TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 2
PERSONS LIABLE, PRINCIPALS AND ACCESSORIES

18-201. PERSONS CAPABLE OF COMMITTING CRIMES. All persons are capable of committing crimes, except those belonging to the following classes:

1. Persons who committed the act or made the omission charged, under an ignorance or mistake of fact which disproves any criminal intent.

2. Persons who committed the act charged without being conscious thereof.

3. Persons who committed the act or made the omission charged, through misfortune or by accident, when it appears that there was not evil design, intention or culpable negligence.

4. Persons (unless the crime be punishable with death) who committed the act or made the omission charged, under threats or menaces sufficient to show that they had reasonable cause to and did believe their lives would be endangered if they refused.

[I.C., sec. 18-201, as added by 1972, ch. 336, sec. 1, p. 849.]

18-202. TERRITORIAL JURISDICTION OVER ACCUSED PERSONS LIABLE TO PUNISHMENT. The following persons are liable to punishment under the laws of this state:

1. All persons who commit, in whole or in part, any crime within this state.

2. All who commit larceny or robbery out of this state, and bring to, or are found with the property stolen, in this state.

3. All who, being out of this state, cause or aid, advise or encourage, another person to commit a crime within this state and are afterwards found therein.

[18-202, added 1972, ch. 336, sec. 1, p. 849.]

18-203. CLASSIFICATION OF PARTIES. The parties to crimes are classified as:

1. Principals; and

2. Accessories.

[18-203, added 1972, ch. 336, sec. 1, p. 849.]

18-204. PRINCIPALS DEFINED. All persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense or aid and abet in its commission, or, not being present, have advised and encouraged its commission, or who, by fraud, contrivance, or force, occasion the intoxication of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command or coercion, compel another to commit any crime, are principals in any crime so committed.

[18-204, added 1972, ch. 336, sec. 1, p. 849; am. 1994, ch. 131, sec. 2, p. 297.]

18-205. ACCESSORIES DEFINED. All persons are accessories who, having knowledge that a felony has been committed:

(1) Willfully withhold or conceal it from a peace officer, judge, magistrate, grand jury or trial jury; or

(2) Harbor and protect a person who committed such felony or who has been charged with or convicted thereof.

[18-205, added 1972, ch. 336, sec. 1, p. 850; am. 1981, ch. 169, sec. 1, p. 301; am. 1994, ch. 131, sec. 3, p. 297; am. 2001, ch. 119, sec. 1, p. 413; am. 2003, ch. 217, sec. 1, p. 566.]

18-206. PUNISHMENT OF ACCESSORIES. Except in cases where a different punishment is prescribed, an accessory is punishable by imprisonment in the state prison not exceeding five (5) years, or by fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

[18-206, added 1972, ch. 336, sec. 1, p. 850; am. 1994, ch. 131, sec. 4, p. 297.]

18-207. MENTAL CONDITION NOT A DEFENSE -- PROVISION FOR TREATMENT DURING INCARCERATION -- RECEPTION OF EVIDENCE -- NOTICE AND APPOINTMENT OF EXPERT EXAMINERS. (1) Mental condition shall not be a defense to any charge of criminal conduct.

(2) If by the provisions of section 19-2523, Idaho Code, the court finds that one convicted of crime suffers from any mental condition requiring treatment, such person shall be committed to the board of correction or such city or county official as provided by law for placement in an appropriate facility for treatment, having regard for such conditions of security as the case may require. In the event a sentence of incarceration has been imposed, the defendant shall receive treatment in a facility which provides for incarceration or less restrictive confinement. In the event that a course of treatment thus commenced shall be concluded prior to the expiration of the sentence imposed, the offender shall remain liable for the remainder of such sentence, but shall have credit for time incarcerated for treatment.

(3) Nothing herein is intended to prevent the admission of expert evidence on the issue of any state of mind which is an element of the offense, subject to the rules of evidence.

(4) No court shall, over the objection of any party, receive the evidence of any expert witness on any issue of mental condition, or permit such evidence to be placed before a jury, unless such evidence is fully subject to the adversarial process in at least the following particulars:

(a) Notice must be given at least ninety (90) days in advance of trial, or such other period as justice may require, that a party intends to raise any issue of mental condition and to call expert witnesses concerning such issue, failing which such witness shall not be permitted to testify until such time as the opposing party has a complete opportunity to consider the substance of such testimony and prepare for rebuttal through such opposing expert(s) as the party may choose.

(b) A party who expects to call an expert witness to testify on an issue of mental condition must, on a schedule to be set by the court, furnish to the opposing party a written synopsis of the findings of such expert, or a copy of a written report. The court may authorize the taking of depositions to inquire further into the substance of such reports or synopses.

(c) Raising an issue of mental condition in a criminal proceeding shall constitute a waiver of any privilege that might otherwise be interposed to bar the production of evidence on the subject and, upon request, the court shall order that the state's experts shall have access to the defendant in such cases for the purpose of having its own experts conduct an examination in preparation for any legal proceeding at which the defendant's mental condition may be in issue.

(d) The court is authorized to appoint at least one (1) expert at public expense upon a showing by an indigent defendant that there is a need to inquire into questions of the defendant's mental condition. The costs of examination shall be paid by the defendant if he is financially able. The determination of ability to pay shall be made in accordance with chapter 8, title 19, Idaho Code.

(e) If an examination cannot be conducted by reason of the unwillingness of the defendant to cooperate, the examiner shall so advise the court in writing. In such cases the court may deny the party refusing to cooperate the right to present evidence in support of a mental status claim unless the interest of justice requires otherwise and shall instruct the jury that it may consider the party's lack of cooperation for its effect on the credibility of the party's mental status claim.

[18-207, added 1982, ch. 368, sec. 2, p. 919; am. 1996, ch. 225, sec. 1, p. 737.]

18-210. LACK OF CAPACITY TO UNDERSTAND PROCEEDINGS -- DELAY OF TRIAL. No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted, sentenced or punished for the commission of an offense so long as such incapacity endures.

[I.C., sec. 18-210, as added by 1972, ch. 336, sec. 1, p. 851.]

18-211. EXAMINATION OF DEFENDANT -- APPOINTMENT OF PSYCHIATRISTS AND LICENSED PSYCHOLOGISTS -- HOSPITALIZATION -- REPORT. [EFFECTIVE UNTIL JANUARY 1, 2027] (1) Whenever there is reason to doubt the defendant's fitness to proceed as set forth in section 18-210, Idaho Code, the court shall appoint at least one (1) qualified psychiatrist or licensed psychologist or shall request the director of the department of health and welfare to designate at least one (1) qualified psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant to assist counsel with defense or understand the proceedings. The appointed examiner shall also evaluate whether the defendant lacks capacity to make informed decisions about treatment. The costs of examination shall be paid by the defendant if he is financially able. The determination of ability to pay shall be made in accordance with chapter 8, title 19, Idaho Code.

(2) Within three (3) days, excluding Saturdays, Sundays and legal holidays, of the appointment or designation, the examiner shall determine the best location for the examination. If practical, the examination shall be conducted locally on an outpatient basis.

(3) If the examiner determines that confinement is necessary for purposes of the examination, the court may order the defendant to be confined to a jail, a hospital, or other suitable facility for that purpose for a period not exceeding thirty (30) days. The order of confinement shall require the county sheriff to transport the defendant to and from the facility and shall

notify the facility of any known medical, behavioral, or security requirements of the defendant. The court, upon request, may make available to the examiner any court records relating to the defendant.

(4) In such examination, any method may be employed that is accepted by the examiner's profession for the examination of those alleged not to be competent to assist counsel in their defense.

(5) Upon completion of the examination, a report shall be submitted to the court and shall include the following:

(a) A description of the nature of the examination;

(b) A diagnosis or evaluation of the mental condition of the defendant;

(c) An opinion as to the defendant's capacity to understand the proceedings against him and to assist in his own defense;

(d) An opinion whether the defendant lacks the capacity to make informed decisions about treatment. "Lack of capacity to make informed decisions about treatment" means the defendant's inability, by reason of his mental condition, to achieve a rudimentary understanding of the purpose, nature, and possible significant risks and benefits of treatment, after conscientious efforts at explanation.

(6) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental disease or defect.

(7) The report of the examination shall be filed with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(8) When the defendant wishes to be examined by an expert of his own choice, such examiner shall be permitted to have reasonable access to the defendant for the purpose of examination.

(9) In the event a defendant is suspected of being developmentally disabled, the examination shall proceed with those experts set out in subsection (7) of section 66-402, Idaho Code.

(10) In addition to the psychiatrist, licensed psychologist, or evaluation committee, the court may appoint additional experts to examine the defendant.

(11) If, at any time during the examination process, the examiner has reason to believe that the defendant's alleged incompetency may be the result of a developmental disability and the matter has not already been referred to an evaluation committee for review, the examiner shall immediately notify the court. The court shall then appoint an evaluation committee or shall order the department of health and welfare to designate, within two (2) business days, an evaluation committee consistent with section 66-402(7), Idaho Code.

(12) If the defendant lacks capacity to make informed decisions about treatment, as defined in section 66-317, Idaho Code, the court may authorize consent to be given pursuant to section 66-322, Idaho Code. If the defendant lacks capacity to make informed decisions as defined in subsection (9) of section 66-402, Idaho Code, the court may authorize consent to be given pursuant to sections 66-404 and 66-405, Idaho Code.

(13) If the defendant was confined solely for the purpose of examination, he shall be released from the facility within three (3) days, excluding Saturdays, Sundays and legal holidays, following notification of completion of the examination.

18-211. EXAMINATION OF DEFENDANT -- APPOINTMENT OF PSYCHIATRISTS AND LICENSED PSYCHOLOGISTS -- HOSPITALIZATION -- REPORT. [EFFECTIVE JANUARY 1, 2027] (1) Whenever there is reason to doubt the defendant's fitness to proceed as set forth in section 18-210, Idaho Code, the court shall appoint at least one (1) qualified psychiatrist or licensed psychologist or shall request the director of the department of health and welfare to designate at least one (1) qualified psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant to assist counsel with defense or understand the proceedings. The appointed examiner shall also evaluate whether the defendant lacks capacity to make informed decisions about treatment. The costs of examination shall be paid by the defendant if he is financially able. The determination of ability to pay shall be made in accordance with chapter 8, title 19, Idaho Code.

(2) Within three (3) days, excluding Saturdays, Sundays and legal holidays, of the appointment or designation, the examiner shall determine the best location for the examination. If practical, the examination shall be conducted locally on an outpatient basis.

(3) If the examiner determines that confinement is necessary for purposes of the examination, the court may order the defendant to be confined to a jail, a hospital, or other suitable facility for that purpose for a period not exceeding thirty (30) days. The order of confinement shall require the county sheriff to transport the defendant to and from the facility and shall notify the facility of any known medical, behavioral, or security requirements of the defendant. The court, upon request, may make available to the examiner any court records relating to the defendant.

(4) In such examination, any method may be employed that is accepted by the examiner's profession for the examination of those alleged not to be competent to assist counsel in their defense.

(5) Upon completion of the examination, a report shall be submitted to the court and shall include the following:

(a) A description of the nature of the examination;

(b) A diagnosis or evaluation of the mental condition of the defendant;

(c) An opinion as to the defendant's capacity to understand the proceedings against him and to assist in his own defense;

(d) An opinion whether the defendant lacks the capacity to make informed decisions about treatment. "Lack of capacity to make informed decisions about treatment" means the defendant's inability, by reason of his mental condition, to achieve a rudimentary understanding of the purpose, nature, and possible significant risks and benefits of treatment, after conscientious efforts at explanation.

(6) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental disease or defect.

(7) The report of the examination shall be filed with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(8) When the defendant wishes to be examined by an expert of his own choice, such examiner shall be permitted to have reasonable access to the defendant for the purpose of examination.

(9) In the event a defendant is suspected of being developmentally disabled, the examination shall proceed with those experts set out in section 66-402(6), Idaho Code.

(10) In addition to the psychiatrist, licensed psychologist, or evaluation committee, the court may appoint additional experts to examine the defendant.

(11) If, at any time during the examination process, the examiner has reason to believe that the defendant's alleged incompetency may be the result of a developmental disability and the matter has not already been referred to an evaluation committee for review, the examiner shall immediately notify the court. The court shall then appoint an evaluation committee or shall order the department of health and welfare to designate, within two (2) business days, an evaluation committee consistent with section 66-402(6), Idaho Code.

(12) If the defendant lacks capacity to make informed decisions about treatment, as defined in section 66-317, Idaho Code, the court may authorize consent to be given pursuant to section 66-322, Idaho Code. If the defendant lacks capacity to make informed decisions as defined in section 66-402(8), Idaho Code, the court may authorize consent to be given pursuant to chapter 5, title 15, Idaho Code.

(13) If the defendant was confined solely for the purpose of examination, he shall be released from the facility within three (3) days, excluding Saturdays, Sundays and legal holidays, following notification of completion of the examination.

[18-211, added 1972, ch. 336, sec. 1, p. 851; am. 1974, ch. 165, sec. 1, p. 1405; am. 1980, ch. 312, sec. 1, p. 797; am. 1982, ch. 368, sec. 3, p. 920; am. 1987, ch. 40, sec. 1, p. 67; am. 1996, ch. 225, sec. 2, p. 738; am. 1998, ch. 90, sec. 7, p. 323; am. 1999, ch. 293, sec. 4, p. 737; am. 2000, ch. 234, sec. 1, p. 656; am. 2019, ch. 299, sec. 1, p. 888; am. 2022, ch. 26, sec. 1, p. 72; am. 2026, ch. 79, sec. 12, p. 396.]

18-212. DETERMINATION OF FITNESS OF DEFENDANT TO PROCEED -- SUSPENSION OF PROCEEDING AND COMMITMENT OF DEFENDANT -- POSTCOMMITMENT HEARING. [EFFECTIVE UNTIL JANUARY 1, 2027] (1) When the defendant's fitness to proceed is drawn in question, the issue shall be determined by the court. The court shall also determine, based on the examiner's findings, whether the defendant lacks capacity to make informed decisions about treatment. If neither the prosecuting attorney nor counsel for the defendant contests the finding of the report filed pursuant to section 18-211, Idaho Code, the court may make the determination on the basis of such report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon such hearing, the party who contests the finding thereof shall have the right to summon and to cross-examine the psychiatrist or licensed psychologist who submitted the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsections (5) and (6) of this section, and the court shall commit him to the custody of the director of the department of health and welfare, for a period not exceeding ninety (90) days, for care and treatment at an appropriate facility of the department of health and welfare or, if the defendant is found to be dangerously mentally ill as defined in section 66-1305, Idaho Code, to the department of correction for a period not exceeding ninety (90) days. The order of commitment shall include the finding by the court whether the defendant lacks capacity to make informed decisions about treatment. For purposes of this section, "facility" shall mean a state hospital, institu-

tion, mental health center, or those facilities enumerated in subsection (8) of section 66-402, Idaho Code, equipped to evaluate or rehabilitate such defendants. The order of commitment shall require the county sheriff to transport the defendant to and from the facility and require an evaluation of the defendant's mental condition at the time of admission to the facility and a progress report on the defendant's mental condition. The progress report shall include an opinion whether the defendant is fit to proceed, or if not, whether there is a substantial probability the defendant will be fit to proceed within the foreseeable future. If the report concludes that there is a substantial probability that the defendant will be fit to proceed in the foreseeable future, the court may order the continued commitment of the defendant for an additional one hundred eighty (180) days. If at any time the director of the facility to which the defendant is committed determines that the defendant is fit to proceed, such determination shall be reported to the court.

(3) If during a commitment under this section a defendant who has the capacity to make informed decisions about treatment refuses any and all treatment, or the only treatment available to restore competency for trial, the court shall, within seven (7) days, excluding weekends and holidays, of receiving notice of the defendant's refusal from the facility, conduct a hearing on whether to order involuntary treatment or order such other terms and conditions as may be determined appropriate. The burden shall be on the state to demonstrate grounds for involuntary treatment including, but not limited to: the prescribed treatment is essential to restore the defendant's competency, the medical necessity and appropriateness of the prescribed treatment, no less intrusive treatment alternative exists to render the defendant competent for trial, and other relevant information. If each of these findings is made by the court, treatment shall be ordered consistent with the findings.

(4) Each report shall be filed with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant. Upon receipt of a report, the court shall determine, after a hearing if a hearing is requested, the disposition of the defendant and the proceedings against him. If the court determines that the defendant is fit to proceed, the proceeding shall be resumed. If at the end of the initial ninety (90) days the court determines that the defendant is unfit and there is not a substantial probability the defendant will be fit to proceed within the foreseeable future or if the defendant is not fit to proceed after the expiration of the additional one hundred eighty (180) days, involuntary commitment proceedings shall be instituted pursuant to either section 66-329 or 66-406, Idaho Code, in the court in which the criminal charge is pending.

(5) In its review of commitments pursuant to section 66-337, Idaho Code, the department of health and welfare shall determine whether the defendant is fit to proceed with trial. The department of health and welfare shall review its commitments pursuant to chapter 4, title 66, Idaho Code, and may recommend that the defendant is fit to proceed with trial. If the district court which committed the defendant pursuant to section 66-406, Idaho Code, agrees with the department's recommendation and finds the conditions which justified the order pursuant to section 66-406, Idaho Code, do not continue to exist, criminal proceedings may resume. If the defendant is fit to proceed, the court in which the criminal charge is pending shall be notified and the criminal proceedings may resume. If, however, the court is of the view that so much time has elapsed, excluding any time spent free from

custody by reason of the escape of the defendant, since the commitment of the defendant that it would be unjust to resume the criminal proceeding, the court may dismiss the charge.

(6) If a defendant escapes from custody during his confinement, the director shall immediately notify the court from which committed, the prosecuting attorney and the sheriff of the county from which committed. The court shall forthwith issue an order authorizing any health officer, peace officer, or the director of the institution from which the defendant escaped to take the defendant into custody and immediately return him to his place of confinement.

18-212. DETERMINATION OF FITNESS OF DEFENDANT TO PROCEED -- SUSPENSION OF PROCEEDING AND COMMITMENT OF DEFENDANT -- POSTCOMMITMENT HEARING. [EFFECTIVE JANUARY 1, 2027] (1) When the defendant's fitness to proceed is drawn in question, the issue shall be determined by the court. The court shall also determine, based on the examiner's findings, whether the defendant lacks capacity to make informed decisions about treatment. If neither the prosecuting attorney nor counsel for the defendant contests the finding of the report filed pursuant to section 18-211, Idaho Code, the court may make the determination on the basis of such report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon such hearing, the party who contests the finding thereof shall have the right to summon and to cross-examine the psychiatrist or licensed psychologist who submitted the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsections (5) and (6) of this section, and the court shall commit him to the custody of the director of the department of health and welfare, for a period not exceeding ninety (90) days, for care and treatment at an appropriate facility of the department of health and welfare or, if the defendant is found to be dangerously mentally ill as defined in section 66-1305, Idaho Code, to the department of correction for a period not exceeding ninety (90) days. The order of commitment shall include the finding by the court whether the defendant lacks capacity to make informed decisions about treatment. For purposes of this section, "facility" shall mean a state hospital, institution, mental health center, or those facilities enumerated in section 66-402(7), Idaho Code, equipped to evaluate or rehabilitate such defendants. The order of commitment shall require the county sheriff to transport the defendant to and from the facility and require an evaluation of the defendant's mental condition at the time of admission to the facility and a progress report on the defendant's mental condition. The progress report shall include an opinion whether the defendant is fit to proceed, or if not, whether there is a substantial probability the defendant will be fit to proceed within the foreseeable future. If the report concludes that there is a substantial probability that the defendant will be fit to proceed in the foreseeable future, the court may order the continued commitment of the defendant for an additional one hundred eighty (180) days. If at any time the director of the facility to which the defendant is committed determines that the defendant is fit to proceed, such determination shall be reported to the court.

(3) If during a commitment under this section a defendant who has the capacity to make informed decisions about treatment refuses any and all treatment, or the only treatment available to restore competency for trial,

the court shall, within seven (7) days, excluding weekends and holidays, of receiving notice of the defendant's refusal from the facility, conduct a hearing on whether to order involuntary treatment or order such other terms and conditions as may be determined appropriate. The burden shall be on the state to demonstrate grounds for involuntary treatment including, but not limited to: the prescribed treatment is essential to restore the defendant's competency, the medical necessity and appropriateness of the prescribed treatment, no less intrusive treatment alternative exists to render the defendant competent for trial, and other relevant information. If each of these findings is made by the court, treatment shall be ordered consistent with the findings.

(4) Each report shall be filed with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant. Upon receipt of a report, the court shall determine, after a hearing if a hearing is requested, the disposition of the defendant and the proceedings against him. If the court determines that the defendant is fit to proceed, the proceeding shall be resumed. If at the end of the initial ninety (90) days the court determines that the defendant is unfit and there is not a substantial probability the defendant will be fit to proceed within the foreseeable future or if the defendant is not fit to proceed after the expiration of the additional one hundred eighty (180) days, involuntary commitment proceedings shall be instituted pursuant to either section 66-329 or 66-406, Idaho Code, in the court in which the criminal charge is pending.

(5) In its review of commitments pursuant to section 66-337, Idaho Code, the department of health and welfare shall determine whether the defendant is fit to proceed with trial. The department of health and welfare shall review its commitments pursuant to chapter 4, title 66, Idaho Code, and may recommend that the defendant is fit to proceed with trial. If the district court which committed the defendant pursuant to section 66-406, Idaho Code, agrees with the department's recommendation and finds the conditions which justified the order pursuant to section 66-406, Idaho Code, do not continue to exist, criminal proceedings may resume. If the defendant is fit to proceed, the court in which the criminal charge is pending shall be notified and the criminal proceedings may resume. If, however, the court is of the view that so much time has elapsed, excluding any time spent free from custody by reason of the escape of the defendant, since the commitment of the defendant that it would be unjust to resume the criminal proceeding, the court may dismiss the charge.

(6) If a defendant escapes from custody during his confinement, the director shall immediately notify the court from which committed, the prosecuting attorney and the sheriff of the county from which committed. The court shall forthwith issue an order authorizing any health officer, peace officer, or the director of the institution from which the defendant escaped to take the defendant into custody and immediately return him to his place of confinement.

[18-212, added 1972, ch. 336, sec. 1, p. 852; am. 1974, ch. 165, sec. 2, p. 1405; am. 1977, ch. 13, sec. 1, p. 25; am. 1980, ch. 312, sec. 2, p. 798; am. 1982, ch. 368, sec. 4, p. 921; am. 1987, ch. 40, sec. 2, p. 69; am. 1999, ch. 293, sec. 5, p. 739; am. 2000, ch. 234, sec. 2, p. 657; am. 2022, ch. 26, sec. 2, p. 73; am. 2026, ch. 79, sec. 13, p. 398.]

18-215. ADMISSIBILITY OF STATEMENTS BY EXAMINED PERSON. A statement made by a person subjected to psychiatric or psychological examination or

treatment pursuant to sections 18-211, 18-212 or 19-2522, Idaho Code, for the purposes of such examination or treatment shall not be admissible in evidence in any criminal proceeding against him on any issue other than the defendant's ability to assist counsel at trial or to form any specific intent which is an element of the crime charged, except that such statements of a defendant to a psychiatrist or psychologist as are relevant for impeachment purposes may be received subject to the usual rules of evidence governing matters of impeachment.

[I.C., sec. 18-215, as added by 1972, ch. 336, sec. 1, p. 855; am. 1980, ch. 312, sec. 5, p. 802; am. 1982, ch. 368, sec. 5, p. 923.]

18-217. MENTAL HEALTH RECORDS OF OFFENDERS. (1) For purposes of care, treatment or normal health care operations, records of mental health evaluation, care and treatment shall be provided upon request to and from the mental health professionals of a governmental entity and another entity providing care or treatment for any person who is:

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

(b) A pretrial detainee;

(c) Awaiting sentencing;

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

(e) On probation or parole;

(f) Being supervised as part of a drug court, mental health court, juvenile detention program, work release program, or similar court program; or

(g) Applying for mental health services after release from a correctional facility.

(2) No court order or authorization from the offender to transfer the records shall be required except for records pursuant to 42 CFR part 2.

[18-217, added 2006, ch. 92, sec. 1, p. 266; am. 2025, ch. 82, sec. 91, p. 377.]