

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 2
PREVENTION OF PUBLIC OFFENSES

19-201. LAWFUL RESISTANCE. Lawful resistance to the commission of a public offense may be made:

1. By the party about to be injured.
2. By other parties.

[19-201, added 1972, ch. 336, sec. 3, p. 983.]

19-201A. LEGISLATIVE INTENT -- CASTLE DOCTRINE AND STAND YOUR GROUND. It is the intent of the legislature to incorporate provisions of the castle doctrine and stand your ground provided in Idaho case law and jury instructions into certain sections of this chapter and in section [18-4009](#), Idaho Code.

[19-201A, added 2018, ch. 222, sec. 3, p. 501.]

19-202. RESISTANCE BY THREATENED PARTY. (1) Resistance sufficient to prevent the offense may be made by the person about to be injured:

- (a) To prevent an offense against his person, or his family, or some member thereof; or
- (b) To prevent an illegal attempt by force to take or injure property in his lawful possession.

(2) A person acting pursuant to this section may use such degree and extent of force as would appear to be reasonably necessary to prevent the threatened injury. Reasonableness is to be judged from the viewpoint of a reasonable person placed in the same position and seeing and knowing what the person then saw and knew without the benefit of hindsight.

[19-202, added 1972, ch. 336, sec. 3, p. 983; am. 2018, ch. 222, sec. 4, p. 501.]

19-202A. DEFENSE OF SELF, OTHERS AND CERTAIN PLACES. (1) No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting himself or his family by reasonable means necessary, or when coming to the aid of another whom he reasonably believes to be in imminent danger of or the victim of aggravated assault, robbery, rape, murder or other heinous crime.

(2) The defense of self or of another does not require a person to wait until he or she ascertains whether the danger is apparent or real. A person confronted with such danger has a clear right to act upon appearances such as would influence the action of a reasonable person.

(3) In the exercise of the right of self-defense or defense of another, a person need not retreat from any place that person has a right to be. A person may stand his ground and defend himself or another person by the use of all force and means which would appear to be necessary to a reasonable person in a similar situation and with similar knowledge without the benefit of hindsight. The provisions of this subsection shall not apply to a person incarcerated in jail or prison facilities when interacting with jail or prison staff who are acting in their official capacities.

(4) In any prosecution for the unlawful use of force, including deadly force, or the attempted or threatened use of force contrary to [title 18](#), Idaho Code, the burden is on the prosecution to prove beyond a reasonable doubt that the use of force, attempted use of force or threat to use force was not justifiable.

(5) A person using force or deadly force in defense of a habitation, place of business or employment or occupied vehicle as defined in section [18-4009](#)(3), Idaho Code, is presumed to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the force is used against a person whose entry or attempted entry therein is unlawful and is made or attempted by use of force, or in a violent and tumultuous manner, or surreptitiously or by stealth, or for the purpose of committing a felony.

[19-202A, added 1974, ch. 238, sec. 1, p. 1601; am. 2018, ch. 222, sec. 5, p. 502.]

19-203. RESISTANCE BY OTHER PARTIES. Any other person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense.

[19-203, added 1972, ch. 336, sec. 3, p. 983.]

19-204. PREVENTION OF OFFENSES BY OFFICERS OF JUSTICE. Public offenses may be prevented by the intervention of the officers of justice:

1. By requiring security to keep the peace.
2. By forming a police in cities and towns, and by requiring their attendance in exposed places.
3. By suppressing riots.

[(19-204) Cr. Prac. 1864, sec. 17, p. 215; R.S., R.C., & C.L., sec. 7375; C.S., sec. 8628; I.C.A., sec. 19-204.]

19-205. PREVENTION BY PERSONS ASSISTING OFFICERS. When the officers of justice are authorized to act in the prevention of public offenses, other persons who, by their command, act in their aid, are justified in so doing.

[19-205, added 1972, ch. 336, sec. 3, p. 983.]

19-206. SECURITY TO KEEP PEACE -- INFORMATION OF THREATENED OFFENSE. An information may be laid before any magistrate that a person has threatened to commit an offense against the person or property of another.

[(19-206) Cr. Prac. 1864, sec. 19, p. 215; R.S., R.C., & C.L., sec. 7380; C.S., sec. 8630; I.C.A., sec. 19-206.]

19-207. EXAMINATION OF COMPLAINANT. When the information is laid before such magistrate he must examine on oath the informer, and any witness he may produce, and must take their depositions in writing and cause them to be subscribed by the parties making them.

[(19-207) Cr. Prac. 1864, sec. 20, p. 216; R.S., R.C., & C.L., sec. 7381; C.S., sec. 8631; I.C.A., sec. 19-207.]

19-208. WARRANT OF ARREST. If it appears from the depositions that there is just reason to fear the commission of the offense threatened by the person so informed against, the magistrate must issue a warrant, directed generally to the sheriff of the county or any constable, marshal or policeman in the state, reciting the substance of the information, and commanding the officer forthwith to arrest the person informed of and bring him before the magistrate.

[(19-208) Cr. Prac. 1864, sec. 21, p. 216; R.S., R.C., & C.L., sec. 7382; C.S., sec. 8632; I.C.A., sec. 19-208.]

19-209. HEARING OF CONTROVERTED CHARGE. When the person informed against is brought before the magistrate, if the charge be controverted the magistrate must take testimony in relation thereto. The evidence must be reduced to writing and subscribed by the witnesses.

[(19-209) Cr. Prac. 1864, sec. 22, p. 216; R.S., R.C., & C.L., sec. 7383; C.S., sec. 8633; I.C.A., sec. 19-209.]

19-210. DISCHARGE OF ACCUSED. If it appears that there is no just reason to fear the commission of the offense alleged to have been threatened, the person complained of must be discharged.

[(19-210) Cr. Prac. 1864, sec. 23, p. 216; R.S., R.C., & C.L., sec. 7384; C.S., sec. 8634; I.C.A., sec. 19-210.]

19-211. SECURITY TO KEEP THE PEACE. If, however, there is just reason to fear the commission of the offense, the person complained of may be required to enter into an undertaking in such sum, not exceeding \$5,000, as the magistrate may direct, with one or more sufficient sureties, to keep the peace towards the people of this state, and particularly towards the informer. The undertaking is valid and binding for six months, and may, upon the renewal of the information, be extended for a longer period, or a new undertaking may be required.

[(19-211) Cr. Prac. 1864, sec. 24, p. 216; R.S., R.C., & C.L., sec. 7385; C.S., sec. 8635; I.C.A., sec. 19-211.]

19-212. EFFECT OF GIVING OR REFUSING SECURITY. If the undertaking required by the last section is given, the party informed of must be discharged. If he does not give it, the magistrate must commit him to prison, specifying in the warrant the requirement to give security, the amount thereof and the omission to give the same.

[(19-212) Cr. Prac. 1864, sec. 25, p. 216; R.S., R.C., & C.L., sec. 7386; C.S., sec. 8636; I.C.A., sec. 19-212.]

19-213. COMMITMENT FOR NOT GIVING SECURITY. If the person complained of is committed for not giving the undertaking required, he may be discharged by any magistrate upon giving the same.

[(19-213) Cr. Prac. 1864, sec. 26, p. 216; R.S., R.C., & C.L., sec. 7387; C.S., sec. 8637; I.C.A., sec. 19-213.]

19-214. SECURITY FILED IN CLERK'S OFFICE. The undertaking must be filed by the magistrate in the office of the clerk of the district court.

[(19-214) Cr. Prac. 1864, sec. 27, p. 216; R.S., R.C., & C.L., sec. 7388; C.S., sec. 8638; I.C.A., sec. 19-214.]

19-215. SECURITY FOR THREATS TO ASSAULT. A person who, in the presence of a court magistrate, assaults or threatens to assault another, or to commit an offense against his person or property, may be ordered by the court or magistrate to give security, as in this chapter provided, and if he refuse so to do, may be committed.

[(19-215) Cr. Prac. 1864, sec. 28, p. 216; R.S., R.C., & C.L., sec. 7389; C.S., sec. 8639; I.C.A., sec. 19-215.]

19-216. BREACH OF SECURITY. Upon the conviction of the person informed against, of a breach of the peace, the undertaking is broken.

[(19-216) Cr. Prac. 1864, sec. 29. p. 216; R.S., R.C., & C.L., sec. 7390; C.S., sec. 8640; I.C.A., sec. 19-216.]

19-217. ACTION ON UNDERTAKING. Upon the prosecuting attorney's producing evidence of such conviction to the district court of the county, the court must order the undertaking to be prosecuted, and the prosecuting attorney must thereupon commence an action upon it in the name of the state of Idaho.

[(19-217) Cr. Prac. 1864, sec. 30, p. 217; R.S., R.C., & C.L., sec. 7391; I.C.A., sec. 19-217.]

19-218. EVIDENCE OF BREACH. In the action the offense stated in the record of conviction must be alleged as a breach of the undertaking, and such record is conclusive evidence of the breach.

[(19-218) Cr. Prac. 1864, sec. 31, 9. 217; R.S., R.C., & C.L., sec. 7392; C.S., sec. 8642; I.C.A., sec. 19-218.]

19-219. PROVISIONS OF CHAPTER EXCLUSIVE. Security to keep the peace, or to be of good behavior, cannot be required except as prescribed in this chapter.

[(19-219) Cr. Prac. 1864, sec. 32. p. 217; R.S., R.C., & C.L., sec. 7393; C.S., sec. 8643; I.C.A., sec. 19-219.]

19-220. PUBLIC PEACE -- HOW PRESERVED. The mayor or other officer having the direction of the police of a city or town, must order a force sufficient to preserve the peace to attend any public meeting, when he is satisfied that a breach of the peace is reasonably apprehended.

[(19-220) Cr. Prac. 1864, sec. 33. p. 217; R.S., R.C., & C.L., sec. 7394; C.S., sec. 8644; I.C.A., sec. 19-220.]

19-221. SUPPRESSION OF RIOTS -- OFFICERS MAY COMMAND ASSISTANCE. When a sheriff or other public officer, authorized to execute process, finds, or has reason to apprehend, that resistance will be made to the execution of the

process, he may command as many bona fide male citizens, residents of his county, as he may think proper to assist him in overcoming the resistance, and, if necessary, in seizing, arresting and confining the persons resisting, their aiders and abettors.

[(19-221) Cr. Prac. 1864, sec. 34, p. 217; R.S., sec. 7400; am. 1893, p. 13, sec. 1; reen. 1899, p. 169, sec. 1; reen. R.C. & C.L., sec. 7400; C.S., sec. 8645; I.C.A., 19-221.]

19-222. CERTIFICATE OF PERSON RESISTING PROCESS. The officer must certify to the court from which the process is issued, the names of the persons resisting and their aiders and abettors, to the end that they may be proceeded against for their contempt of court.

[(19-222) Cr. Prac. 1864, sec. 35, p. 217; R.S., R.C., & C.L., sec. 7401; C.S., sec. 8646; I.C.A., sec. 19-222.]

19-223. GOVERNOR MAY CALL OUT MILITIA. If it appears to the governor that the civil power of any county is not sufficient to enable the sheriff to execute process delivered to him, he must, upon the application of the sheriff of the county, order such portion as shall be sufficient, or the whole, if necessary, of the militia of the state, to proceed to the assistance of the sheriff.

[(19-223) Cr. Prac. 1864, sec. 37, p. 217; R.S., R.C., & C.L., sec. 7402; C.S., sec. 8647; I.C.A., sec. 19-223.]

19-224. COMMANDING RIOTERS TO DISPERSE. Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff of the county and his deputies or the officials governing the town or city shall go among the persons assembled, or as near to them as possible, and command them in the name of the people of the state immediately to disperse.

[19-224, added 1972, ch. 336, sec. 3, p. 983; am. 2012, ch. 20, sec. 5, p. 67.]

19-225. ARREST OF RIOTERS. If the persons assembled do not immediately disperse, such magistrates and officers must arrest them, and to that end may command the aid of all persons present or within the county.

[19-225, added 1972, ch. 336, sec. 3, p. 983.]

19-226. COMMAND OF ARMED FORCE. When an armed force is called out for the purpose of suppressing an unlawful or riotous assembly, or arresting the offenders, and is placed under the temporary direction of any civil officer, it must obey the orders in relation thereto of such civil officer.

[(19-226) Cr. Prac. 1864, sec. 43, p. 218; R.S., R.C., & C.L., sec. 7405; C.S., sec. 8650; I.C.A., sec. 19-226.]

19-227. PROCLAMATION OF INSURRECTION. When the governor is satisfied that the execution of civil or criminal process has been forcibly resisted in any county by bodies of men, or that combinations to resist the execution of process by force exist in any county, and that the power of the county has been exerted and has not been sufficient to enable the officer having the

process to execute it, he may, on the application of the officer or of the prosecuting attorney, by proclamation to be published in such papers as he shall direct, declare the county to be in a state of insurrection and may order into the service of the state such number and description of volunteer or uniform companies, or other militia of the state as he shall deem necessary to serve for such term, and under the command of such officer or officers, as he shall direct.

[(19-227) Cr. Prac. 1864, sec. 46, p. 218; R.S., R.C., & C.L., sec. 7406; C.S., sec. 8651; I.C.A., sec. 19-227; am. 2012, ch. 20, sec. 6, p. 67.]

19-228. DISOBEDIENCE OF PROCLAMATION. Any person who, after the publication of such proclamation, resists or aids in resisting the execution of process in any county so declared to be in a state of insurrection, or who aids or attempts the rescue or escape of any person from lawful custody or confinement, or who resists or aids in resisting any force ordered out by the governor to quell or suppress an insurrection, shall be punished by imprisonment in the state prison for a term not less than two (2) years.

[19-228, added 1972, ch. 336, sec. 3, p. 983.]

19-229. REVOCATION OF PROCLAMATION. The governor may, when he thinks proper, revoke the proclamation authorized by the last section, or declare that it shall cease at the time and in the manner directed by him.

[(19-229) Cr. Prac. 1864, sec. 47, p. 219; R.S., R.C., & C.L., sec. 7408; C.S., sec. 8653; I.C.A., sec. 19-229.]