

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 53
COMPENSATION OF VICTIMS OF CRIMES

19-5301. DISTRIBUTION OF MONEYS RECEIVED AS A RESULT OF THE COMMISSION OF CRIME. (1) Every person, firm, corporation, partnership, association or other legal entity contracting with any person or the representative or assignee of any person, accused of a crime in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions or emotions regarding such crime, shall pay over to the state treasurer any moneys which would otherwise, by terms of such contract, be owing to the person so convicted or his representatives. The state treasurer shall deposit such moneys in an escrow account for the benefit of and payable to any victim of crimes committed by such person, provided that such person is eventually convicted of the crime or is acquitted on the ground of mental disease or defect excluding responsibility and provided further that such victim, or his personal representative, within five (5) years of the date the escrow account has been established, brings a civil action in a court of competent jurisdiction and recovers a money judgment against such person or his representatives.

(2) The state treasurer, at least once every six (6) months for five (5) years from the date it receives such moneys, shall cause to have published a legal notice in newspapers of general circulation in the county of the state where the crime was committed advising such victims that such escrow moneys are available to satisfy money judgments pursuant to this section.

(3) Upon disposition of charges favorable to any person accused of committing a crime, or upon a showing by such person that five (5) years have elapsed from the establishment of such escrow account and further that no actions are pending against such person, pursuant to this section the board shall immediately pay over any moneys in the escrow account to such person.

(4) Notwithstanding the foregoing provisions of this section the state treasurer shall make payments from an escrow account to any person accused of crime upon the order of a court of competent jurisdiction after a showing by such person that such moneys shall be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process.

(5) Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this state.

(6) The state treasurer may invest the moneys in any escrow account hereunder in any United States government notes or securities.

(7) The attorney general or any other person may bring an action in a court of competent jurisdiction to require the deposit of moneys in an escrow account as provided in this section.

[19-5301, added 1978, ch. 259, sec. 1, p. 564.]

19-5302. VICTIMS OF CRIME. If a district court or a magistrate division orders the defendant to pay restitution, the court shall order the defendant

to pay such restitution to the victim or victims injured by the defendant's action.

[19-5302, added 1984, ch. 86, sec. 1, p. 169; am. 1985, ch. 122, sec. 4, p. 300; am. 1986, ch. 197, sec. 1, p. 495; am. 2004, ch. 21, sec. 1, p. 23; am. 2018, ch. 189, sec. 2, p. 415.]

19-5303. COST OF MEDICAL EXAMS TO BE PAID BY LAW ENFORCEMENT AGENCY. When the victim of any crime is directed or authorized by a law enforcement agency to obtain a medical examination for the purpose of procuring evidence for use by a law enforcement agency in the investigation or prosecution of the crime, the expense incurred shall be paid by the law enforcement agency. Provided however, the cost of forensic and/or medical examinations of alleged victims of sexual assault shall be paid for from the crime victims compensation account, as established by section [72-1009](#), Idaho Code. The provisions of this section shall not be construed to require a law enforcement agency to bear the expense of any medical treatment of the victim.

[(19-5303) 1984, ch. 191, sec. 1, p. 440; 1985, redesignated from 19-5302, ch. 122, sec. 7, p. 303; am. 2001, ch. 144, sec. 1, p. 512.]

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

(a) "Economic loss" includes, but is not limited to, the value of property taken, destroyed, broken, or otherwise harmed, lost wages, and direct out-of-pocket losses or expenses, such as medical expenses resulting from the criminal conduct, but does not include less tangible damage such as pain and suffering, wrongful death or emotional distress.

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

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

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

(e) "Victim" shall mean:

(i) The directly injured victim which means a person or entity, who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in homicide cases;

(ii) Any health care provider who has provided medical treatment to a directly injured victim if such treatment is for an injury resulting from the defendant's criminal conduct, and who has not been otherwise compensated for such treatment by the directly injured victim or the immediate family of the directly injured victim;

(iii) The account established pursuant to the crime victims compensation act, [chapter 10, title 72](#), Idaho Code, from which payment was made to or on behalf of a directly injured victim pursuant to the requirements of Idaho law as a result of the defendant's criminal conduct;

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

(2) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim. An order of restitution shall be a separate written order in addition to any other sentence the court may impose, including incarceration, and may be complete, partial, or nominal. The court may also include restitution as a term and condition of judgment of conviction; however, if a court orders restitution in the judgment of conviction and in a separate written order, a defendant shall not be required to make restitution in an amount beyond that authorized by this chapter. Restitution shall be ordered for any economic loss which the victim actually suffers. The existence of a policy of insurance covering the victim's loss shall not absolve the defendant of the obligation to pay restitution.

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

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

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

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

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

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

the crime, to be jointly and severally responsible for the entire economic loss to the victim.

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

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

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

(12) Every presentence report shall include a full statement of economic loss suffered by the victim or victims of the defendant's crime or crimes.

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

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

[19-5304, added 1985, ch. 122, sec. 1, p. 297; am. 1986, ch. 197, sec. 2, p. 495; am. 1991, ch. 324, sec. 1, p. 841; am. 1997, ch. 112, sec. 1, p. 272; am. 1999, ch. 338, sec. 1, p. 916; am. 2007, ch. 62, sec. 1, p. 152; am. 2008, ch. 140, sec. 2, p. 402; am. 2008, ch. 152, sec. 1, p. 440.]

19-5305. COLLECTION OF JUDGMENTS. (1) After forty-two (42) days from the entry of the order of restitution or at the conclusion of a hearing to reconsider an order of restitution, whichever occurs later, an order of restitution may be recorded as a judgment and the victim may execute as provided by law for civil judgments.

(2) The clerk of the district court may take action to collect on the order of restitution on behalf of the victim and, with the approval of the administrative district judge, may use the procedures set forth in section [19-4708](#), Idaho Code, for the collection of the restitution.

[19-5305, added 1985, ch. 122, sec. 2, p. 299; am. 2009, ch. 102, sec. 2, p. 313.]

19-5306. RIGHTS OF VICTIM DURING INVESTIGATION, PROSECUTION, AND DISPOSITION OF THE CRIME. (1) Each victim of a criminal or juvenile offense shall be:

- (a) Treated with fairness, respect, dignity and privacy throughout the criminal justice process;
- (b) Permitted to be present at all criminal justice proceedings or juvenile proceedings including probation proceedings;
- (c) Entitled to a timely disposition of the case;
- (d) Given prior notification of trial court, appellate, probation and parole proceedings and, upon request, to information about the sentence, incarceration, placing on probation or release of the defendant;

(e) Heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration, placing on probation or release of the defendant unless manifest injustice would result;

(f) Afforded the opportunity to communicate with the prosecution in criminal or juvenile offenses, and be advised of any proposed plea agreement by the prosecuting attorney prior to entering into a plea agreement in criminal or juvenile offenses involving crimes of violence, sex crimes or crimes against children;

(g) Allowed to refuse an interview, ex parte contact or other request by the defendant or any other person acting on behalf of the defendant, unless such request is authorized by law;

(h) Consulted by the presentence investigator during the preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct had upon the victim and shall be allowed to read, prior to the sentencing hearing, the presentence report relating to the crime. The victim shall maintain the confidentiality of the presentence report, and shall not disclose its contents to any person except statements made by the victim to the prosecuting attorney or the court;

(i) Assured the expeditious return of any stolen or other personal property by law enforcement agencies when no longer needed as evidence;

(j) Notified whenever the defendant or suspect is released or escapes from custody. When release is ordered prior to final conviction, notice to the victim shall be given by the law enforcement authority from whose custody the defendant was released. When the release is granted subsequent to a final conviction, notice shall be given to the victim by the law enforcement authority from whose custody the defendant was released unless release is granted by the commission of pardons and parole, in which case the commission shall notify the victim. When a release on probation is being considered following a period of retained jurisdiction, notice of the hearing shall be given to the victim by the prosecuting attorney.

(2) Upon the filing of a criminal complaint or juvenile petition, the prosecuting attorney shall inform the victim of the various opportunities provided by this section. The victim may exercise any of the rights provided by this section by completing a written request on a form provided by the prosecuting attorney to the clerk of the district court. The clerk thereafter shall notify the appropriate authorities of the victim's requests. Notice thereafter shall be given to the victim at the address provided unless the victim subsequently provides a different address. The victim's address shall be kept confidential by the court except for carrying out the provisions of this chapter.

(3) The provisions of this section shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally. The court may designate a representative from the immediate family to exercise these rights on behalf of a deceased, incapacitated, or minor victim.

(4) Nothing in this section shall be construed to authorize a court to dismiss a case, to set aside or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or

attorney's fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute; nor be construed to require the court appointment of legal counsel or the payment of transportation costs.

(5) As used in this section:

(a) "Victim" is an individual who suffers direct or threatened physical, financial or emotional harm as the result of the commission of a crime or juvenile offense;

(b) "Criminal offense" is any charged felony or a misdemeanor involving physical injury, or the threat of physical injury, or a sexual offense;

(c) "Juvenile offense" is charged conduct that is a violation of law that brings a juvenile within the purview of [chapter 5, title 20](#), Idaho Code, and which conduct committed by a juvenile would be a felony if committed by an adult.

[19-5306, added 1985, ch. 122, sec. 3, p. 299; am. 1989, ch. 306, sec. 1, p. 760; am. 1995, ch. 142, sec. 1, p. 604; am. 1998, ch. 356, sec. 1, p. 1114.]

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

The fine shall operate as a civil judgment against the defendant and shall be entered on behalf of the victim named in the indictment or information, or the family of the victim in cases of homicide or crimes against children, and shall not be subject to any distribution otherwise required in section [19-4705](#), Idaho Code. The clerk of the district court may collect the fine in the same manner as other fines imposed in criminal cases are collected and shall remit any money collected in payment of the fine to the victim named in the indictment or information or to the family of the victim in a case of homicide or crimes against minor children, provided that none of the provisions of this section shall be construed as modifying the provisions of [chapter 6, title 11](#), Idaho Code, [chapter 10, title 55](#), Idaho Code, or section [72-802](#), Idaho Code. A fine created under this section shall be a separate written order in addition to any other sentence the court may impose.

The fine contemplated in this section shall be ordered solely as a punitive measure against the defendant and shall not be based upon any requirement of showing of need by the victim. The fine shall not be used as a substitute for an order of restitution as contemplated in section [19-5304](#), Idaho Code, nor shall such an order of restitution or order of compensation entered in accordance with section [72-1018](#), Idaho Code, be offset by the entry of such fine.

A defendant may appeal a fine created under this section in the same manner as any other aspect of a sentence imposed by the court. The imposition of a fine created under this section shall not preclude the victim from seeking any other legal remedy; provided that in any civil action brought by or on behalf of the victim, the defendant shall be entitled to offset the amount of any fine imposed pursuant to this section against any award of punitive damages.

(2) The felonies for which a fine created under this section may be imposed are those described in:

Section [18-805](#), Idaho Code (Aggravated arson);
 Section [18-905](#), Idaho Code (Aggravated assault);
 Section [18-907](#), Idaho Code (Aggravated battery);
 Section [18-909](#), Idaho Code (Assault with intent to commit a serious felony);
 Section [18-911](#), Idaho Code (Battery with intent to commit a serious felony);
 Section [18-913](#), Idaho Code (Felonious administration of drugs);
 Section [18-918](#), Idaho Code (Felony domestic violence);
 Section [18-923](#), Idaho Code (Attempted strangulation);
 Section [18-1501](#), Idaho Code (Felony injury to children);
 Section [18-1506](#), Idaho Code (Sexual abuse of a child under the age of sixteen);
 Section [18-1506A](#), Idaho Code (Ritualized abuse of a child);
 Section [18-1506B](#), Idaho Code (Female genital mutilation of a child);
 Section [18-1507](#), Idaho Code (Sexual exploitation of a child);
 Section [18-1508](#), Idaho Code (Lewd conduct with a child under the age of sixteen);
 Section [18-1508A](#), Idaho Code (Sexual battery of a minor child sixteen or seventeen years of age);
 Section [18-4001](#), Idaho Code (Murder);
 Section [18-4006](#), Idaho Code (Felony manslaughter);
 Section [18-4014](#), Idaho Code (Administering poison with intent to kill);
 Section [18-4015](#), Idaho Code (Assault with intent to murder);
 Section [18-4502](#), Idaho Code (First degree kidnapping);
 Section [18-5001](#), Idaho Code (Mayhem);
 Section [18-5501](#), Idaho Code (Poisoning food, medicine or wells);
 Section [18-6101](#), Idaho Code (Rape);
 Section [18-6501](#), Idaho Code (Robbery).

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

Section [18-4001](#), Idaho Code (Murder);
 Section [18-6101](#), Idaho Code (Rape).

[19-5307, added 1992, ch. 285, sec. 1, p. 876; am. 1993, ch. 236, sec. 1, p. 818; am. 2009, ch. 56, sec. 1, p. 159; am. 2009, ch. 101, sec. 1, p. 310; am. 2016, ch. 296, sec. 12, p. 841; am. 2019, ch. 131, sec. 1, p. 466; am. 2020, ch. 101, sec. 2, p. 272.]