

TITLE 1
COURTS AND COURT OFFICIALS

CHAPTER 24
COURT OF APPEALS

1-2401. SHORT TITLE. This act shall be know and may be cited as the "Idaho Court of Appeals Act."

[1-2401, added 1980, ch. 245, sec. 1, p. 565.]

1-2402. STATEMENT OF INTENT. It is hereby declared that the purpose of this act is to create an appellate court subordinate to the Idaho supreme court, to be known as the Idaho court of appeals.

[1-2402, added 1980, ch. 245, sec. 1, p. 565.]

1-2403. COURT OF APPEALS ESTABLISHED -- ADMINISTRATION AND SUPERVISION. There is hereby created the Idaho court of appeals. The court of appeals shall be part of the judicial branch of government and shall be subject to administration and supervision by the supreme court of Idaho pursuant to article 5, section 2 of the Idaho constitution.

[1-2403, added 1980, ch. 245, sec. 1, p. 565.]

1-2404. NUMBER OF JUDGES -- QUALIFICATIONS -- CONDUCT AND DISCIPLINE -- TERM -- ELECTION -- SELECTION -- COMPENSATION. (1) The court of appeals shall consist of four (4) judges, and shall sit in panels of not less than three (3) judges each.

(2) To be elected or appointed to the office of judge of the court of appeals a person must, at the time of such election or appointment, meet all of the following qualifications:

- (a) Be at least thirty (30) years of age;
- (b) Be a citizen of the United States and an elector of the state of Idaho;
- (c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election or appointment;
- (d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election or appointment; and
- (e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election or appointment.

For purposes of this section, the following terms have the following meanings:

- (a) "Active," "judicial" and "good standing" have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;
- (b) "Jurisdiction" means a state or territory of the United States, the District of Columbia or any branch of the United States military; and
- (c) "Elector" means one who is lawfully registered to vote.

(3) A judge of the court of appeals shall be governed by the code of judicial conduct as promulgated by the Idaho supreme court, and shall be sub-

ject to removal, discipline, or retirement pursuant to section [1-2103](#), Idaho Code.

(4) (a) Judges of the court of appeals shall be appointed by the governor effective the first Monday of January, 1982, for the following initial terms: one (1) judge shall be appointed for a term to expire on the first Monday of January, 1985, one (1) judge shall be appointed for a term expiring two (2) years later, and one (1) judge shall be appointed for a term expiring two (2) further years later. Thereafter, the term of office of a judge of the court of appeals shall be six (6) years.

(b) Vacancies in the office of judge of the court of appeals shall be filled in the same manner as vacancies in the office of supreme court justice or district judge.

(c) The positions of judges of the Idaho court of appeals shall first be filled as vacancies. The judicial council shall submit to the governor its recommendations for the offices at the earliest practicable time after the effective date of this act. The governor may make the appointment at any time thereafter, to be effective the first Monday of January, 1982, for the terms set forth in subsection (4) (a) of this section.

(d) In making its nominations for the initial vacancies to be created by this act, the Idaho judicial council shall submit the names of not less than six (6) nor more than nine (9) qualified persons for the initial three (3) vacancies to be created by this act. Otherwise, the judicial council shall submit the names of not less than two (2) nor more than four (4) persons for each vacancy. The governor shall appoint the judges, identifying each appointment by the length of the term of appointment.

(e) Nominations and appointments to fill initial or subsequent vacancies shall be made with due regard for balanced geographical membership of the court of appeals.

(f) Subsequent terms of office of a judge who has been appointed to the court of appeals shall be subject to a statewide nonpartisan election to be held in the primary election next preceding the expiration of an appointed term in the same method and manner as a justice of the supreme court.

(g) A fourth judge of the court of appeals shall be appointed by the governor effective the first Monday of January, 2009, for an initial term to expire on the first Monday of January, 2013. Thereafter, the term of office for this position shall be six (6) years. The judicial council shall submit the names of not less than two (2) nor more than four (4) persons for the initial vacancy in this position under the procedure set forth in section [1-2102](#), Idaho Code. This position shall be subject to all of the provisions relating to qualifications, removal, discipline, retirement, filling of vacancies, election and compensation set forth in this chapter.

(5) Judges of the court of appeals, except for judges who have made an election to remain in the public employee retirement system of Idaho pursuant to section [1-2011](#), Idaho Code, shall receive compensation upon retirement as provided in [chapter 20, title 1](#), Idaho Code.

[1-2404, added 1980, ch. 245, sec. 1, p. 565; am. 1981. ch. 271, sec. 1, p. 572; am. 1985, ch. 29, sec. 5, p. 55; am. 1998, ch. 126, sec. 4, p. 470; am. 2008, ch. 24, sec. 1, p. 36; am. 2014, ch. 291, sec. 4, p. 735; am. 2015, ch. 310, sec. 2, p. 1216.]

1-2405. INTERIM AND SUPPLEMENTAL MEMBERSHIP OF COURT OF APPEALS. (1) Commencing July 1, 1981, until funds have been appropriated for, and the governor has filled by appointment, three (3) positions on the Idaho court of appeals, and continuing thereafter as needed, the supreme court may provide for the assignment of active or senior district judges, active or senior attorney magistrate judges, senior justices of the supreme court and senior judges of the court of appeals to serve on a panel of the court of appeals. Assignments may be made for a time certain, for a term of court, or specifically for one (1) or more cases on the docket of the court of appeals.

(2) An active or senior district judge or active or senior attorney magistrate judge may not be assigned to hear cases in which he or she participated while serving on the district court, nor may an active district judge or an active attorney magistrate judge hear cases which originated in his or her judicial district.

(3) Active district judges or active attorney magistrate judges serving on the court of appeals shall be entitled to no additional compensation, but shall be reimbursed for expenses, as provided by section [1-711](#), Idaho Code, for active district judges, or as provided by section [1-2219](#), Idaho Code, for active attorney magistrate judges. Compensation for senior justices or senior judges serving on the court of appeals shall be paid in the manner provided for in section [1-2005](#) or section [1-2221](#), Idaho Code.

[1-2405, added 1980, ch. 245, sec. 1, p. 566; am. 1999, ch. 148, sec. 1, p. 420; am. 2002, ch. 95, sec. 2, p. 264.]

1-2406. JURISDICTION -- ASSIGNMENT AND REVOCATION OF ASSIGNMENT OF CASES -- AUTHORITY IN FURTHERANCE OF JURISDICTION. (1) Any provision of law to the contrary notwithstanding, the Idaho court of appeals shall have jurisdiction to hear and to decide all cases assigned to it by the Idaho supreme court; provided, that the supreme court shall not assign cases invoking the supreme court's original jurisdiction, nor appeals from imposition of sentences of capital punishment in criminal cases, nor appeals from the industrial commission, nor appeals from the public utilities commission.

(2) In assigning cases to the Idaho court of appeals, the Idaho supreme court shall give due regard to the workload of each court, to the error review and correction functions of the court of appeals, and to the desirability of retaining for decision by the supreme court those cases in which there is substantial public interest or in which there are significant issues involving clarification or development of the law.

(3) Upon motion of any party, or upon recommendation of the court of appeals, or upon its own motion, the supreme court may revoke assignment of a case to the court of appeals. In the event of such transfer or revocation of assignment, the case shall be heard and decided by the supreme court.

(4) A judge of the court of appeals may be assigned cases in other courts from time to time by the chief justice of the supreme court of Idaho, and when so assigned shall have the same powers, duties and functions as a judge of the court to which he is assigned; provided, however, that no judge shall participate in the review by the supreme court or by the court of appeals of a case in which he participated while serving on the district court or court of appeals.

[1-2406, added 1980, ch. 245, sec. 1, p. 567; am. 1981, ch. 271, sec. 2, p. 574.]

1-2407. ADMINISTRATION -- EMPLOYEES AND CLERICAL ASSISTANCE FOR COURT -- OFFICIAL SEAL AND COURT OF RECORD -- PLACE OF SESSIONS. (1) The court of appeals shall be subject to the administrative policies and procedures which may be established by the supreme court.

(2) Appointment of employees by the court of appeals shall be governed by personnel policies approved by rule of the supreme court.

(3) The clerk of the supreme court shall be the clerk of the court of appeals.

(4) The court of appeals shall have an official seal and shall be a court of record.

(5) The principal office of the court of appeals and chambers of its judges, except those serving pursuant to section [1-2405](#), Idaho Code, shall be at Boise, Idaho.

(6) The court of appeals shall sit in Boise, but also may sit in such other places as it considers convenient for the conduct of its business.

(7) All proceedings of the court of appeals shall be governed by rules of the supreme court and by rules of the court of appeals approved by the supreme court.

[1-2407, added 1980, ch. 245, sec. 1, p. 567.]

1-2408. CHIEF JUDGE. The chief justice of the supreme court shall appoint a chief judge of the court of appeals for a term of two (2) years or such shorter period as may be determined by the chief justice. The chief judge shall exercise such administrative powers as may be delegated by the full membership of the court of appeals, not in conflict with supreme court rules. The chief judge shall receive an annual salary in an amount of three thousand dollars (\$3,000) greater than the annual salary of a judge of the court of appeals to compensate for the additional duties of the office.

[1-2408, added 1980, ch. 245, sec. 1, p. 568; am. 1981, ch. 271, sec. 3, p. 574; am. 2014, ch. 291, sec. 5, p. 736; am. 2017, ch. 168, sec. 3, p. 392.]

1-2409. REVIEW OF DECISIONS OF COURT OF APPEALS. Any party in interest who is aggrieved by a decision of the court of appeals may petition the supreme court, within twenty-one (21) days following said decision, for review of the decision. The supreme court may, in its discretion, grant such petition. Review of decisions of the court of appeals shall be governed by the rules of the supreme court.

[1-2409, added 1980, ch. 245, sec. 1, p. 568; am. 1981, ch. 271, sec. 4, p. 574.]

1-2410. RIGHT OF APPEAL NOT CREATED. Nothing in this act is intended to provide or to create a right of appeal where such right is not otherwise provided or created by law.

[1-2410, added 1980, ch. 245, sec. 1, p. 568.]

1-2411. FILING OF APPEAL AND FILING FEE -- UNITARY APPEAL. (1) In any appeal to the supreme court or to the court of appeals, there shall be only one (1) filing and one (1) filing fee required. The filing fee shall be as prescribed by sections [1-402](#) and [1-2003](#), Idaho Code.

(2) It is intended by this chapter that the supreme court shall establish the most convenient and expeditious procedures for filing of appeals, and that all appeals to the court of appeals or the supreme court shall be treated as one (1) appeal process under the jurisdiction of the supreme court.

(3) All appeals shall be processed in the supreme court unless or until assigned to the court of appeals.

[1-2411, added 1980, ch. 245, sec. 1, p. 568.]