shall, at least monthly, distribute the payments received as required by
15 statute. The distributions shall first completely satisfy the amounts due
16 in the following order before distribution of payments for any other amounts
17 owed to the court, and any payment applied to a category below in which more
18 than one (1) payment was ordered shall be distributed in proportion to the
19 relative amounts of such ordered payments:

20 (1) Fees for each felony, misdemeanor, and infraction paid pursuant to
21 section 31-3201A(2) and (3), Idaho Code;

22 (2) Fines or reimbursements paid for the crime victims compensation ac-
23 count pursuant to section ~~72-1025~~ 20-1122, Idaho Code;

24 (3) Misdemeanor probation supervision fees, including court-ordered
25 costs and fees, paid pursuant to section 31-3201D, Idaho Code;

26 (4) Pretrial release supervision fees paid pursuant to section
27 31-3201J, Idaho Code;

28 (5) County drug and mental health fund fees paid pursuant to section
29 31-3201E, Idaho Code;

30 (6) Fines paid for the peace officer and detention officer temporary
31 disability fund pursuant to section 72-1105, Idaho Code;

32 (7) Restitution to victims of crime paid and distributed pursuant to
33 section 19-5304, Idaho Code, if paid through the clerk of the court;

34 (8) Fines entered on behalf of victims in cases of crimes of violence
35 paid pursuant to section 19-5307, Idaho Code;

36 (9) Community service fees paid pursuant to section 31-3201C, Idaho
37 Code;

38 (10) Victim notification fund fees paid pursuant to section 31-3204,
39 Idaho Code;

40 (11) Court technology fees paid pursuant to section 31-3201(5), Idaho
41 Code;

42 (12) Surcharge fees paid pursuant to section 31-3201H, Idaho Code;

43 (13) Peace officers standards and training fees paid pursuant to sec-
44 tion 31-3201B, Idaho Code;

45 (14) Domestic violence court fees paid pursuant to section 32-1410,
46 Idaho Code;

47 (15) Criminal and infraction fines;

48 (16) Reimbursement for public defender costs paid pursuant to section
49 19-854(7), Idaho Code;

1 (17) Costs of prosecution ordered as a condition of probation and paid
2 pursuant to section 19-2601, Idaho Code, and Idaho criminal rule 33(d) (2);

3 (18) Domestic violence fines for the domestic violence project account
4 paid pursuant to section 39-6312, Idaho Code;

5 (19) Drug hotline fees paid pursuant to section 37-2735A, Idaho Code;

6 (20) Additional fish and game fines for the search and rescue fund paid
7 pursuant to section 36-1405, Idaho Code;

8 (21) County administrative surcharge fees paid pursuant to section
9 31-3201(3), Idaho Code;

10 (22) Motor vehicle violation surcharge fees and ignition interlock and
11 electronic monitoring fees paid pursuant to sections 18-8008 and 18-8010,
12 Idaho Code;

13 (23) Costs for toxicology testing paid pursuant to section 37-2732C(g),
14 Idaho Code;

15 (24) Costs incurred by law enforcement agencies in investigating con-
16 trolled substance violations pursuant to chapter 27, title 37, Idaho Code,
17 violations of the racketeering act pursuant to section 18-7804, Idaho Code,
18 or money laundering and illegal investment provisions of section 18-8201,
19 Idaho Code, paid pursuant to section 37-2732(k), Idaho Code;

20 (25) Restitution for the repair or replacement of simulated wildlife
21 paid pursuant to section 36-1101(b) (8), Idaho Code;

22 (26) Abandoned vehicle fees paid pursuant to section 31-3201F, Idaho
23 Code; and

24 (27) Any other amounts paid pursuant to any statutory section not refer-
25 enced in this section.

26 SECTION 85. That Section 67-2912, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 67-2912. STATE VICTIM NOTIFICATION FUND. (1) There is hereby estab-
29 lished in the state treasury the state victim notification fund. Moneys in
30 the fund shall be perpetually appropriated to, and shall be used by the di-
31 rector of, the Idaho state police. Moneys deposited to the fund shall be ex-
32 pended for the purpose of defraying the costs of administering the ~~statewide~~
33 ~~automated victim information and notification service (SAVIN VINE)~~ system
34 by the Idaho sheriffs' association for the purpose of satisfying the pro-
35 visions of section 22, article I, of the constitution of the state of Idaho
36 requiring victim notification of offender court and incarceration status.
37 Moneys deposited to the fund shall be paid to the Idaho sheriffs' associa-
38 tion on a quarterly basis for the reimbursement of all costs associated with
39 administering the SAVIN VINE system. The director of the Idaho state police
40 is authorized to allocate up to five percent (5%) of the moneys in the fund
41 for reimbursement of all administrative expenses in relation to its admin-
42 istration of the fund. At the end of each state fiscal year, all moneys re-
43 maining in the fund after all costs for the administration of the SAVIN VINE
44 system have been paid, less one quarter's operating and administrative mon-
45 eys, shall be remitted to the crime victims compensation account established
46 in section ~~72-1009~~ 20-1107, Idaho Code. The state treasurer shall invest
47 all moneys in the state victim notification fund and interest and proceeds
48 earned shall be retained in the fund. The Idaho sheriffs' association shall
49 provide evidence of an independent audit of the moneys received and expendi-

1 tures made under this section to the Idaho state police on a yearly basis and
2 shall be subject to audit by the Idaho state controller at the discretion of
3 the state controller.

4 (2) The state victim notification fund shall be funded as provided in
5 section 31-3204, Idaho Code.

6 SECTION 86. That Section [72-1001](#), Idaho Code, be, and the same is hereby
7 repealed.

8 SECTION 87. That Section [72-1002](#), Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 88. That Section [72-1011](#), Idaho Code, be, and the same is hereby
11 repealed.

12 SECTION 89. That Section 74-105, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS,
15 INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS,
16 WORKER'S COMPENSATION. The following records are exempt from disclosure:

17 (1) Investigatory records of a law enforcement agency as defined in
18 section 74-101(7), Idaho Code, under the conditions set forth in section
19 74-124, Idaho Code.

20 (2) Juvenile records of a person maintained pursuant to chapter 5,
21 title 20, Idaho Code, except that facts contained in such records shall be
22 furnished upon request in a manner determined by the court to persons and
23 governmental and private agencies and institutions conducting pertinent
24 research studies or having a legitimate interest in the protection, welfare
25 and treatment of the juvenile who is thirteen (13) years of age or younger.
26 If the juvenile is petitioned or charged with an offense that would be a
27 criminal offense if committed by an adult, the name, offense of which the
28 juvenile was petitioned or charged, and disposition of the court shall be
29 subject to disclosure as provided in section 20-525, Idaho Code. Addi-
30 tionally, facts contained in any records of a juvenile maintained pursuant
31 to chapter 5, title 20, Idaho Code, shall be furnished upon request to any
32 school district where the juvenile is enrolled or is seeking enrollment.

33 (3) Records of the custody review board of the Idaho department of ju-
34 venile corrections, including records containing the names, addresses and
35 written statements of victims and family members of juveniles, shall be ex-
36 empt from public disclosure pursuant to section 20-533A, Idaho Code.

37 (4) (a) The following records of the department of correction:

38 (i) Records of which the public interest in confidentiality, pub-
39 lic safety, security and habilitation clearly outweighs the pub-
40 lic interest in disclosure as identified pursuant to the authority
41 of the state board of correction under section 20-212, Idaho Code;

42 (ii) Records that contain any identifying information, or any in-
43 formation that would lead to the identification of any victims or
44 witnesses;

45 (iii) Records that reflect future transportation or movement of a
46 prisoner;

1 (iv) Records gathered during the course of the presentence inves-
2 tigation;

3 (v) Records of a prisoner as defined in section 74-101(10), Idaho
4 Code, or probationer shall not be disclosed to any other prisoner
5 or probationer.

6 (b) Records, other than public expenditure records, related to pro-
7 posed or existing critical infrastructure held by or in the custody
8 of any public agency only when the disclosure of such information is
9 reasonably likely to jeopardize the safety of persons, property or the
10 public safety. Such records may include emergency evacuation, escape
11 or other emergency response plans, vulnerability assessments, oper-
12 ation and security manuals, plans, blueprints or security codes. For
13 purposes of this paragraph, "system" includes electrical, computer
14 and telecommunication systems, electric power (including production,
15 generating, transportation, transmission and distribution), heating,
16 ventilation, and air conditioning. For purposes of this subsection,
17 "critical infrastructure" means any system or asset, whether physical
18 or virtual, so vital to the state of Idaho, including its political sub-
19 divisions, that the incapacity or destruction of such system or asset
20 would have a debilitating impact on state or national economic secu-
21 rity, state or national public health or safety, or any combination of
22 those matters.

23 (c) Records of the Idaho commission of pardons and parole shall be ex-
24 empt from public disclosure pursuant to section 20-1003, Idaho Code,
25 and section 20-1005, Idaho Code. Records exempt from disclosure shall
26 also include those containing the names, addresses and written state-
27 ments of victims.

28 (5) Voting records of the former sexual offender classification board.
29 The written record of the vote to classify an offender as a violent sexual
30 predator by each board member in each case reviewed by that board member
31 shall be exempt from disclosure to the public and shall be made available
32 upon request only to the governor, the chairman of the senate judiciary and
33 rules committee, and the chairman of the house of representatives judiciary,
34 rules and administration committee for all lawful purposes.

35 (6) Records of the sheriff or Idaho state police received or maintained
36 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating
37 to an applicant or licensee, except that any law enforcement officer and law
38 enforcement agency, whether inside or outside the state of Idaho, may access
39 information maintained in the license record system as set forth in section
40 18-3302K(16), Idaho Code.

41 (7) Records of investigations prepared by the department of health and
42 welfare pursuant to its statutory responsibilities dealing with the protec-
43 tion of children, the rehabilitation of youth, adoptions and the commitment
44 of mentally ill persons. For reasons of health and safety, best interests of
45 the child or public interest, the department of health and welfare may pro-
46 vide for the disclosure of records of investigations associated with actions
47 pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by
48 the department of health and welfare pursuant to its statutory responsibil-
49 ities dealing with the protection of children, except any such records re-
50 garding adoptions shall remain exempt from disclosure.

1 (8) Records, including but not limited to investigative reports, re-
2 sulting from investigations conducted into complaints of discrimination
3 made to the Idaho human rights commission unless the public interest in
4 allowing inspection and copying of such records outweighs the legitimate
5 public or private interest in maintaining confidentiality of such records.
6 A person may inspect and copy documents from an investigative file to which
7 he or she is a named party if such documents are not otherwise prohibited from
8 disclosure by federal law or regulation or state law. The confidentiality of
9 this subsection will no longer apply to any record used in any judicial pro-
10 ceeding brought by a named party to the complaint or investigation, or by the
11 Idaho human rights commission, relating to the complaint of discrimination.

12 (9) Records containing information obtained by the manager of the Idaho
13 state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on
14 behalf of employers or employees contained in underwriting and claims for
15 benefits files.

16 (10) The worker's compensation records of the Idaho industrial commis-
17 sion, provided that the industrial commission shall make such records avail-
18 able:

19 (a) To the parties in any worker's compensation claim and to the indus-
20 trial special indemnity fund of the state of Idaho; or

21 (b) To employers and prospective employers subject to the provisions of
22 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
23 tory limitations, who certify that the information is being requested
24 with respect to a worker to whom the employer has extended an offer of
25 employment and will be used in accordance with the provisions of the
26 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
27 limitations; or

28 (c) To employers and prospective employers not subject to the provi-
29 sions of the Americans with disabilities act, 42 U.S.C. 12112, or other
30 statutory limitations, provided the employer presents a written autho-
31 rization from the person to whom the records pertain; or

32 (d) To others who demonstrate that the public interest in allowing in-
33 spection and copying of such records outweighs the public or private in-
34 terest in maintaining the confidentiality of such records, as deter-
35 mined by a civil court of competent jurisdiction; or

36 (e) Although a claimant's records maintained by the industrial commis-
37 sion, including medical and rehabilitation records, are otherwise ex-
38 empt from public disclosure, the quoting or discussing of medical or re-
39 habilitation records contained in the industrial commission's records
40 during a hearing for compensation or in a written decision issued by the
41 industrial commission shall be permitted; provided further, the true
42 identification of the parties shall not be exempt from public disclo-
43 sure in any written decision issued and released to the public by the in-
44 dustrial commission.

45 (11) Records of investigations compiled by the commission on aging in-
46 volving vulnerable adults as defined in section 18-1505, Idaho Code, alleged
47 to be abused, neglected or exploited.

48 (12) Criminal history records and fingerprints as defined in section
49 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
50 shall be released only in accordance with chapter 30, title 67, Idaho Code.

1 (13) Records furnished or obtained pursuant to section 41-1019, Idaho
2 Code, regarding termination of an appointment, employment, contract or
3 other insurance business relationship between an insurer and a producer.

4 (14) Records of a prisoner or former prisoner in the custody of any state
5 or local correctional facility, when the request is made by another prisoner
6 in the custody of any state or local correctional facility.

7 (15) Except as provided in section ~~72-1007~~ 20-1105, Idaho Code, records
8 of the ~~Idaho industrial commission~~ division of public safety relating to
9 compensation for crime victims pursuant to chapter ~~10 11~~, title ~~72~~ 20, Idaho
10 Code.

11 (16) Records or information identifying a complainant maintained by the
12 department of health and welfare pursuant to section 39-3556, Idaho Code,
13 relating to certified family homes, unless the complainant consents in writ-
14 ing to the disclosure or the disclosure of the complainant's identity is re-
15 quired in any administrative or judicial proceeding.

16 (17) Records of any certification or notification required by federal
17 law to be made in connection with the acquisition or transfer of a firearm,
18 including a firearm as defined in 26 U.S.C. 5845(a).

19 (18) The following records of the state public defense commission:

20 (a) Records containing information protected or exempted from disclo-
21 sure under the rules adopted by the Idaho supreme court, attorney work
22 product, attorney-client privileged communication, records containing
23 confidential information from an individual about his criminal case or
24 performance of his attorney, or confidential information about an in-
25 quiry into an attorney's fitness to represent indigent defendants.

26 (b) Records related to the administration of the extraordinary liti-
27 gation fund by the state public defense commission pursuant to section
28 19-850(2)(e), Idaho Code, to the extent that such records contain in-
29 formation protected or exempted from disclosure under rules adopted
30 by the Idaho supreme court, attorney work product or attorney-client
31 privileged communication. This exemption does not include the amount
32 awarded based upon an application for extraordinary litigation funds.

33 (19) Records and information received by the office of the state con-
34 troller from any local government, state agency and department, or volunteer
35 nongovernmental entity for purposes of entry into the criminal justice
36 integrated data system pursuant to section 19-4803, Idaho Code, and all
37 records created by persons authorized to research and analyze information
38 entered into the criminal justice integrated data system, regardless of
39 whether such records were previously exempted from disclosure or redacted
40 pursuant to state or federal law or court order. This exemption does not
41 apply to projects, reports, and data analyses approved for release by the
42 data oversight council and issued by persons authorized to conduct research
43 and analysis as set forth in chapter 48, title 19, Idaho Code. Records and
44 information relating to the management of the criminal justice integrated
45 data system shall not be exempt from disclosure except as otherwise provided
46 in law.

47 (20) Records that contain any identifying information or any informa-
48 tion that could lead to the identification of any persons or entities that
49 participate in or assist with an execution of a death sentence as described
50 in section 19-2716A, Idaho Code.

1 ~~(20)~~ (21) Records, other than public expenditure records, relating to
 2 the nature, location, or function of cybersecurity devices, programs, or
 3 systems designed to protect computer, information technology, or communica-
 4 tions systems against terrorist or other attacks.

5 SECTION 90. That Section 19-5304, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 19-5304. RESTITUTION FOR CRIME VICTIMS -- ORDERS TO BE SEPARATE --
 8 WHEN RESTITUTION IS NOT APPROPRIATE -- OTHER REMEDIES -- EVIDENTIARY HEAR-
 9 INGS -- DEFINITIONS. (1) As used in this chapter:

10 (a) "Economic loss" includes, but is not limited to, the value of prop-
 11 erty taken, destroyed, broken, or otherwise harmed, lost wages, and di-
 12 rect out-of-pocket losses or expenses, such as medical expenses result-
 13 ing from the criminal conduct, but does not include less tangible damage
 14 such as pain and suffering, wrongful death or emotional distress.

15 (b) "Found guilty of any crime" shall mean a finding by a court that a
 16 defendant has committed a criminal act and shall include an entry of a
 17 plea of guilty, an order withholding judgment, suspending sentence, or
 18 entry of judgment of conviction for a misdemeanor or felony.

19 (c) "Value" shall be as defined in section 18-2402(11), Idaho Code.

20 (d) "Property" shall be as defined in section 18-2402(8), Idaho Code.

21 (e) "Victim" shall mean:

22 (i) The directly injured victim which means a person or entity,
 23 who suffers economic loss or injury as the result of the defen-
 24 dant's criminal conduct and shall also include the immediate fam-
 25 ily of a minor and the immediate family of the actual victim in
 26 homicide cases;

27 (ii) Any health care provider who has provided medical treatment
 28 to a directly injured victim if such treatment is for an injury
 29 resulting from the defendant's criminal conduct, and who has not
 30 been otherwise compensated for such treatment by the directly in-
 31 jured victim or the immediate family of the directly injured vic-
 32 tim;

33 (iii) The account established pursuant to the crime victims com-
 34 pensation act, chapter ~~10~~ 11, title ~~72~~ 20, Idaho Code, from which
 35 payment was made to or on behalf of a directly injured victim pur-
 36 suant to the requirements of Idaho law as a result of the defen-
 37 dant's criminal conduct;

38 (iv) A person or entity who suffers economic loss because such
 39 person or entity has made payments to or on behalf of a directly in-
 40 jured victim pursuant to a contract including, but not limited to,
 41 an insurance contract, or payments to or on behalf of a directly
 42 injured victim to pay or settle a claim or claims against such per-
 43 son or entity in tort or pursuant to statute and arising from the
 44 crime.

45 (2) Unless the court determines that an order of restitution would be
 46 inappropriate or undesirable, it shall order a defendant found guilty of any
 47 crime which results in an economic loss to the victim to make restitution to
 48 the victim. An order of restitution shall be a separate written order in ad-
 49 dition to any other sentence the court may impose, including incarceration,

1 and may be complete, partial, or nominal. The court may also include resti-
2 tution as a term and condition of judgment of conviction; however, if a court
3 orders restitution in the judgment of conviction and in a separate written
4 order, a defendant shall not be required to make restitution in an amount be-
5 yond that authorized by this chapter. Restitution shall be ordered for any
6 economic loss which the victim actually suffers. The existence of a policy
7 of insurance covering the victim's loss shall not absolve the defendant of
8 the obligation to pay restitution.

9 (3) If the court determines that restitution is inappropriate or unde-
10 sirable or if only partial or nominal restitution is ordered, it shall enter
11 an order articulating the reasons therefor on the record.

12 (4) If a separate written order of restitution is issued, an order of
13 restitution shall be for an amount certain and shall be due and owing at the
14 time of sentencing or at the date the amount of restitution is determined,
15 whichever is later. An order of restitution may provide for interest from
16 the date of the economic loss or injury.

17 (5) The court may order the defendant to pay restitution to the victim
18 in any case, regardless of whether the defendant is incarcerated or placed
19 on probation. The court may order the defendant to pay all or a part of the
20 restitution ordered to the court to be distributed by the court to the vic-
21 tims in a manner the court deems just.

22 (6) Restitution orders shall be entered by the court at the time of sen-
23 tencing or such later date as deemed necessary by the court. Economic loss
24 shall be based upon the preponderance of evidence submitted to the court by
25 the prosecutor, defendant, victim or presentence investigator. Each party
26 shall have the right to present such evidence as may be relevant to the issue
27 of restitution, and the court may consider such hearsay as may be contained
28 in the presentence report, victim impact statement or otherwise provided to
29 the court.

30 (7) The court, in determining whether to order restitution and the
31 amount of such restitution, shall consider the amount of economic loss sus-
32 tained by the victim as a result of the offense, the financial resources,
33 needs and earning ability of the defendant, and such other factors as the
34 court deems appropriate. The immediate inability to pay restitution by a
35 defendant shall not be, in and of itself, a reason to not order restitution.

36 (8) In determining restitution, where it appears that more than one (1)
37 person is responsible for a crime that results in economic loss to a victim,
38 and one (1) or more of the suspects or defendants are not found, apprehended,
39 charged, convicted or ordered to pay restitution, the court may require the
40 remaining defendant or defendants, who are convicted of or plead guilty to
41 the crime, to be jointly and severally responsible for the entire economic
42 loss to the victim.

43 (9) The court may, with the consent of the parties, order restitution to
44 victims, and/or any other person or entity, for economic loss or injury for
45 crimes which are not adjudicated or are not before the court.

46 (10) A defendant, against whom a restitution order has been entered,
47 may, within forty-two (42) days of the entry of the order of restitution,
48 request relief from the restitution order in accordance with the Idaho rules
49 of civil procedure relating to relief from final orders.

1 (11) An order of restitution shall not preclude the victim from seeking
2 any other legal remedy.

3 (12) Every presentence report shall include a full statement of eco-
4 nomic loss suffered by the victim or victims of the defendant's crime or
5 crimes.

6 (13) If there is more than one (1) victim, the restitution order shall
7 provide that the directly injured victim(s) be fully compensated for so
8 much of the loss caused by the defendant's criminal conduct which has not
9 been paid by a third party, including persons referred to in subsection
10 (1) (e) (ii), (iii) and (iv) of this section.

11 (14) When a person is found guilty of violating section 18-8007, Idaho
12 Code, the court, in addition to any other sentence imposed, may order the
13 person to pay to any victim an amount of money equal to the amount of that vic-
14 tim's economic loss caused by the person as a result of the incident that cre-
15 ated the duties as provided in section 18-8007, Idaho Code.

16 SECTION 91. That Section 28-9-406, Idaho Code, be, and the same is
17 hereby amended to read as follows:

18 28-9-406. DISCHARGE OF ACCOUNT DEBTOR -- NOTIFICATION OF ASSIGNMENT
19 -- IDENTIFICATION AND PROOF OF ASSIGNMENT -- RESTRICTIONS ON ASSIGNMENT OF
20 ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECT-
21 TIVE. (a) Subject to subsections (b) through (i) of this section, an account
22 debtor on an account, chattel paper or a payment intangible may discharge its
23 obligation by paying the assignor until, but not after, the account debtor
24 receives a notification, authenticated by the assignor or the assignee, that
25 the amount due or to become due has been assigned and that payment is to be
26 made to the assignee. After receipt of the notification, the account debtor
27 may discharge its obligation by paying the assignee and may not discharge the
28 obligation by paying the assignor.

29 (b) Subject to subsection (h) of this section, notification is ineffec-
30 tive under subsection (a) of this section:

31 (1) If it does not reasonably identify the rights assigned;

32 (2) To the extent that an agreement between an account debtor and a
33 seller of a payment intangible limits the account debtor's duty to pay a
34 person other than the seller and the limitation is effective under law
35 other than this chapter; or

36 (3) At the option of an account debtor, if the notification notifies the
37 account debtor to make less than the full amount of any installment or
38 other periodic payment to the assignee, even if:

39 (A) only a portion of the account, chattel paper or payment intan-
40 gible has been assigned to that assignee;

41 (B) a portion has been assigned to another assignee; or

42 (C) the account debtor knows that the assignment to that assignee
43 is limited.

44 (c) Subject to subsection (h) of this section, if requested by the ac-
45 count debtor, an assignee shall seasonably furnish reasonable proof that the
46 assignment has been made. Unless the assignee complies, the account debtor
47 may discharge its obligation by paying the assignor, even if the account
48 debtor has received a notification under subsection (a) of this section.

1 (d) Except as otherwise provided in subsection (e) of this section and
 2 sections 28-9-407 and 28-12-303, Idaho Code, and subject to subsection (h)
 3 of this section, a term in an agreement between an account debtor and an as-
 4 signor or in a promissory note is ineffective to the extent that it:

5 (1) Prohibits, restricts or requires the consent of the account debtor
 6 or person obligated on the promissory note to the assignment or trans-
 7 fer of, or the creation, attachment, perfection or enforcement of a se-
 8 curity interest in, the account, chattel paper, payment intangible or
 9 promissory note; or

10 (2) Provides that the assignment or transfer or the creation, attach-
 11 ment, perfection, or enforcement of the security interest may give rise
 12 to a default, breach, right of recoupment, claim, defense, termination,
 13 right of termination, or remedy under the account, chattel paper, pay-
 14 ment intangible or promissory note.

15 (e) Subsection (d) of this section does not apply to the sale of a pay-
 16 ment intangible or promissory note, other than a sale pursuant to a disposi-
 17 tion under section 28-9-610, Idaho Code, or an acceptance of collateral un-
 18 der section 28-9-620, Idaho Code.

19 (f) Except as otherwise provided in sections 28-9-407 and 28-12-303,
 20 Idaho Code, and subject to subsections (h) and (i) of this section, a rule of
 21 law, statute, rule or regulation that prohibits, restricts, or requires the
 22 consent of a government, governmental body or official, or account debtor
 23 to the assignment or transfer of, or creation of a security interest in, an
 24 account or chattel paper is ineffective to the extent that the rule of law,
 25 statute, rule or regulation:

26 (1) Prohibits, restricts or requires the consent of the government,
 27 governmental body or official, or account debtor to the assignment or
 28 transfer of, or the creation, attachment, perfection, or enforcement of
 29 a security interest in the account or chattel paper; or

30 (2) Provides that the assignment or transfer or the creation, attach-
 31 ment, perfection or enforcement of the security interest may give rise
 32 to a default, breach, right of recoupment, claim, defense, termination,
 33 right of termination or remedy under the account or chattel paper.

34 (g) Subject to subsection (h) of this section, an account debtor may not
 35 waive or vary its option under subsection (b) (3) of this section.

36 (h) This section is subject to law other than this chapter which estab-
 37 lishes a different rule for an account debtor who is an individual and who in-
 38 curred the obligation primarily for personal, family or household purposes.

39 (i) This section does not apply to an assignment of a health care insur-
 40 ance receivable, an award of compensation made pursuant to the crime victims
 41 compensation act, chapter ~~10~~ 11, title ~~72~~ 20, Idaho Code, or a lottery prize
 42 subject to the provisions of chapter 74, title 67, Idaho Code.

43 SECTION 92. That Section 31-3201A, Idaho Code, be, and the same is
 44 hereby amended to read as follows:

45 31-3201A. COURT FEES. The clerk of the district court in addition to
 46 the fees and charges imposed by chapter 20, title 1, Idaho Code, and by sec-
 47 tion 31-3201, Idaho Code, and in addition to the fee levied by chapter 2, ti-
 48 tle 73, Idaho Code, shall charge, demand and receive the following fees for
 49 services rendered by him in discharging the duties imposed upon him by law:

1 (1) Civil cases. A fee of one hundred seventy-five dollars (\$175) for
2 filing a civil case of any type in the district court, except for those cases
3 to be assigned to the magistrate division of the district court for which the
4 fee shall be one hundred twenty dollars (\$120), with the following excep-
5 tions:

6 (a) The fee for small claims shall be as provided in section 1-2303,
7 Idaho Code;

8 (b) No filing fee shall be charged in the following types of cases:

9 (i) Cases brought under chapter 3, title 66, Idaho Code, for com-
10 mitment of mentally ill persons;

11 (ii) Cases brought under the juvenile corrections act;

12 (iii) Cases brought under the child protective act;

13 (iv) Demands for bond before a personal representative is ap-
14 pointed in probate;

15 (v) Petitions for sterilization;

16 (vi) Petitions for judicial consent to abortion;

17 (vii) Registration of trusts and renunciations;

18 (viii) Petitions for leave to compromise the disputed claim of a
19 minor;

20 (ix) Petitions for a civil protection order or to enforce a for-
21 eign civil protection order pursuant to chapter 63, title 39,
22 Idaho Code;

23 (x) Objections to the appointment of a guardian filed by a minor
24 or an incapacitated person;

25 (xi) Proceedings to suspend a license for nonpayment of child
26 support pursuant to section 7-1405, Idaho Code;

27 (xii) Proceedings under the uniform post-conviction procedure
28 act as provided in chapter 49, title 19, Idaho Code;

29 (xiii) Filings of a custody decree from another state; and

30 (xiv) Filings of any answer after an initial appearance fee has
31 been paid.

32 The filing fee shall be distributed as follows: twenty-three dollars
33 (\$23.00) of such filing fee shall be paid to the county treasurer for deposit
34 in the district court fund of the county, with six dollars (\$6.00) of such
35 twenty-three dollars (\$23.00) dedicated to provide for the suitable and ad-
36 equate quarters of the magistrate division of the district court, including
37 the facilities and equipment necessary to make the space provided functional
38 for its intended use, and shall provide for the staff personnel, supplies
39 and other expenses of the magistrate division; one dollar (\$1.00) of such
40 filing fee shall be paid to the peace officers standards and training fund
41 established in section 19-5116, Idaho Code; one hundred thirty-five dollars
42 (\$135) of such filing fee, or in a case assigned to the magistrate division of
43 the district court eighty dollars (\$80.00) of such filing fee, shall be paid
44 to the county treasurer who shall, within fifteen (15) days after the end of
45 the month, pay such fees to the state treasurer for deposit into the court
46 technology fund; ten dollars (\$10.00) of such filing fee shall be paid to the
47 county treasurer, who shall pay such fees to the state treasurer for deposit
48 in accordance with subsection (15) of this section; and six dollars (\$6.00)
49 of such filing fee shall be paid to the county treasurer, who shall, within

1 fifteen (15) days after the end of the month, pay such fees to the state trea-
2 surer for deposit in the senior magistrate judges fund.

3 (2) Felonies and misdemeanors. A fee of seventeen dollars and fifty
4 cents (\$17.50) shall be paid, but not in advance, by each person found guilty
5 of any felony or misdemeanor, except when the court orders such fee waived
6 because the person is indigent and unable to pay such fee. Eleven dollars
7 (\$11.00) of such fee shall be paid to the county treasurer for deposit in the
8 district court fund of the county, with six dollars (\$6.00) of such eleven
9 dollars (\$11.00) dedicated to provide for the suitable and adequate quar-
10 ters of the magistrate division of the district court, including the facil-
11 ities and equipment necessary to make the space provided functional for its
12 intended use, and shall provide for the staff personnel, supplies and other
13 expenses of the magistrate division; one dollar (\$1.00) of such filing fee
14 shall be paid to the peace officers standards and training fund established
15 in section 19-5116, Idaho Code; and five dollars and fifty cents (\$5.50) of
16 such fee shall be paid to the county treasurer, who shall pay such fees to the
17 state treasurer for deposit in accordance with subsection (15) of this sec-
18 tion.

19 (3) Infractions. A fee of sixteen dollars and fifty cents (\$16.50)
20 shall be paid, but not in advance, by each person found to have committed an
21 infraction or any minor traffic, conservation or ordinance violation, and a
22 fee of seventeen dollars and fifty cents (\$17.50) shall be paid, but not in
23 advance, by each person found to have committed an infraction under section
24 18-8001 or 49-301, Idaho Code, or a first-time infraction under section
25 23-604 or 23-949, Idaho Code, and distributed pursuant to subsection (2) of
26 this section; provided that the judge or magistrate may in his or her discre-
27 tion consolidate separate nonmoving traffic offenses into one (1) offense
28 for purposes of assessing such fee. Eleven dollars (\$11.00) of such fee
29 shall be paid to the county treasurer for deposit in the district court fund
30 of the county, with six dollars (\$6.00) of such eleven dollars (\$11.00) ded-
31 icated to provide for the suitable and adequate quarters of the magistrate
32 division of the district court, including the facilities and equipment nec-
33 essary to make the space provided functional for its intended use, and shall
34 provide for the staff personnel, supplies and other expenses of the magis-
35 trate division; one dollar (\$1.00) of such filing fee shall be paid to the
36 peace officers standards and training fund established in section 19-5116,
37 Idaho Code; and four dollars and fifty cents (\$4.50) of such fee shall be paid
38 to the county treasurer, who shall pay such fees to the state treasurer for
39 deposit in accordance with subsection (15) of this section.

40 (4) Initial appearance other than plaintiff. A fee of one hundred dol-
41 lars (\$100) shall be paid for any filing constituting the initial appearance
42 by a party, except the plaintiff, in any civil action in the district court
43 or in the magistrate division of the district court, except small claims. If
44 two (2) or more parties are making their initial appearance in the same fil-
45 ing, then only one (1) filing fee shall be collected. Of such fee, four dol-
46 lars (\$4.00) shall be paid to the county treasurer for deposit in the dis-
47 trict court fund of the county; eighty dollars (\$80.00) of such fee shall be
48 paid to the county treasurer, who shall, within fifteen (15) days after the
49 end of the month, pay such fees to the state treasurer for deposit into the
50 court technology fund; ten dollars (\$10.00) of such fee shall be paid to the

1 county treasurer, who shall pay such fees to the state treasurer for deposit
2 in accordance with subsection (15) of this section; and six dollars (\$6.00)
3 of such fee shall be paid to the county treasurer, who shall, within fifteen
4 (15) days after the end of the month, pay such fees to the state treasurer for
5 deposit in the senior magistrate judges fund.

6 (5) Accountings. A fee of nine dollars (\$9.00) shall be paid by the per-
7 son or persons required to make an account pursuant to title 15, Idaho Code,
8 at the time such account is filed. All of such fee shall be paid to the county
9 treasurer for deposit in the district court fund of the county.

10 (6) Distribution of estate. A fee of twenty-five dollars (\$25.00)
11 shall be paid upon the filing of a petition of the executor or administrator
12 or of any person interested in an estate for the distribution of such estate,
13 six dollars (\$6.00) of such fee shall be paid to the county treasurer for
14 deposit in the district court fund of the county; thirteen dollars (\$13.00)
15 of such fee shall be paid to the county treasurer, who shall pay such fees to
16 the state treasurer for deposit in accordance with subsection (15) of this
17 section; and six dollars (\$6.00) of such fee shall be paid to the county trea-
18 surer, who shall, within fifteen (15) days after the end of the month, pay
19 such fees to the state treasurer for deposit in the senior magistrate judges
20 fund.

21 (7) Third-party claim. A fee of fourteen dollars (\$14.00) shall be paid
22 by a party filing a third-party claim as defined in the Idaho rules of civil
23 procedure. Eight dollars (\$8.00) of such fee shall be paid to the county
24 treasurer for deposit in the district court fund of the county; and six dol-
25 lars (\$6.00) of such fee shall be paid to the county treasurer, who shall,
26 within fifteen (15) days after the end of the month, pay such fees to the
27 state treasurer for deposit in the senior magistrate judges fund.

28 (8) Cross-claims. A fee of fourteen dollars (\$14.00) shall be paid by
29 any party filing a cross-claim. Eight dollars (\$8.00) of such fee shall be
30 paid to the county treasurer for deposit in the district court fund of the
31 county; and six dollars (\$6.00) of such fee shall be paid to the county trea-
32 surer, who shall, within fifteen (15) days after the end of the month, pay
33 such fees to the state treasurer for deposit in the senior magistrate judges
34 fund.

35 (9) Change of venue. A fee of twenty-nine dollars (\$29.00) shall be
36 paid by a party initiating a change of venue. Such fee shall be paid to the
37 clerk of the court of the county to which venue is changed. Nine dollars
38 (\$9.00) of such fee shall be paid to the county treasurer for deposit in the
39 district court fund of the county and twenty dollars (\$20.00) of such fee
40 shall be paid to the county treasurer, who shall, within fifteen (15) days
41 after the end of the month, pay such fees to the state treasurer for deposit
42 into the court technology fund.

43 (10) Reopening a case.

44 (a) A fee of eighty-five dollars (\$85.00) shall be paid by any party
45 appearing after judgment or applying to reopen a case. Nine dollars
46 (\$9.00) of such fee shall be paid to the county treasurer for deposit in
47 the district court fund of the county; six dollars (\$6.00) of such fee
48 shall be paid to the county treasurer, who shall, within fifteen (15)
49 days after the end of the month, pay such fees to the state treasurer
50 for deposit in the senior magistrate judges fund; and seventy dollars

1 (\$70.00) of such fee shall be paid to the county treasurer, who shall,
2 within fifteen (15) days after the end of the month, pay such fees to the
3 state treasurer for deposit into the court technology fund.

4 (b) A fee of one hundred eight dollars (\$108) shall be paid by a party
5 applying to reopen a divorce action or modify a divorce decree, with
6 seventeen dollars (\$17.00) of the fee to be paid to the county treasurer
7 for deposit in the district court fund of the county; fifteen dollars
8 (\$15.00) of such fee to be paid to the county treasurer, who shall pay
9 such fees to the state treasurer for deposit in accordance with subsec-
10 tion (15) of this section; six dollars (\$6.00) of such fee to be paid to
11 the county treasurer, who shall, within fifteen (15) days after the end
12 of the month, pay such fees to the state treasurer for deposit in the
13 senior magistrate judges fund; and seventy dollars (\$70.00) of such fee
14 shall be paid to the county treasurer, who shall, within fifteen (15)
15 days after the end of the month, pay such fees to the state treasurer for
16 deposit into the court technology fund.

17 (c) When the application to reopen a case consists only of a motion or
18 other pleading to revive or renew a judgment, a fee of twenty-nine dol-
19 lars (\$29.00) shall be paid by the party filing the motion or pleading.
20 Nine dollars (\$9.00) of such fee shall be paid to the county treasurer
21 for deposit in the district court fund of the county and twenty dollars
22 (\$20.00) of such fee shall be paid to the county treasurer, who shall,
23 within fifteen (15) days after the end of the month, pay such fees to the
24 state treasurer for deposit into the court technology fund.

25 (11) Appeal to district court. A fee of thirty-five dollars (\$35.00)
26 shall be paid by a party taking an appeal from the magistrate division of the
27 district court to the district court; nine dollars (\$9.00) of such fee shall
28 be paid to the county treasurer for deposit in the district court fund of the
29 county; six dollars (\$6.00) of such fee shall be paid to the county trea-
30 surer, who shall, within fifteen (15) days after the end of the month, pay
31 such fees to the state treasurer for deposit in the senior magistrate judges
32 fund; and twenty dollars (\$20.00) of such fee shall be paid to the county
33 treasurer, who shall, within fifteen (15) days after the end of the month,
34 pay such fees to the state treasurer for deposit into the court technology
35 fund. No additional fee shall be required if a new trial is granted.

36 (12) Appeal to supreme court. A fee of thirty-five dollars (\$35.00)
37 shall be paid by the party taking an appeal from the district court to the
38 supreme court for comparing and certifying the transcript on appeal, if such
39 certificate is required. Nine dollars (\$9.00) of such fee shall be paid to
40 the county treasurer for deposit in the district court fund of the county;
41 six dollars (\$6.00) of such fee shall be paid to the county treasurer, who
42 shall, within fifteen (15) days after the end of the month, pay such fees to
43 the state treasurer for deposit in the senior magistrate judges fund; and
44 twenty dollars (\$20.00) of such fee shall be paid to the county treasurer,
45 who shall, within fifteen (15) days after the end of the month, pay such fees
46 to the state treasurer for deposit into the court technology fund.

47 (13) Fees not covered by this section, including fees to defray the
48 costs of electronic access to court records other than the register of ac-
49 tions, shall be set by rule or administrative order of the supreme court.

1 (14) All fees required to be paid by this section or by rule or admin-
2 istrative order of the supreme court shall be collected by the clerk of the
3 district court or by a person appointed by the clerk of the district court
4 for this purpose. If it appears that there is a necessity for such fees to
5 be collected by persons other than the clerk of the district court or a per-
6 son designated by the clerk for such purpose, the supreme court by rule or
7 administrative order may provide for the designation of persons authorized
8 to receive such fees. Persons so designated shall account for such fees in
9 the same manner required of the clerk of the district court and shall pay such
10 fees to the clerk of the district court of the county in which such fees are
11 collected.

12 (15) That portion of the filing fees required to be remitted to the state
13 treasurer for deposit pursuant to subsections (1), (2), (3), (4), (6) and
14 (10) of this section shall be apportioned eighty-six percent (86%) to the
15 state general fund and fourteen percent (14%) to the peace officers stan-
16 dards and training fund authorized in section 19-5116, Idaho Code, within
17 fifteen (15) days after the end of the month in which such fees were remitted
18 to the county treasurer. That portion of the filing fees required to be re-
19 mitted to a city treasurer for deposit in the city's general fund shall be re-
20 mitted within fifteen (15) days after the end of the month in which such fees
21 were remitted to the county treasurer.

22 (16) Of the fees derived from the filing of any divorce action required
23 to be transmitted to the state treasurer, the county treasurer shall retain
24 five dollars (\$5.00), which shall be separately identified and deposited in
25 the district court fund of the county. Such moneys shall be used exclusively
26 for the purpose of establishing a uniform system of qualifying and approving
27 persons, agencies or organizations to conduct evaluations of persons con-
28 victed of domestic assault or battery as provided in section 18-918, Idaho
29 Code, and the administration of section 18-918(7), Idaho Code, relating to
30 the evaluation and counseling or other treatment of such persons, including
31 the payment of the costs of evaluating and counseling or other treatment of
32 an indigent defendant. No provision of chapter ~~52~~ 9, title ~~39~~ 20, Idaho Code,
33 shall apply to the moneys provided for in this subsection.

34 (17) In consideration of the fees in this section, the clerk of the dis-
35 trict court shall be required to perform all lawful service that may be re-
36 quired of him by any party thereto; provided that he shall not prepare and
37 furnish any certified copy of any file or record in an action, except printed
38 transcript on appeal, without additional compensation as provided by law.

39 SECTION 93. That Section 66-612, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 66-612. PENALTY. It is a misdemeanor for a person to knowingly alter,
42 forge, conceal or destroy a declaration, or the reinstatement or revocation
43 of a declaration. In this section, "knowingly" has the meaning given in sec-
44 tion 18-101 ~~5~~, Idaho Code.

45 SECTION 94. An emergency existing therefor, which emergency is hereby
46 declared to exist, this act shall be in full force and effect on and after
47 July 1, 2023.