

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 59
STATE APPELLATE PUBLIC DEFENDER ACT

19-5901. SHORT TITLE. This chapter shall be known and may be cited as the "State Appellate Public Defender Act."

[19-5901, added 2021, ch. 164, sec. 2, p. 466.]

19-5902. LEGISLATIVE INTENT. The legislature recognizes that the cost of legal representation of indigent defendants upon the appeal of their criminal convictions, particularly convictions for first-degree murder, is an extraordinary burden on the counties of this state. In order to reduce this burden and provide competent counsel, but avoid paying high hourly rates to independent counsel to represent indigent defendants in appellate proceedings, the legislature finds it necessary to create the office of the state appellate public defender.

[19-5902, added 2021, ch. 164, sec. 2, p. 466.]

19-5903. CREATION OF OFFICE. The office of state appellate public defender is hereby created in the department of self-governing agencies.

[19-5903, added 2021, ch. 164, sec. 2, p. 466.]

19-5904. APPOINTMENT -- QUALIFICATIONS -- TERM -- COMPENSATION. (1) The state appellate public defender shall be appointed by the governor, with the advice and consent of the senate.

(2) The state appellate public defender shall be an attorney licensed to practice law in the state of Idaho and shall have a minimum of five (5) years' experience as a practicing attorney. The governor may prescribe such further qualifications as he deems necessary for the position.

(3) The state appellate public defender shall serve for a term of four (4) years, during which term he may be removed only for good cause, and shall be compensated in an amount determined by the governor.

(4) The state appellate public defender may adopt policies or rules necessary to give effect to the purposes of this chapter.

[19-5904, added 2021, ch. 164, sec. 2, p. 466.]

19-5905. POWERS AND DUTIES. (1) Subject to the provisions of subsection (2) of this section, the state appellate public defender, upon appointment by the court, shall provide representation for indigent defendants in the following cases:

- (a) Appeals from convictions or post-judgment orders in district court;
- (b) Interlocutory criminal appeals from district court;
- (c) Appeals from the district court of misdemeanor cases where the notice of appeal was filed on or after October 1, 2020;
- (d) Appeals from the district court of orders or final judgments affecting a juvenile offender under the juvenile corrections act, [chapter](#)

[5, title 20](#), Idaho Code, where the order or final judgment was entered on or after October 1, 2020;

(e) Appeals from the district court in post-conviction relief proceedings brought pursuant to the uniform post-conviction procedure act, [chapter 49, title 19](#), Idaho Code;

(f) Appeals from the district court in habeas corpus proceedings brought pursuant to [chapter 42, title 19](#), Idaho Code; and

(g) Post-conviction relief proceedings in district court in capital cases.

(2) The services of the state appellate public defender shall be available only to those counties participating in the capital crimes defense fund established pursuant to section [19-863A](#), Idaho Code.

(3) The state appellate public defender may employ deputy state appellate public defenders and other employees necessary to carry out the responsibilities of the office. A deputy state appellate public defender must be licensed to practice law in the state of Idaho and possess any other qualifications required by the state appellate public defender. The state appellate public defender shall fix the compensation of all employees of the office and they shall serve at his pleasure.

(4) The state appellate public defender, deputy state appellate public defenders, and all employees of the office of the state appellate public defender shall be nonclassified employees pursuant to section [67-5303](#), Idaho Code.

(5) The state appellate public defender, in his discretion, may contract with private attorneys to provide representation on a case-by-case basis when such contracts would conserve budgetary resources.

(6) The state appellate public defender shall have any and all other powers and duties necessary to carry out the purposes of this chapter, including the authority to promulgate rules in accordance with the provisions of [chapter 52, title 67](#), Idaho Code.

[19-5905, added 2021, ch. 164, sec. 2, p. 466.]

19-5906. APPOINTMENT OF ADDITIONAL COUNSEL. Should the state appellate public defender be unable to carry out the duties required in this chapter because of a conflict of interest or any other reason, the state appellate public defender shall arrange for counsel for indigent defendants to be compensated out of the budget of the state appellate public defender.

[19-5906, added 2021, ch. 164, sec. 2, p. 467.]

19-5907. ANNUAL REPORT. The state appellate public defender shall make an annual report to the state board of examiners, the supreme court, the legislature, and all counties for which the office has provided services concerning the cases handled by the office during the preceding year.

[19-5907, added 2021, ch. 164, sec. 2, p. 467.]